10–16–98
Vol. 63 No. 200
Pages 55497–55778

federal register

Friday
October 16, 1998

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulation which was published in the **Federal Register** on Wednesday, December 10, 1997 (62 FR 65130-65177). The regulation revised the late and prevented planting provisions in the Common Crop Insurance Policy Basic Provisions and added definitions common to most crops.

EFFECTIVE DATE: October 15, 1998.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to provide policy changes that meet the needs of the insured, are easier to administer, and delete repetitive provisions contained in various Crop Provisions.

Need For Correction

As published, the regulations for cotton and extra long staple (ELS) cotton, in the final rule for the ''Common Crop Insurance Regulations; and Various Crop Insurance Provisions,'' contained errors which may prove misleading and need to be clarified. The introductory headings in the cotton crop insurance provisions and ELS cotton crop insurance provisions state that the provisions are for the 1998 crop year; however, the intended effect of the regulations was for the 1998 and succeeding crop years. These provisions were intended to reflect that the Federal Crop Insurance Corporation (FCIC) would solicit comments for establishing the 1999 and subsequent crop years prevented planting coverage level percentage. A proposed rule has been drafted by FCIC for publication in the **Federal Register** that includes solicitation of comments on the prevented planting coverage level for cotton and ELS cotton.

List of Subjects in 7 CFR Part 457

Cotton, Crop Insurance, ELS cotton.

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

§ 457.104 [Corrected]

2. In § 457.104, the introductory text is corrected to read:

The cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

§ 457.105 [Corrected]

3. In § 457.105, the introductory text is corrected to read:

The extra long staple cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

Signed in Washington DC, on October 8, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–27780 Filed 10–15–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV98–905–5 FR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Regulation of Fallglo Variety Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adds Fallglo tangerines to the varieties of citrus fruit regulated under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. It also establishes minimum grade and size requirements for the Fallglo variety. These actions were unanimously recommended by the Citrus administrative Committee (committee) which locally administers the marketing order. This rule is intended to assure that Fallglo tangerines entering fresh market channels are of a size and quality acceptable to consumers in the interest of producers, shippers, and consumers.

EFFECTIVE DATE: This final rule becomes effective October 19, 1998.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 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 final rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos

grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of the Secretary. The grade and size requirements now in effect are designed to provide fresh markets with citrus fruit of acceptable quality and size, and help create buyer confidence. The requirements also contribute toward stable marketing conditions and foster market growth in the interest of growers, handlers, and consumers, and help increase returns to Florida citrus growers.

This final rule adds Fallglo tangerines to the citrus varieties covered under the order. It also establishes minimum grade and size requirements for the Fallglo variety. This rule is designed to help assure that the size and quality of Fallglo tangerines entering fresh market channels are acceptable to consumers. This action was unanimously recommended by the committee at its meeting on May 22, 1998.

Section 905.5 of the order defines the varieties of fruit regulated under the order and authorizes the addition of other varieties as specified in § 905.4, as recommended by the committee and approved by the Secretary. Section 905.105 contains the changes in varieties that have been made using this authority. This rule adds Fallglo tangerines to the varieties of citrus fruit regulated under the order by modifying § 905.105.

Fallglo tangerines are a relatively new variety coming into significant commercial production. The committee has been following the production statistics for Fallglo tangerines. During the last four years this variety has experienced rapid production growth. The committee uses a level of a million cartons of production as a measure in considering a variety's commercial significance. Another indicator of commercial significance used by the committee is the market share held by the variety.

The committee noted that fresh shipments of Fallglo tangerines had increased from 381,990 cartons (4/5 bushel) in 1994–95 to 874,076 cartons (4/5 bushel) in 1997–98. Total utilization had increased from 465,876 4/5 bushel cartons in 1994–95 to 1,157,624 4/5 bushel cartons in 1997–98. In the 1997–98 season, approximately 76 percent of the Fallglo tangerine crop was shipped in fresh market channels, representing approximately 23 percent of the early tangerine crop. As the trees of this variety reach full bearing age and additional plantings begin to bear fruit, the committee expects shipments of Fallglo tangerines to continue to increase and comprise a larger share of the early tangerine market.

The committee believes that the current market share and shipment levels justify adding this variety to those regulated under the order and establishing minimum grade and size requirements for Fallglo tangerines, and that these requirements will become increasingly important in helping assure and maintain acceptable shipments as production and market share increase. The establishment of such requirements for this tangerine variety is expected to help ensure that only fresh Fallglos of acceptable size and quality reach consumers in the interest of producers, handlers, and consumers. Experience has shown that providing uniform quality and size acceptable to consumers helps stabilize the market, improves grower returns, and fosters market growth.

Section 905.52 of the order, in part, authorizes the committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 of the order's rules and regulations specifies minimum grade and size requirements for different varieties of fresh Florida citrus. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b).

This rule amends § 905.306 by adding the Fallglo tangerine variety to the list of entries in Table I of paragraph (a), and in Table II of paragraph (b). A minimum grade of U. S. No. 1 as specified in the U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810 through 51.1837), and a minimum size of 2 6/16 inches diameter are established for Fallglo tangerines for both domestic and export shipments.

The committee recommended a minimum size of 2 6/16 inches diameter for Fallglo tangerines because this variety of tangerine tends to grow larger than the other tangerine varieties regulated at the 2 4/16 inch minimum diameter, and it can easily attain the larger size. The minimum grade of U. S. No. 1 was recommended by the committee for this variety because tangerines meeting the requirements of this grade are mature, and, while having more cosmetic defects than the higher grades specified in the standards, the defects do not materially detract from the appearance, or the edible or marketing quality of the fruit. All regulated varieties of Florida tangerines, except Honey tangerines, have a minimum U. S. No. 1 grade. Honey tangerines are not regulated at U.S. No. 1 because their skin possesses excessive amounts of green coloring which causes them to exceed the tolerances for that grade defect. Honey tangerines must be at least Florida No. 1 grade, which permits more green coloring than U.S. No. 1. According to the committee, almost all of the Fallglo tangerines shipped fresh in 1997–98 would have met these requirements had they been in effect.

Minimum grade and size requirements for domestic and export shipments of tangerines are designed to prevent shipments of low grade, immature, small-sized, or otherwise unsatisfactory fruit from entering fresh market channels. Preventing such shipments helps create buyer confidence in the marketplace and helps foster stable marketing conditions in the interest of producers.

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

The purpose of the RFA is to fit regulatory actions to the scale of

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

There are approximately 75 tangerine handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000 (13 CFR 121.601).

Based on industry and committee data for the 1997–98 season, the average annual free-on-board price for fresh Florida tangerines during the 1997–98 season was around $12.51 per 4/5 bushel carton, and total fresh shipments of early tangerines for the 1997–98 season are estimated at 3.8 million cartons.

Approximately 40 percent of all handlers handled 80 percent of Florida tangerine shipments. In addition, many of these handlers ship other citrus fruit and products that contribute further to handler receipts. About 80 percent of citrus handlers could be considered small businesses under SBA's definition and about 20 percent of the handlers could be considered large businesses. The majority of Florida citrus handlers and growers may be classified as small entities.

Under § 905.5, the committee has the authority to recommend to the Secretary the addition of other citrus varieties to those covered under the order. Section 905.52 of the order, in part, authorizes the committee to recommend minimum grade and size regulations to the Secretary. Pursuant to this authority, minimum grade and size requirements for domestic and export shipments are specified for numerous citrus varieties covered under the order. Currently, Fallglo tangerines are not included under the order and no minimum grade and size requirements are established for this variety.

This rule makes changes to §§ 905.105 and 905.306 of the rules and regulations concerning covered varieties and minimum grade and size requirements, respectively. This rule adds Fallglo tangerines to the varieties covered under the order. It also establishes a minimum grade and size requirement for Fallglo tangerines. The establishment of such requirements for this variety will help stabilize the market and improve grower returns by providing uniform quality and size acceptable to consumers.

This regulation is expected to have a positive impact on affected entities. This action is intended to maintain and improve quality. The purpose of this rule is to improve the quality of fruit entering fresh market channels in the interest of producers, shippers, and consumers. Minimum grade and size requirements for domestic and export shipments of tangerines are designed to prevent shipments of low grade, immature, small sized, or otherwise unsatisfactory fruit from entering fresh market channels.

While this rule establishes a minimum grade and size requirement for Fallglo tangerines, many handlers in the industry have been using these requirements voluntarily. According to the committee, almost all of the Fallglo tangerines shipped fresh in 1997–98 (874,076 4/5 bushel cartons) would have met the requirements established in this rule (i.e., U.S. No. 1 and 2 6/16 inches in diameter) had they been in effect. Therefore, this rule should not be overly restrictive, and the overall effect on costs is expected to be minimal in relation to the benefits expected.

Regarding expected handler inspection costs, three inspection and certification options are being used by Florida citrus handlers regulated under the order. The options are Partners in Quality (PIQ), continuous in-line, and lot inspection. The PIQ inspection option is an audit based quality assurance program between inspection officials of the Fresh Products Branch, F&V, AMS, USDA, and officials from the individual packinghouses. Under PIQ, the packinghouse and inspection officials develop a system of checks along the processing/packing line which demonstrate and document their ability to pack product that meets all applicable requirements. The effectiveness of PIQ is verified through periodic, unannounced audits of each packer's system by USDA-approved auditors. Under the latter two inspection options, the commodity is inspected by Federal or Federal-State inspection officials as packaged product, rather than before packaging by packinghouse officials as with PIQ, and the results are certified. Current costs are $0.04 cents per carton for PIQ type inspection, $0.07 cents per carton for continuous in-line inspection, and $39.00 per hour for lot inspection.

By not setting minimum quality and size regulations, a quantity of poor quality, small-sized fruit may reach the retail market, resulting in consumer dissatisfaction and product substitution. Such a lapse in quality and/or size could result in a price reduction. Preventing such shipments helps create buyer confidence in the marketplace and helps foster stable marketing conditions in the interest of producers.

A stabilized market that returns a fair price will be beneficial to both small and large growers and handlers. The opportunities and benefits of this rule are expected to be available to all Fallglo tangerine growers and handlers regardless of their size of operation.

This action will not impose any additional reporting or recordkeeping requirements on either small or large citrus 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. However, tangerines must meet the requirements as specified in the U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810 through 51.1837) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the May 22, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on September 2, 1998 (63 FR 46708). Copies of that rule were also mailed or sent via facsimile to all Florida tangerine growers and handlers. Finally, the proposed rule was made available through the Internet by the Office of the Federal Register. A 20-day comment period was provided for interested persons to respond to the proposed rule. The comment period ended on September 22, 1998, and no comments were received.

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) Handlers are expected to begin shipping Fallglo

tangerines in early October and the changes in the regulation need to be in place as soon as possible to cover as many of the 1998 shipments as possible so producers and handlers can accrue the benefits expected; (2) handlers are aware of the changes recommended at a public meeting, and have made plans to operate thereunder; and (3) a 20-day comment period was provided for in the proposed rule, and no comments were received in response to that rule.

List of Subjects in 7 CFR Part 905

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

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

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

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.105, paragraph (b) is revised to read as follows:

§ 905.105 Tangerine and grapefruit classifications.

* * * * *

(b) Pursuant to § 905.5(m), the term ''variety'' or ''varieties'' includes Sunburst and Fallglo tangerines.

3. Section 905.306 is amended by adding a new entry for Fallglo tangerines in paragraph (a), Table I, and in paragraph (b), Table II, to read as follows:

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

(a) * * *

TABLE I

Variety	Regulation Period	Minimum Grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
TANGERINES			
* * *	* * *	* * *	* * *
Fallglo	On and after October 19, 1998	U.S. No. 1	2 6/16
* * *	* * *	* * *	* * *

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
TANGERINES			
* * *	* * *	* * *	* * *
Fallglo	On and after October 19, 1998	U.S. No.	1 2 6/16
* * *	* * *	* * *	* * *

* * * * *

Dated: October 9, 1998

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–27781 Filed 10–15–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–69; Amendment 39–10830; AD 98–21–22]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney JT9D series turbofan engines, that requires initial and repetitive eddy current inspections (ECI) of 14th and 15th stage high pressure compressor (HPC) disks for cracks, and removal of cracked disks and replacement with serviceable parts. This amendment is prompted by reports of disk bore cracks found during shop inspections on both the 14th and 15th stage HPC disks. The actions specified by this AD are intended to prevent 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective December 15, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, Publications Department, Supervisor Technical Publications Distribution, M/S 132–30, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130; fax (781) 238–7199.

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 Pratt & Whitney (PW) Model JT9D–59A, –70A, –7Q, –7Q3, and JT9D–7R4 series turbofan engines was published in the **Federal Register** May 6, 1996 (61 FR 20192). That action proposed to require initial and repetitive eddy current inspections (ECI) of 14th and 15th high pressure compressor (HPC) disks for cracks. That action also proposed to require the removal of cracked disks and replacement with serviceable parts.

Since publication of that proposed rule, the Federal Aviation Administration (FAA) received several comments that required changing the compliance section. The FAA then issued a Supplemental Notice of Proposed Rulemaking (SNPRM) on December 23, 1997 (January 5, 1998, 63 FR 167) that revised the proposed rule by extending the repetitive inspection interval and changing the definition of a shop visit. Since publication of the SNPRM, interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the second sentence of paragraph (d) of the compliance section should be revised to note that the fax number for reporting also is listed in PW ASB No. A6232, Revision 1, dated January 11, 1996. The FAA concurs and has revised this final rule accordingly.

One commenter states that they (a foreign air carrier) will comply with this rule.

One commenter does not operate any of the affected PW JT9D series engine models.

One commenter notes that the changes in the SNPRM will not affect actions already taken.

One commenter has no objections or comments to the rule.

One commenter requests advance notice of the effective date of this AD.

The FAA concurs and will make the effective date of this final rule 60 days after the date of publication in the **Federal Register**, giving ample advance warning.

Since publication of the NPRM, the manufacturer has issued revisions to the referenced service bulletins. The new service bulletins, PW ASB No. A6232, Revision 2, dated June 26, 1997, and PW ASB No. JT9D–7R4–A72–524, Revision 1, dated June 26, 1997, retain Non-Destructive Inspection Procedure No. 858 (NDIP–858) inspection instructions and include terminating actions. In addition, attached to NDIP–858, dated November 7, 1995, is the reporting form ''14th and 15th Stage HPC Disk Inspection Report,'' referenced in paragraph (d) of this AD.

Also, the FAA has revised the definition of a shop visit in this final rule for clarification.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,100 engines of the affected design in the worldwide fleet. The FAA estimates that 170 engines installed on aircraft of U.S. registry will be affected by this AD. The FAA anticipates that the majority of the required initial and repetitive eddy current inspections will take place during regularly scheduled maintenance visits, but it will take 3 work hours per engine per inspection, and the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD per engine is estimated to be $30,600. Based on these estimates, the total cost of the AD is $5,202,000.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–21–22 Pratt & Whitney: Amendment 39–10830. Docket 95–ANE–69.

Applicability: Pratt & Whitney (PW) Model JT9D–59A, –70A, –7Q, –7Q3, and JT9D–7R4 series turbofan engines, with the following 14th and 15th stage high pressure compressor (HPC) disks installed: Part Numbers (P/N's) 5000814–01, 790014, 789914, 790114, 5000815–01, 5000815–021, 704315, 704315–001, 786215, 786215–001, 704314, 789814, and 790214. These engines are installed on but not limited to Airbus A300 and A310 series aircraft, Boeing 747 and 767 series aircraft, and McDonnell Douglas DC–10 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must

request approval for an alternative method of compliance in accordance with paragraph (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, unless accomplished previously.

To prevent 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Inspect 14th stage HPC disks, P/N 5000814–01, in accordance with PW Alert Service Bulletin (ASB) No. JT9D–7R4–524, Revision 1, dated June 26, 1997, as follows:

(1) Perform an initial eddy current inspection (ECI) for cracks as follows:

(i) For disks with 7,000 or more cycles since new (CSN), and 3,000 or more cycles in service (CIS) since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 7,000 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 7,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 8,000 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(b) Inspect 14th stage HPC disks, P/N's 790014, 789914, 790114, and 15th stage HPC disks, P/N's 5000815–01, 5000815–021, 704315, 704315–001, 786215, and 786215–001, in accordance with PW ASB No. JT9D–7R4–A72–524, Revision 1, dated June 26, 1997, or PW ASB No. A6232, Revision 2, June 26, 1997, as applicable, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 6,500 or more CSN, and 3,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 6,500 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 6,500 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 7,500 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(c) Inspect 14th stage HPC disks, P/N's 704314, 789814, and 790214, in accordance with PW ASB No. A6232, Revision 2, dated June 26, 1997, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 2,000 or more CSN, and 2,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 2,000 or more CSN, and less than 2,000 CIS since last shop visit, on the effective date of this AD, inspect within 3,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with 2,000 or more CSN, and no previous shop visits, inspect within 3,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(iv) For disks with less than 2,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 5,000 CSN.

(v) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 3,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(d) Within 30 days of inspection, report inspection results on the form labeled ''14th and 15th Stage HPC Disk Inspection Report,'' to Pratt & Whitney Customer Technical Support. The fax number is listed on that form which is attached to PW ASB No. JT9D–7R4–A72–524, Revision 1, dated June 26, 1997, or PW ASB No. A6232, Revision 2, June 26, 1997. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(e) For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for scheduled maintenance.

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

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

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

(h) The actions required by this AD shall be done in accordance with the following PW service documents:

Document No.	Pages	Revision	Date
ASB No. A6232	1	2	June 26, 1997.
	2	Original	December 13, 1995.
	3,4	1	January 11, 1996.
	5,6	2	June 26, 1997.
	7–10	Original	December 13, 1995.
Total Pages: 10.			
ASB No. JT9D–7R4–A72–524	1	1	June 26, 1997.
	2–5	Original	December 13, 1995.
	6,7	1	June 26, 1997.
	8–11	Original	December 13, 1995.
Total Pages: 11			
NDIP–858	1–33	Original	November 7, 1995.
Total Pages: 33			

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 Pratt & Whitney, Publications Department, Supervisor Technical Publications Distribution, M/S 132–30, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England

Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(i) This amendment becomes effective on December 15, 1998.

Issued in Burlington, Massachusetts, on October 5, 1998.

Mark C. Fulmer,

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

[FR Doc. 98–27194 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–69–AD; Amendment 39–10835; AD 98–21–27]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that are equipped with the ''corporate commuter cabin layout.'' This layout is a Pilatus designation only and the affected airplanes are not certificated for commuter operation. This AD requires modifying the passenger seats and seat rail covers. 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 passenger injuries because the passenger seat configuration has been found to not fully meet current head injury criteria regulations.

DATES: Effective November 26, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 26, 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 62 33; facsimile: +41 41 610 33 51. 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–69–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, FAA, Small Airplane Directorate, 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 Pilatus Models PC–12 and PC–12/45 airplanes that are equipped with the ''corporate commuter cabin layout'' was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 31, 1998 (63 FR 40845). This ''corporate commuter cabin layout'' is a Pilatus designation only and the affected airplanes are not certificated for commuter operation. The NPRM proposed to require modifying the passenger seats and seat rail covers. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus Service Bulletin No. 25–006, dated April 7, 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 11 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 workhours per airplane to accomplish the modification, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $5,280, or $480 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:

98–21–27 Pilatus Aircraft Ltd.: Amendment 39–10835; Docket No. 98–CE–69–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial numbers (MSN) 101 through MSN 230, certificated in any category, that are equipped with the ''corporate commuter cabin layout.''

Note 1: This ''corporate commuter cabin layout'' is a Pilatus Aircraft Ltd. designation only and the affected airplanes are not certificated for commuter operation.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 passenger injuries because the passenger seat configuration does not fully meet current head injury criteria regulations, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, modify the passenger seats and seat rail covers in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 25–006, dated April 7, 1998.

(b) As of the effective date of this AD, no person may install, on any affected airplane, passenger seats and seat rail covers that are not modified in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 25–006, dated April 7, 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 times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Questions or technical information related to Pilatus Service Bulletin No. 25–006, dated April 7, 1998, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 62 33; facsimile: +41 41 610 33 51. 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 modifications required by this AD shall be done in accordance with Pilatus Service Bulletin No. 25–006, dated April 7, 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 4: The subject of this AD is addressed in Swiss AD HB 98–179, dated June 15, 1998.

(g) This amendment becomes effective on November 26, 1998.

Issued in Kansas City, Missouri, on October 5, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27331 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–65–AD; Amendment 39–10831, AD 98–21–23]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. CFM56–7B Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFM International, S.A. (CFMI) CFM56–7B series turbofan engines. This action supersedes telegraphic AD T98–18–51 that currently requires an inspection of electronic engine control (EEC) fault messages on both engines for the presence of any of the hydromechanical unit (HMU) fuel metering valve (FMV) signal faults identified in the All Operators Wire every 20 flight cycles or 3 calendar days, whichever occurs first, and, if necessary, removing the HMU and replacing it with a serviceable HMU. This action also requires installation of improved EEC software that constitutes terminating action to the repetitive fault message inspections. This amendment is prompted by development of improved EEC software that obviates the need for the repetitive fault message inspections. The actions specified by this AD are intended to prevent an uncommanded engine acceleration event, or inflight engine shutdown.

DATES: Effective November 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before December 15, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–65–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from CFM International, S.A., Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7138, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On August 28, 1998, the Federal Aviation Administration (FAA) issued telegraphic airworthiness directive (AD) T98–18–51, applicable to CFM International, S.A. (CFMI) CFM56–7B series turbofan engines, which requires an inspection of electronic engine control (EEC) fault messages on both engines for the presence of any of the hydromechanical unit (HMU) fuel metering valve (FMV) signal faults identified in the all operators wire every 20 flight cycles or 3 calendar days, whichever occurs first. If any of the HMU FMV signal faults identified in CFMI All Operators Wire 98/CFM/312R1, dated August 28, 1998, are detected on only one of the engines, that AD requires, prior to further flight, removal from service of the HMU and replacement with a serviceable HMU. If any of the HMU FMV signal faults identified in the All Operators Wire are detected on both engines, that AD requires removing the HMU and replacing it with a serviceable HMU, prior to further flight, on the engine that

has logged the faults for the most flight cycles; and after accumulating at least three flight cycles, but not to exceed ten flight cycles, removing the HMU and replacing it with a serviceable HMU on the other engine.

That action was prompted by reports of 3 uncommanded engine acceleration events, one of which resulted in an inflight engine shutdown. The cause of the uncommanded acceleration events has been attributed to faults in channel B of the HMU FMV resolver. The investigation has not yet identified the root cause for these faults on all three events. Under current time-limited dispatch (TLD) guidelines, these faults are classified as short or long time dispatch faults, and therefore, they are not annunciated in the cockpit. A review of the EEC non-volatile memory following these events has indicated that the faults had been present for previous flight cycles. These faults were not detected under the current TLD guidelines. Therefore, the FAA has determined that these faults need to be reclassified as no dispatch faults, and that the inspection frequency must be increased. That condition, if not corrected, could result in an uncommanded engine acceleration event, or inflight engine shutdown.

Since the issuance of that telegraphic AD, the manufacturer has developed improved EEC software that changes the dispatch level for the HMU FMV signal faults identified in the All Operators Wire to engine control light level/no dispatch.

The FAA has reviewed and approved the technical contents of CFMI CFM56–7B All Operators Wire 98/CFM/312R1, dated August 28, 1998, that describes procedures for inspection for the presence of engine EEC fault messages; and CFM56–7B Alert Service Bulletin (ASB) No. 73–A024, dated September 2, 1998, that describes procedures for installation of the improved software.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes telegraphic AD T98–18–51 to require installation of improved EEC software, within 75 cycles in service (CIS) after the effective date of this AD, or by November 9, 1998, whichever occurs first. The calendar end-date was determined based upon risk analysis. Installation of this improved software constitutes terminating action to the repetitive fault message inspections required by this AD. The actions are required to be accomplished in accordance with the ASB described previously.

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 should 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–65–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

98–21–23 CFM International, S.A.: Amendment 39–10831. Docket No. 98–ANE–65–AD. Supersedes telegraphic AD T98–18–51.

Applicability: CFM International, S.A. (CFMI) CFM56–7B series turbofan engines, with electronic engine control (EEC) software, part numbers (P/Ns) 1853M78P07, 1853M78P08, 1853M78P10, or 1853M78P11 installed. These engines are installed on, but not limited to Boeing 737–600, 737–700, and 737–800 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncommanded engine acceleration event, or inflight engine shutdown, accomplish the following:

(a) Inspect for the presence of engine EEC fault messages for both engines installed on the aircraft within 20 flight cycles after the effective date of this AD, or within three calendar days, whichever occurs first, in accordance with CFM56–7B All Operators Wire 98/CFM/312R1, dated August 28, 1998.

(1) If any of the faults identified in the All Operators Wire are detected on only one of the engines, remove and replace the hydromechanical unit (HMU) with a serviceable HMU, and ensure the faults are cleared prior to further flight.

(2) If any of the faults identified in the All Operators Wire are detected on both engines, remove and replace the HMU on the engine that has logged the fault for more flight cycles, replace with a serviceable HMU, and ensure that the faults are cleared prior to further flight. Remove and replace the HMU on the other engine with a serviceable HMU, after accumulating at least three flight cycles, but not to exceed ten flight cycles, and ensure the faults are cleared.

(3) Thereafter, inspect for the presence of engine EEC fault messages on both engines of the aircraft at intervals not to exceed 20 flight cycles since last inspection, or within three calendar days since last inspection, whichever occurs first. If any of the faults identified in the All Operators Wire are detected, remove and replace the HMU in accordance with paragraph (a)(1) or (a)(2) of this AD, as applicable.

Note 2: Installation of a serviceable HMU in accordance with paragraphs (a)(1) or (a)(2) of this AD does not constitute terminating action to the repetitive inspections required by paragraph (a)(3) of this AD.

(b) For the purpose of this AD, a serviceable HMU is defined as an HMU with P/N 1853M56P06 or AlliedSignal P/N 442098.

(c) Within 75 cycles in service after the effective date of this AD, or by November 9, 1998, whichever occurs first, install EEC software, P/N 1853M78P12, in accordance with CFMI CFM56–7B Alert Service Bulletin (ASB) No. 73-A024, dated September 2, 1998. Installation of this improved software constitutes terminating action to the inspections required by paragraph (a) of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) The actions required by this AD shall be accomplished in accordance with the following CFMI service documents:

Document No.	Page	Date
All Operators Wire 98/CFM/312R1	1–2	August 28, 1998.
Total Pages	2	
CFM56–7B ASB No. 73–A024	1–23	September 2, 1998.
Total Pages	23	

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 CFM International, S.A., Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment supersedes telegraphic AD T98–18-51, issued August 28, 1998.

(g) This amendment becomes effective on November 2, 1998.

Issued in Burlington, Massachusetts, on October 6, 1998.

Ronald L. Vavruska,

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

[FR Doc. 98–27464 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–45–AD; Amendment 39–10832; AD 98–21–24]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney JT8D series turbofan engines, that requires removal, visual inspection, eddy current inspection, repair or replacement of affected compressor disks. This amendment is prompted by reports of improper fixturing during the electrolytic cleaning process of certain compressor disks at a certified repair station, Avial or Greenwich Air Services, currently GE Engine Services Dallas LP, certificate number RA1R445K of Dallas, Texas, that can result in damage to the disks in the form of arc burns. The actions specified by this AD are intended to prevent compressor disk cracking from arc burns in tie rod holes, shielding holes, or pressure balance holes, which could lead to a fracture of a compressor disk, resulting in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

DATES: Effective November 16, 1998.

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

ADDRESSES: The service information referenced in this AD may be obtained from GE Engine Services—Dallas LP, 9311 Reeves St., Dallas, TX 75235–2095. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

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 Pratt & Whitney (PW) JT8D series turbofan engines was published in the **Federal Register** on

January 22, 1998 (63 FR 3483). That action proposed to require, at the next shop visit after the effective date of the AD, a one-time visual and eddy current inspection of compressor disks to detect arc burn damage and if appropriate, repair of the damaged area.

After publication of that notice of proposed rulemaking (NPRM), the FAA received a comment from the manufacturer stating that a drawdown schedule for removal of affected disks should be added to the proposed rule to maintain an acceptable level of safety, instead of requiring the inspection at the next shop visit. The FAA concurred and added a drawdown schedule of 3,000 cycles in service (CIS) after the effective date of this AD, or the next shop visit, whichever occurs first, to the supplemental NPRM (SNPRM), published May 15, 1998 (63 FR 27002), which reopened the comment period.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received in response to both the original NPRM published in January 1998 and the subsequent SNPRM published in May 1998.

One commenter to the original NPRM states that maintenance done in a shop that could otherwise been done on-wing should be excluded from the shop visit definition of this AD. The FAA concurs. This change to the definition of the term ''shop visit'' was incorporated into the SNPRM.

One commenter states that the final rule should reassess the drawdown interval based on the number of disks inspected to date, and require appropriate inspections to occur based on intervals using cycles since potentially arc-burned, instead of cycles from effective date of the AD. The FAA does not concur. The current drawdown interval manages the risks on a fleet-wide basis. While the FAA recognizes that some operators may not exactly fit this model, the FAA has determined that using a fleet-wide basis is an analytically sound approach to manage this unsafe condition. Those operators who wish to develop inspection intervals to fit their operation based on cycles since potentially arc-burned, may do so under the provisions of paragraph (e) of this AD.

One commenter notes that disk, P/N 774407, S/N P60383 is listed twice in table. The FAA concurs and has removed the additional entry as a typographical error.

One commenter requests that clarification of the one-time inspection be included in the AD. The FAA does not concur. The required visual and eddy current inspections must be performed once within 3,000 cycles in service after the effective date of the AD, or at the next shop visit, whichever occurs first, not to exceed 10 years from the effective date of the AD. There is no need for a terminating action as there are no repetitive inspection requirements. The FAA will monitor the inspection results and determine if additional rulemaking action is warranted.

Two commenters state that the repair procedures should be available to the entire industry for incorporation into their approved procedures, rather than only allowing GE Engine Services—Dallas, LP., certificate number RA1R445K of Dallas, Texas. The commenters believe that other facilities are just as qualified to perform the inspections and repairs. The FAA does not concur. The inspection criteria and procedures for finding disk arc burns use a unique and novel technique and therefore operators who want to use an alternate source for compliance to the AD must do so under the provisions of paragraph (e) of the AD.

One commenter believes that manuals should be updated with precautions against using improper fixturing. The FAA does not concur. The FAA has reviewed the engine manuals and determined that the appropriate precautions are already included in the engine manuals.

One commenter states that the economic analysis is incorrect because of the availability of required tooling. The FAA does not concur as these costs do not directly stem from the AD's required actions. The indirect costs associated with performing the maintenance actions required by this AD are not directly related to this proposed rule, and, therefore, are not addressed in the economic analysis for this rule. A full cost analysis for each AD, including such indirect costs, is not necessary since the FAA has already performed a cost benefit analysis when adopting the part 33 (14 CFR part 33) airworthiness requirements to which these engines were originally certificated. A finding that an AD is warranted means that the original design no longer achieves the level of safety specified by those airworthiness requirements, and that other required actions are necessary, as in this case, inspecting and repairing as necessary or removing high pressure compressor disks. Because the original level of safety was already determined to be cost beneficial, these additional requirements needed to return the engine to that level of safety do not add any additional regulatory burden, and, therefore, a full cost analysis would be redundant and unnecessary.

One commenter states that GE Engine Services should be responsible for all costs incurred by operators. Financial responsibility is beyond the scope of this AD; therefore the FAA has no position relative to this comment.

Six commenters state that they have no objection to the rule as proposed.

In addition, the FAA has made an editorial change to paragraph (a) in order to clarify when the inspection requirements of this AD are to be performed. The last sentence is deleted from paragraph (a) and the requirement that affected engines be inspected no later than 10 years from the effective date of the AD added to the first part of the first sentence.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are a total of 1,388 compressor disks exposed to improper fixturing during the electrolytic cleaning process. The FAA estimates that 1,054 of these disks currently remain in service in the worldwide fleet, which represents approximately 210 engines. The FAA also estimates that 840 of the disks affected by the AD are installed in engines installed on aircraft of U.S. registry. It will take approximately 30 work hours to accomplish the required actions per disk, and that the average labor rate is $60 per work hour. Required parts would cost approximately $23 per disk. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,531,320.

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:

98–21–24 Pratt & Whitney: Amendment 39–10832. Docket 97–ANE–45–AD.

Applicability: Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, –17AR, –209, –217, –217A, –217C, and –219 model turbofan engines which have a compressor disk installed identified by part number and serial number in Table 1 of this airworthiness directive (AD). These engines are installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 and MD80 series aircraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must 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 prevent compressor disk cracking from arc burns in tie rod holes, shielding holes, or pressure balance holes, which could lead to a fracture of a compressor disk, resulting in uncontained release of engine fragments, inflight engine shutdown, and airframe damage, accomplish the following:

(a) Within 3,000 cycles in service (CIS) after the effective date of this AD, or at the next shop visit, whichever occurs first, not to exceed 10 years after the effective date of this AD, remove, visually inspect, eddy current inspect, and repair or replace with a serviceable part disks identified by part number (P/N) and serial number (S/N) in Table 1 of this AD in accordance with GE Engine Services—Dallas, LP, Engineering Bulletin (EB) JT8D–025, dated March 27, 1998.

TABLE 1

Stage	P/N	S/N
3	745803	H13469
3	745803	N48096
3	745803	N48361
3	745803	P77936
3	745803	P77942
3	745803	P78298
3	745803	P98041
3	745803	P98334
3	745803	R18766
3	745803	R18989
3	745803	R19227
3	745803	R73555
3	745803	R74156
4	745704	2A3332
4	745704	2A4258
4	745704	G51920
4	745704	H04195
4	745704	J46788
4	745704	J76639
4	745704	K11388
4	745704	K11483
4	745704	K12946
4	745704	K52509
4	745704	K53069
4	745704	L60864
4	745704	L61145
4	777704	B114AA0034
4	777704	B114AA0178
4	777704	B114AA0274
4	777704	BBDUA14597
4	777704	BBDUAH4675
4	777704	BBDUAH7390
4	777704	J77499
4	777704	J94590
4	777704	K43182
4	777704	L81216
4	777704	L81217
4	777704	L81218
4	777704	L81224
4	777704	L81688
4	777704	M40670
4	777704	M44376
4	777704	M44384
4	777704	M53723
4	777704	M53753
4	777704	M53810
4	777704	M53815
4	777704	N30898
4	777704	N30938
4	777704	N30943
4	777704	N30947
4	777704	N30956
4	777704	N53261
4	777704	N53280
4	777704	N53284
4	777704	N53290
4	777704	N53296
4	777704	N53299
4	777704	N53309

TABLE 1—Continued

Stage	P/N	S/N
4	777704	N53317
4	777704	N53324
4	777704	N53337
4	777704	N53340
4	777704	N53347
4	777704	N53355
4	777704	N53356
4	777704	N53361
4	777704	N53364
4	777704	N53366
4	777704	N53373
4	777704	N53388
4	777704	N53390
4	777704	N53392
4	777704	N53397
4	777704	N53402
4	777704	N53405
4	777704	N53407
4	777704	N53409
4	777704	N53411
4	777704	N53413
4	777704	N53416
4	777704	N53419
4	777704	N53426
4	777704	N53434
4	777704	N53437
4	777704	N53438
4	777704	N53449
4	777704	N63635
4	777704	N63637
4	777704	N63646
4	777704	N63651
4	777704	N63696
4	777704	N63704
4	777704	N63718
4	777704	N63736
4	777704	N63740
4	777704	N63745
4	777704	N63803
4	777704	P50018
4	777704	P50025
4	777704	P50036
4	777704	P50050
4	777704	P50054
4	777704	P50083
4	777704	P63990
4	777704	R21906
4	777704	R21930
4	777704	R21985
4	777704	R21991
4	777704	R41366
4	777704	R42431
4	777704	R56904
4	777704	R56911
4	777704	R56932
4	777704	R56948
4	777704	R75603
4	777704	R75635
4	777704	R75644
4	777704	S28269
4	777704	S28335
4	777704	S28336
4	777704	S65405
4	777704	S65417
4	777704	S87903
4	777704	S91630
4	777704	T00466
4	777704	T48099
4	777704	T48101
4	777704	T48105
4	799504	K23796
4	799504	L61578

TABLE 1—Continued

Stage	P/N	S/N
4	799504	L61597
4	799504	L89794
4	799504	M77214
4	799504	N06109
4	799504	N06248
4	799504	N06731
4	799504	N06908
4	799504	N06911
4	799504	N32484
4	799504	N32493
4	799504	N32514
4	799504	N33627
4	799504	N33880
4	799504	N34238
4	799504	N89280
4	799504	N89817
4	799504	N90599
4	799504	N90812
4	799504	N90849
4	799504	P45299
4	799504	P45435
4	799504	R23598
4	799504	R23753
4	799504	R24022
4	799504	R24310
4	799504	R24543
4	799504	S07095
4	799504	S07147
4	799504	S07164
4	799504	S07250
4	799504	S58162
4	799504	S58237
4	799504	T02774
4	799504	T02897
4	799504	T03020
4	799504	T03027
4	799504	T03038
4	799504	T03047
7	701407	7Z5379
7	766007	G11181
7	774407	B207AA0057
7	774407	B207AA0164
7	774407	B207AA0224
7	774407	B207AA0270
7	774407	B207AA0546
7	774407	B207AA0719
7	774407	B207AA0757
7	774407	B207AA0768
7	774407	B207AA0775
7	774407	B207AA0913
7	774407	BENCAH1914
7	774407	BENCAH4273
7	774407	BENCAJ5690
7	774407	BENCAK1601
7	774407	BENCAK5082
7	774407	BENCAK5701
7	774407	BENCAK6044
7	774407	BENCAK6586
7	774407	G78791
7	774407	H19147
7	774407	H75592
7	774407	J08985
7	774407	J17315
7	774407	J17370
7	774407	J72117
7	774407	J93428
7	774407	J93669
7	774407	K78068
7	774407	K78149
7	774407	K78378
7	774407	L23953
7	774407	L71885

TABLE 1—Continued

Stage	P/N	S/N
7	774407	L71922
7	774407	L72170
7	774407	L72261
7	774407	M38646
7	774407	M44626
7	774407	M60192
7	774407	M78767
7	774407	M83783
7	774407	M93487
7	774407	M93549
7	774407	N24007
7	774407	N24131
7	774407	N58891
7	774407	N58905
7	774407	N59040
7	774407	N70414
7	774407	N88273
7	774407	N88281
7	774407	N88306
7	774407	N93477
7	774407	N95003
7	774407	P14688
7	774407	P14851
7	774407	P16547
7	774407	P35320
7	774407	P35374
7	774407	P35475
7	774407	P54474
7	774407	P54594
7	774407	P60383
7	774407	P81375
7	774407	P81382
7	774407	P86353
7	774407	R19478
7	774407	R31305
7	774407	R37450
7	774407	R46879
7	774407	R46934
7	774407	R57593
7	774407	R57744
7	774407	R57769
7	774407	R72169
7	774407	R72236
7	774407	R81458
7	774407	R81507
7	774407	R81527
7	774407	R81612
7	774407	R90895
7	774407	S05652
7	774407	S13843
7	774407	S14099
7	774407	S14103
7	774407	S36805
7	774407	S36885
7	774407	S36896
7	774407	S36994
7	774407	S36995
7	774407	S37166
7	774407	S37554
7	774407	T04613
7	774407	T04687
7	774407	T04739
7	774407	T04806
7	774407	T04812
7	774407	T04814
7	774407	T04837
7	774407	T04843
7	774407	T04885
7	774407	T04903
7	774407	T04960
7	774407	T05000
7	774407	T05108

TABLE 1—Continued

Stage	P/N	S/N
7	5006007–02	BENCAK9696
7	5006007–02	BENCAK9900
7	5006007–02	BENCAL0760
7	5006007–02	BENCAL1937
7	5006007–02	BENCAL4577
7	5006007–02	BENCAL5766
7	5006007–01	AA0297
7	5006007–01	B207AA0069
7	5006007–01	B207AA0135
7	5006007–01	B207AA0155
7	5006007–01	B207AA0172
7	5006007–01	B207AA0177
7	5006007–01	B207AA0354
7	5006007–01	B207AA0355
7	5006007–01	B207AA0421
7	5006007–01	B207AA0493
7	5006007–01	B207AA0533
7	5006007–01	B207AA0571
7	5006007–01	B207AA0684
7	5006007–01	B207AA0756
7	5006007–01	B207AA0811
7	5006007–01	BENCAH3454
7	5006007–01	BENCAH4003
7	5006007–01	BENCAH4004
7	5006007–01	BENCAH4371
7	5006007–01	BENCAH4373
7	5006007–01	BENCAH4794
7	5006007–01	BENCAH4797
7	5006007–01	BENCAH5400
7	5006007–01	BENCAH5401
7	5006007–01	BENCAJ8559
7	5006007–01	BENCAJ8585
7	5006007–01	BENCAJ8614
7	5006007–01	BENCAJ8626
7	5006007–01	BENCAJ8656
7	5006007–01	BENCAJ9106
7	5006007–01	BENCAK5959
7	5006007–01	BENCAK5963
7	5006007–01	BENCAK9770
7	5006007–01	BENCAK9771
7	5006007–01	BENCAL2683
7	5006007–01	BENCAL3622
7	5006007–01	BENCAL3931
7	5006007–01	K20260
7	5006007–01	K20499
7	5006007–01	K20543
7	5006007–01	N09043
7	5006007–01	N65077
7	5006007–01	N65107
7	5006007–01	N65132
7	5006007–01	N93173
7	5006007–01	N93193
7	5006007–01	P23185
7	5006007–01	P23236
7	5006007–01	P49794
7	5006007–01	P49835
7	5006007–01	P92551
7	5006007–01	P92580
7	5006007–01	R12660
7	5006007–01	R12670
7	5006007–01	R12710
7	5006007–01	R35504
7	5006007–01	R35530
7	5006007–01	R36545
7	5006007–01	R43821
7	5006007–01	R54576
7	5006007–01	R54634
7	5006007–01	R79460
7	5006007–01	R79466
7	5006007–01	R92415
7	5006007–01	R92431
7	5006007–01	R92435

TABLE 1—Continued

Stage	P/N	S/N
7	5006007–01	R92442
7	5006007–01	S11034
7	5006007–01	S11058
7	5006007–01	S11154
7	5006007–01	S11156
7	5006007–01	S11179
7	5006007–01	S11182
7	5006007–01	S11186
7	5006007–01	S11202
7	5006007–01	S11206
7	5006007–01	S56884
7	5006007–01	S56888
7	5006007–01	S56998
7	5006007–01	S57073
7	5006007–01	S57075
7	5006007–01	S57117
7	5006007–01	S57120
7	5006007–01	S57156
7	5006007–01	S57157
7	5006007–01	S57192
7	5006007–01	S57220
7	5006007–01	S57332
7	5006007–01	S57354
7	5006007–01	S57405
7	5006007–01	S57412
7	5006007–01	S57420
7	5006007–01	S57424
7	5006007–01	S57437
7	5006007–01	S57452
7	5006007–01	S57467
7	5006007–01	S57470
7	5006007–01	S57589
8	748608	B208AA0043
8	748608	BENCAK1564
8	748608	H50069
8	748608	H64474
8	748608	H64605
8	748608	J57591
8	748608	J94824
8	748608	M54652
8	748608	M54835
8	748608	N14526
8	748608	N84300
8	748608	P–28517
8	748608	P26161
8	748608	P28493
8	748608	P28504
8	748608	P28505
8	748608	P28511
8	748608	P28542
8	748608	P28614
8	748608	P98885
8	748608	S01079
8	748608	S01090
8	748608	S50742
8	748608	S78049
8	748608	S78056
8	748608	S78100
8	787008	J76875
8	787008	K12869
8	787008	M77087
8	787008	N06806
8	787008	N32406
8	787008	N34151
8	787008	N89336
8	787008	N89554
8	787008	N90392
8	787008	N90682
8	787028	N89693
8	787208	AA0676
8	787208	B07691
8	787208	B228AA0169

TABLE 1—Continued

Stage	P/N	S/N
8	787208	B228AA0242
8	787208	B228AA0288
8	787208	B228AA0389
8	787208	B228AA0426
8	787208	B228AA0537
8	787208	B228AA0576
8	787208	B228AA0638
8	787208	B228AA0641
8	787208	B228AA0746
8	787208	B228AA0859
8	787208	B228AA0866
8	787208	B228AA0878
8	787208	B228AA0905
8	787208	B228AA1070
8	787208	B228AA1117
8	787208	BENCAH0302
8	787208	BENCAH1584
8	787208	BENCAH3448
8	787208	BENCAJ5729
8	787208	BENCAJ8175
8	787208	BENCAJ8767
8	787208	BENCAJ8773
8	787208	BENCAJ8790
8	787208	BENCAJ9142
8	787208	BENCAK4678
8	787208	BENCAK4771
8	787208	BENCAK5470
8	787208	BENCAK6156
8	787208	BENCAK6162
8	787208	BENCAK6398
8	787208	BENCAK8259
8	787208	BENCAK9252
8	787208	BENCAK9261
8	787208	BENCAL2604
8	787208	BENCAL2642
8	787208	BENCAL4344
8	787208	BENCAL7699
8	787208	BENCAL9217
8	787208	J76954
8	787208	K11762
8	787208	K12737
8	787208	K12765
8	787208	L89874
8	787208	M41582
8	787208	M41586
8	787208	M41918
8	787208	M76995
8	787208	M77005
8	787208	M77119
8	787208	N06396
8	787208	N33501
8	787208	N33769
8	787208	N33774
8	787208	N33776
8	787208	N33784
8	787208	N34183
8	787208	N34207
8	787208	N89068
8	787208	N89079
8	787208	N89082
8	787208	N89087
8	787208	N89089
8	787208	N89404
8	787208	N89409
8	787208	N89699
8	787208	N89702
8	787208	N89708
8	787208	N89895
8	787208	N89898
8	787208	N90251
8	787208	N90344
8	787208	N90990

TABLE 1—Continued

Stage	P/N	S/N
8	787208	P43853
8	787208	P43872
8	787208	P43891
8	787208	P43956
8	787208	P43986
8	787208	P44338
8	787208	P45405
8	787208	R23233
8	787208	R23836
8	787208	R23873
8	787208	R24174
8	787208	R24227
8	787208	R24677
8	787208	R24739
8	787208	R24816
8	787208	R24824
8	787208	R91601
8	787208	R91825
8	787208	R91870
8	787208	R91947
8	787208	R92114
8	787208	R92308
8	787208	S07578
8	787208	S07629
8	787208	S07758
8	787208	S07768
8	787208	S07775
8	787208	S39269
8	787208	S39468
8	787208	S39513
8	787208	S39638
8	787208	S39655
8	787208	S39663
8	787208	S39753
8	787208	S39822
8	787208	S39837
8	787208	S39951
8	787208	S39973
8	787208	S39995
8	787208	S40027
8	787208	S40038
8	787208	S40077
8	787208	S40079
8	787208	S40095
8	789608	H03942
8	789608	J21516
8	792038	B228AA0039
8	792038	BENCAJ8836
8	797938	B228AA0487
8	797938	B228AA1034
8	797938	BENCAJ8910
8	797938	BENCAL5921
8	797938	N06290
8	797938	N33267
8	797938	N90703
8	797938	N90970
8	797938	S70436
8	797938	T03512
8	5005008–01	T03421
8	5005808–01	B228AA0052
8	5005808–01	B228AA0287
8	5005808–01	B228AA0405
8	5005808–01	B228AA0490
8	5005808–01	B228AA0519
8	5005808–01	BENCAH1577
8	5005808–01	L60763
8	5005808–01	M77630
8	5005808–01	N06193
8	5005808–01	N32395
8	5005808–01	N32524
8	5005808–01	N33073
8	5005808–01	N33304

TABLE 1—Continued

Stage	P/N	S/N
8	5005808–01	N33466
8	5005808-01	N89447
8	5005808-01	N89464
8	5005808-01	P44800
8	5005808-01	P45226
8	5005808-01	R24458
8	5005808-01	R91359
8	5005808-01	R91787
8	5005808-01	S07967
8	5005808-01	S70327
8	5005808-01	S70429
8	5005808-01	S70463
8	5005808-01	S70494
8	5005808-01	S70520
8	5005808-01	T03317
8	5005808-01	T03452
8	5005808-01	T03476
8	5005808-01	T03506
8	5005808-01	T03549
8	5006008-01	R24001
9	701509	5A1936
9	701509	J89101
9	701509	L56782
9	701509	L85804
9	701509	M09404
9	701509	M73608
9	701509	M84236
9	701509	N02058
9	701509	N02998
9	701509	N209AA0242
9	701509	N209AA0246
9	701509	N209AA0323
9	701509	N209AA0418
9	701509	N209AA0634
9	701509	N22582
9	701509	N56942
9	701509	N56952
9	701509	N79878
9	701509	N97637
9	701509	N97707
9	701509	N98354
9	701509	N99323
9	701509	NENCAH0592
9	701509	NENCAH0697
9	701509	NENCAH0883
9	701509	NENCAH1173
9	701509	NENCAH1422
9	701509	NENCAH1432
9	701509	P11303
9	701509	P11463
9	701509	P12707
9	701509	P52176
9	701509	P52596
9	701509	P52608
9	701509	P97654
9	701509	P97704
9	701509	P98673
9	701509	R18109
9	701509	R18342
9	701509	R18385
9	701509	R45763
9	701509	R45850
9	701509	R46297
9	701509	R46394
9	701509	R46403
9	701509	R72835

TABLE 1—Continued

Stage	P/N	S/N
9	701509	R72839
9	701509	R72846
9	701509	R73002
9	701509	R74484
9	701509	S00704
9	701509	S00765
9	701509	S00824
9	701509	S00886
9	701509	S00909
9	701509	S00910
9	701509	S18837
9	701509	S18941
9	701509	S19027
9	701509	S50340
9	701509	S70059
9	701509	S77627
9	701509	S77671
9	701509	S77784
9	701509	S77809
9	701509	T18893
9	701509	T18909
9	701509	T27458
9	701509	T27587
9	739509	H17622
9	772509	K23758
9	772509	K24989
9	772509	K86136
9	772509	L15428
9	772509	M40393
9	772509	M40397
9	772509	N42380
9	772509	N56529
9	772509	N79955
9	772509	N79970
9	772509	N80784
9	772509	N96815
9	772509	N96816
9	772509	N96904
9	772509	N96905
9	772509	N97800
9	772509	N97806
9	772509	N99352
9	772509	N99353
9	772509	N99362
9	772509	N99367
9	772509	N99368
9	772509	N99376
9	772509	P11398
9	772509	P11407
9	772509	P11411
9	772509	P11414
9	772509	P11419
9	772509	P12231
9	772509	P76976
9	772509	P76987
9	772509	P76990
9	772509	P76992
9	772509	P76994
9	772509	R17787
9	772509	S01222
9	772509	S02183
9	772509	S50825
9	798509	AA0579
9	798509	B209AA0068
9	798509	B209AA0086
9	798509	B209AA0100

TABLE 1—Continued

Stage	P/N	S/N
9	798509	B209AA0103
9	798509	B209AA0105
9	798509	B209AA0185
9	798509	B209AA0261
9	798509	B209AA0304
9	798509	B209AA0364
9	798509	B209AA0420
9	798509	B209AA0429
9	798509	B209AA0434
9	798509	B209AA0461
9	798509	B209AA0518
9	798509	B209AA0542
9	798509	B209AA0551
9	798509	B209AA0619
9	798509	B209AA0632
9	798509	B209AA0649
9	798509	B209AA0707
9	798509	BENCAH2176
9	798509	BENCAJ6152
9	798509	BENCAJ9319
9	798509	BENCAJ9337
9	798509	BENCAJ9348
9	798509	BENCAJ9359
9	798509	BENCAJ9366
9	798509	BENCAK0166
9	798509	BENCAK4404
9	798509	BENCAK4409
9	798509	BENCAL0725
9	798509	BENCAL2575
9	798509	BENCAL4022
9	798509	BENCAL6238
9	798509	N03324
9	798509	N42399
9	798509	N42401
9	798509	N56700
9	798509	N97809
9	798509	N99501
9	798509	P53159
9	798509	P77576
9	798509	R72583
9	798509	R73591
9	798509	R74285
9	798509	S02121
9	798509	S02165
9	798509	S79341
9	798509	S79364
9	798509	S79409
9	798509	S79414
9	798509	S94376
9	798509	S94384
9	798509	S94391
10	770510	G80186
10	772510	B210AA0003
10	772510	B210AA0024
10	772510	B210AA0062
10	772510	B210AA0128
10	772510	B210AA0263
10	772510	B210AA0339
10	772510	B210AA0398
10	772510	B210AA0520
10	772510	B210AA0538
10	772510	B210AA0549
10	772510	B210AA0563
10	772510	B210AA0619
10	772510	B210AA0684

TABLE 1—Continued

Stage	P/N	S/N
10	772510	B210AA0727
10	772510	B210AA0744
10	772510	B210AA0785
10	772510	B210AA0860
10	772510	B210AA0862
10	772510	B210AA0956
10	772510	B210AA0984
10	772510	B210AA1073
10	772510	B210AA1081
10	772510	B210AA1137
10	772510	BENCAH1958
10	772510	BENCAH2165
10	772510	BENCAH2280
10	772510	BENCAJ5741
10	772510	BENCAJ9159
10	772510	BENCAJ9705
10	772510	BENCAJ9757
10	772510	BENCAJ9767
10	772510	BENCAJ9773
10	772510	BENCAJ9805
10	772510	BENCAK4597
10	772510	BENCAK5154
10	772510	BENCAK5350
10	772510	BENCAK5735
10	772510	BENCAK5773
10	772510	BENCAK6465
10	772510	BENCAK9082
10	772510	BENCAK9123
10	772510	BENCAK9429
10	772510	BENCAK9434
10	772510	BENCAL1600
10	772510	BENCAL1635
10	772510	BENCAL2434
10	772510	BENCAL3279
10	772510	BENCAL5558
10	772510	BENCAL6141
10	772510	BENCAL6373
10	772510	H17769
10	772510	H32904
10	772510	H34713
10	772510	H57950
10	772510	H76378
10	772510	K56398
10	772510	K66132
10	772510	K86040
10	772510	L15008
10	772510	L32061
10	772510	L55910
10	772510	L56859
10	772510	L86006
10	772510	M10588
10	772510	M10987
10	772510	M39587
10	772510	M39591
10	772510	M49011
10	772510	M49358
10	772510	M49359
10	772510	M73918
10	772510	M86490
10	772510	N02251
10	772510	N02274
10	772510	N11091
10	772510	N22833
10	772510	N42134
10	772510	N56280
10	772510	N57181
10	772510	N57382
10	772510	N57418
10	772510	N57437
10	772510	N80225
10	772510	N80703
10	772510	N80716

TABLE 1—Continued

Stage	P/N	S/N
10	772510	N80718
10	772510	N81110
10	772510	N81114
10	772510	N81474
10	772510	N97025
10	772510	N97067
10	772510	N97527
10	772510	N97553
10	772510	N97574
10	772510	N97591
10	772510	N97832
10	772510	N98539
10	772510	N98750
10	772510	N98764
10	772510	N98768
10	772510	N98798
10	772510	P11004
10	772510	P11017
10	772510	P11029
10	772510	P11039
10	772510	P11087
10	772510	P11094
10	772510	P11101
10	772510	P11562
10	772510	P11575
10	772510	P11834
10	772510	P12009
10	772510	P12612
10	772510	P12615
10	772510	P12645
10	772510	P12648
10	772510	P51452
10	772510	P51454
10	772510	P51833
10	772510	P51883
10	772510	P52238
10	772510	P53116
10	772510	P53207
10	772510	P53327
10	772510	P76886
10	772510	P76891
10	772510	P77070
10	772510	P77161
10	772510	P77180
10	772510	P77423
10	772510	P77618
10	772510	P77663
10	772510	P77668
10	772510	P77744
10	772510	P77752
10	772510	P97017
10	772510	P98117
10	772510	P98258
10	772510	P98840
10	772510	R18022
10	772510	R18124
10	772510	R18611
10	772510	R18665
10	772510	R19275
10	772510	R46329
10	772510	R46679
10	772510	R72606
10	772510	R72615
10	772510	R72617
10	772510	R72874
10	772510	R73345
10	772510	R74396
10	772510	S01267
10	772510	S01277
10	772510	S01369
10	772510	S01501
10	772510	S01631

TABLE 1—Continued

Stage	P/N	S/N
10	772510	S01680
10	772510	S19280
10	772510	S19293
10	772510	S19294
10	772510	S19298
10	772510	S19328
10	772510	S19440
10	772510	S19447
10	772510	S19458
10	772510	S19467
10	772510	S19486
10	772510	S19512
10	772510	S51089
10	772510	S51144
10	772510	S51176
10	772510	S51210
10	772510	S78237
10	772510	S78294
10	772510	S78298
10	772510	S78318
10	772510	S78439
10	772510	S78464
10	772510	S78511
10	772510	S78623
10	772510	S78642
10	772510	S78724
10	772510	T19014
10	772510	T19091
10	772510	T19152
10	772510	T19169
10	772510	T28070
10	772510	T28091
10	772510	T28136
10	772510	T28138
10	772510	T49026
10	772510	T49044
10	772510	T49055
10	772510	T49068
10	772510	T49089
11	701411	G29388
11	701411	G43952
11	769611	H16901
11	772511	AA0065
11	772511	B211AA0047
11	772511	B211AA0157
11	772511	B211AA0171
11	772511	B211AA0263
11	772511	B211AA0301
11	772511	B211AA0349
11	772511	B211AA0356
11	772511	B211AA0517
11	772511	B211AA0529
11	772511	B211AA0599
11	772511	B211AA0622
11	772511	B211AA0624
11	772511	B211AA0705
11	772511	B211AA0798
11	772511	B211AA0823
11	772511	B211AA0945
11	772511	B211AA1004
11	772511	B211AA1107
11	772511	B211AA1166
11	772511	B211AA1212
11	772511	B211AA1292
11	772511	B211AA1360
11	772511	BENCAH0264
11	772511	BENCAH2171
11	772511	BENCAH5424
11	772511	BENCAJ8130
11	772511	BENCAK0910
11	772511	BENCAK7121
11	772511	BENCAK7336

TABLE 1—Continued

Stage	P/N	S/N
11	772511	BENCAK7407
11	772511	BENCAK7412
11	772511	BENCAK7417
11	772511	BENCAK7523
11	772511	BENCAL2881
11	772511	BENCAL2959
11	772511	BENCAL3030
11	772511	H58238
11	772511	H99450
11	772511	J24528
11	772511	J68900
11	772511	J88334
11	772511	K24665
11	772511	K35705
11	772511	K85911
11	772511	L15671
11	772511	L30512
11	772511	L84603
11	772511	L84967
11	772511	M11198
11	772511	M11208
11	772511	M40116
11	772511	M49492
11	772511	M49540
11	772511	M49551
11	772511	M61349
11	772511	M61810
11	772511	M61821
11	772511	M61827
11	772511	M73414
11	772511	M86423
11	772511	M86943
11	772511	M87075
11	772511	N02874
11	772511	N03522
11	772511	N21358
11	772511	N22738
11	772511	N41160
11	772511	N41282
11	772511	N41646
11	772511	N41748
11	772511	N42587
11	772511	N42774
11	772511	N56399
11	772511	N56596
11	772511	N57323
11	772511	N57878
11	772511	N57899
11	772511	N57939
11	772511	N57953
11	772511	N80541
11	772511	N80554
11	772511	N80580
11	772511	N81408
11	772511	N93700
11	772511	N96929
11	772511	N96947
11	772511	N96955
11	772511	N97354
11	772511	N97368
11	772511	N97956
11	772511	N97977
11	772511	N98242
11	772511	N98245
11	772511	N98573
11	772511	N98587
11	772511	N98612
11	772511	N98949
11	772511	N98963
11	772511	N98974
11	772511	N98976
11	772511	N98981

TABLE 1—Continued

Stage	P/N	S/N
11	772511	N98985
11	772511	N99526
11	772511	N99535
11	772511	N99551
11	772511	N99553
11	772511	N99564
11	772511	N99590
11	772511	P03620
11	772511	P11615
11	772511	P11637
11	772511	P11959
11	772511	P11981
11	772511	P12385
11	772511	P12387
11	772511	P12399
11	772511	P12743
11	772511	P12777
11	772511	P12930
11	772511	P51979
11	772511	P52109
11	772511	P52732
11	772511	P52903
11	772511	P52910
11	772511	P76731
11	772511	P76820
11	772511	P76832
11	772511	P76857
11	772511	P77637
11	772511	P77642
11	772511	P97786
11	772511	R05382
11	772511	R05539
11	772511	R05747
11	772511	R29690
11	772511	R29884
11	772511	R30070
11	772511	R30119
11	772511	R30137
11	772511	R30157
11	772511	R30194
11	772511	R30226
11	772511	R30258
11	772511	R30313
11	772511	R30429
11	772511	R30504
11	772511	R30534
11	772511	R30617
11	772511	R30625
11	772511	R30808
11	772511	R30810
11	772511	R30906
11	772511	R30941
11	772511	R30993
11	772511	R31009
11	772511	R31035
11	772511	R31073
11	772511	R31118
11	772511	R46248
11	772511	R46361
11	772511	S03667
11	772511	S03741
11	772511	S03745
11	772511	S03805
11	772511	S04156
11	772511	S04451
11	772511	S04460
11	772511	S04473
11	772511	S04542
11	772511	S04543
11	772511	S04557
11	772511	S04564
11	772511	S04582

TABLE 1—Continued

Stage	P/N	S/N
11	772511	S04649
11	772511	S80373
11	772511	S80389
11	772511	S80465
11	772511	S80547
11	772511	S80588
11	772511	S80617
11	772511	S80682
11	772511	S80740
11	772511	S80765
11	772511	T22044
11	772511	T22052
11	772511	T22099
11	772511	T22202
11	772511	T22236
11	772511	T22261
11	772511	T22353
11	772511	T22378
11	772511	T22395
11	772511	T22405
11	772511	T22521
11	772511	T22533
11	772511	T22593
11	772511	T22608
11	772511	T22653
11	772511	T22797
11	772511	T22835
11	772511	T22873
11	772511	T22895
11	772511	T22949
11	772511	T23006
12	717312	2B1946
12	717312	3A7441
12	772512	B212AA0565
12	772512	B212AA0864
12	772512	H58261
12	772512	H58448
12	772512	J23046
12	772512	J68527
12	772512	J89283
12	772512	K04097
12	772512	K23952
12	772512	K23992
12	772512	K35819
12	772512	K55628
12	772512	K55951
12	772512	K56079
12	772512	K66470
12	772512	K66500
12	772512	K86442
12	772512	K86447
12	772512	L15502
12	772512	L30899
12	772512	L31589
12	772512	L32003
12	772512	L56276
12	772512	L56294
12	772512	L56303
12	772512	L56308
12	772512	L56886
12	772512	L85095
12	772512	L86236
12	772512	M10233
12	772512	M10966
12	772512	M40081
12	772512	M49574
12	772512	M49665
12	772512	M73392
12	772512	M84838
12	772512	N02466
12	772512	N03990
12	772512	N21261

TABLE 1—Continued

Stage	P/N	S/N
12	772512	N22069
12	772512	N22894
12	772512	N41128
12	772512	N41249
12	772512	N41717
12	772512	N42236
12	772512	N42871
12	772512	N56325
12	772512	N57451
12	772512	N58072
12	772512	N58127
12	772512	N80601
12	772512	N81044
12	772512	N81173
12	772512	N81187
12	772512	N97079
12	772512	N97083
12	772512	N97109
12	772512	N97384
12	772512	N97438
12	772512	N97455
12	772512	N97457
12	772512	N97893
12	772512	N97916
12	772512	N98152
12	772512	N98162
12	772512	N98654
12	772512	N98657
12	772512	N98680
12	772512	N98691
12	772512	N99016
12	772512	N99025
12	772512	N99049
12	772512	N99057
12	772512	N99094
12	772512	N99125
12	772512	P11154
12	772512	P11179
12	772512	P11183
12	772512	P11193
12	772512	P11252
12	772512	P11678
12	772512	P11699
12	772512	P11877
12	772512	P11879
12	772512	P11909
12	772512	P12244
12	772512	P12277
12	772512	P12493
12	772512	P12519
12	772512	P51414
12	772512	P52139
12	772512	P52409
12	772512	P52520
12	772512	P52871
12	772512	P53141
12	772512	P53351
12	772512	P53396
12	772512	P72298
12	772512	P76702
12	772512	P76921
12	772512	P76931
12	772512	P77096
12	772512	P77294
12	772512	P77338
12	772512	P77695
12	772512	P77796
12	772512	P78510
12	772512	P97315
12	772512	R17703
12	772512	R17746
12	772512	R18201

TABLE 1—Continued

Stage	P/N	S/N
12	772512	R18319
12	772512	R18589
12	772512	R19042
12	772512	R45067
12	772512	R45829
12	772512	R46100
12	772512	R46108
12	772512	R46121
12	772512	R46707
12	772512	R52615
12	772512	R72811
12	772512	R73024
12	772512	R73783
12	772512	R74357
12	772512	S01858
12	772512	S01860
12	772512	S01914
12	772512	S01923
12	772512	S01949
12	772512	S01969
12	772512	S01971
12	772512	S01980
12	772512	S01994
12	772512	S02002
12	772512	S02007
12	772512	S19593
12	772512	S19644
12	772512	S19843
12	772512	S51370
12	772512	S51437
12	772512	S51514
12	772512	S51519
12	772512	S51560
12	772512	S51571
12	772512	S78825
12	772512	S78841
12	798512	B212AA0009
12	798512	B212AA0045
12	798512	B212AA0051
12	798512	B212AA0060
12	798512	B212AA0073
12	798512	B212AA0077
12	798512	B212AA0082
12	798512	B212AA0142
12	798512	B212AA0155
12	798512	B212AA0290
12	798512	B212AA0293
12	798512	B212AA0361
12	798512	B212AA0428
12	798512	B212AA0586
12	798512	B212AA0618
12	798512	B212AA0647
12	798512	B212AA0735
12	798512	B212AA0747
12	798512	B212AA0942
12	798512	B212AA0974
12	798512	B212AA1031
12	798512	B212AA1062
12	798512	B212AA1098
12	798512	B212AA1173
12	798512	BENCAH1931
12	798512	BENCAH4104
12	798512	BENCAJ4925
12	798512	BENCAJ6158
12	798512	BENCAJ7821
12	798512	BENCAJ8115
12	798512	BENCAJ9478
12	798512	BENCAJ9497
12	798512	BENCAJ9503
12	798512	BENCAJ9530
12	798512	BENCAJ9617
12	798512	BENCAJ9673

TABLE 1—Continued

Stage	P/N	S/N
12	798512	BENCAK0455
12	798512	BENCAK2377
12	798512	BENCAK4552
12	798512	BENCAK5787
12	798512	BENCAK8605
12	798512	BENCAK9227
12	798512	BENCAL1655
12	798512	BENCAL2487
12	798512	BENCAL4173
12	798512	BENCAL6328
12	798512	BENCAL6602
12	798512	M86993
12	798512	N42703
12	798512	N42708
12	798512	N57617
12	798512	N57629
12	798512	N80087
12	798512	N80088
12	798512	N98138
12	798512	N99136
12	798512	N99144
12	798512	P53305
12	798512	P76909
12	798512	P76916
12	798512	P77722
12	798512	P78317
12	798512	R17334
12	798512	R46556
12	798512	R46562
12	798512	R73201
12	798512	R74214
12	798512	S02217
12	798512	S02254
12	798512	S51853
12	798512	S79575
12	798512	S94530
12	798512	S94534
12	798512	S94538
12	798512	S94539
12	798512	S94569
12	798512	S94579
12	798512	S94590
12	798512	S94615
12	798512	T19187
12	798512	T19213
12	798512	T19220
12	798512	T19242
12	798512	T19277
12	798512	T19292
12	798512	T19314
12	798512	T28638
12	798512	T43059

(b) For the purpose of this AD, a shop visit is defined as an engine removal, where engine maintenance entails separation of pairs of major mating engine flanges or the removal of a disk, hub, or spool regardless of other planned maintenance except where the maintenance is being done in lieu of performing the maintenance on wing.

(c) The accomplishment of the inspections and repairs specified in this AD must be performed at GE Engine Services—Dallas, LP., certificate number RA1R445K of Dallas, Texas. Operators wishing to use another facility to perform the required inspections and repairs must apply for an alternative method of compliance in accordance with paragraph (e) of this AD.

(d) Report the following information on a monthly basis to the Manager of the Engine

Certification Office, FAA, 12 New England Executive Park, Burlington, MA 01803–5299; fax (781) 238–7199, Internet: Mark.C.Fulmer@faa.dot.gov. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056:

(1) S/N of disks inspected in accordance with paragraph (a) of this AD

(2) S/N of disks found with arc burns and approximate size of the arc burn.

(3) S/N of disks repaired in accordance with paragraph (a) of this AD.

(4) Hours and CIS since last shop visit and total hours and CIS of disks inspected in accordance with paragraph (a) of this AD.

(5) Report to the Manager of the Engine Certification Office, within two business days of finding one of the following conditions as a result of inspecting a disk in accordance with paragraph (a) of this AD:

(i) A crack depth of more than 5 mils.

(ii) More than 2 tie rod holes with cracks.

(iii) Arc burn depth beyond 9 mils.

(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, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

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

(g) The actions required by this AD shall be done in accordance with the following GE Engine Services—Dallas, LP, EB:

Document No.	Pages	Date
JT8D–025	1–3	March 27, 1998.

Total Pages: 3.

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 GE Engine Services—Dallas LP, 9311 Reeves St., Dallas, TX 75235–2095. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 16, 1998.

Issued in Burlington, Massachusetts, on October 6, 1998.

Ronald L. Vavruska,

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

[FR Doc. 98–27463 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–74–AD; Amendment 39–10838; AD 98–21–30]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 series airplanes and all Model A310 and A300–600 series airplanes, that requires repetitive inspections for wear damage of the aft attachment fittings of the articulated seats and dummy tracks in the passenger compartment; and 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 detect and correct wear damage of the aft attachment fittings of the articulated seats and dummy tracks. Such wear damage could cause the floor panels to sag and result in failure of flight control systems and consequent reduced controllability of the airplane.

DATES: Effective November 20, 1998.

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

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

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; 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 Airbus Model A300 series airplanes and all Model A310 and A300–600 series airplanes was published in the **Federal Register** on April 20, 1998 (63 FR 19425). That action proposed to require repetitive inspections for wear damage of the aft attachment fittings of the articulated seats and dummy tracks in the passenger compartment; and repair, if necessary.

Comments

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

Request To Revise Repair Criteria

The commenter, an operator, suggests that repair is not necessary for wear damage of 1 mm or less. (The proposed AD would have required repair of any damage.) The commenter reports that its current repair procedures, which have been approved by Airbus and the French airworthiness authority, involve repair only when the wear damage exceeds 1 mm. The commenter notes that the service bulletin cited in the proposed AD provides sliding wear/repair limits that allow operators the option to either repair wear damage of 2 mm or less, or continue to inspect until the wear damage exceeds 2 mm. The commenter also states that a wear rate of about 0.1 mm per 1,000 flight cycles is considered normal. Therefore, in order to comply with the AD as proposed, the commenter anticipates that all of its tracks/fittings would require repair for minor wear or replacement because of those normal wear conditions, at an estimated cost of $800,000.

The FAA concurs. Based on information provided by the commenter and clarification provided by the manufacturer and the French airworthiness authority, the FAA has determined that such an adjustment of the repair criteria will represent an appropriate option to operators and still maintain an acceptable level of safety. Paragraphs (c) and (d) of the final rule have been revised accordingly. However, the FAA finds that immediate repair of wear damage that exceeds 1 mm is necessary to maintain an adequate level of safety.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will

neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 126 airplanes of U.S. registry will be affected by this AD, that it will take approximately 48 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 AD on U.S. operators is estimated to be $362,880, or $2,880 per airplane, per inspection 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:

98–21–30 Airbus Industrie: Amendment 39–10838. Docket 98-NM–74-AD.

Applicability: Model A300 series airplanes on which Airbus Modification 3599 or 3135 (reference Airbus Service Bulletin A300–53–0188) has been accomplished, and all Model A310 and A300–600 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (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, unless accomplished previously.

To detect and correct wear damage of the aft attachment fittings of the articulated seats and dummy tracks in the passenger compartment, which could cause the floor panels to sag and result in failure of flight control systems and consequent reduced controllability of the airplane, accomplish the following:

(a) Perform a detailed visual inspection for wear damage of the aft attachment fittings of the articulated seats and dummy tracks in the passenger compartment, in accordance with Airbus Service Bulletins A300–53–0329, Revision 01 (for Airbus Model A300 series airplanes); A300–53–6105, Revision 01 (for Airbus Model A300–600 series airplanes); or A310–53–2101, Revision 01 (for Airbus Model A310 series airplanes), all dated October 17, 1997; at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes that have accumulated less than 12,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 6,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 12,000 or more total flight cycles as of the effective date of this AD: Inspect within 12 months after the effective date of this AD.

(b) If no wear damage is detected during the inspection required by paragraph (a) of this AD, repeat the detailed visual inspection thereafter at intervals not to exceed 6,000 flight cycles.

(c) If any wear damage measuring 1 mm (0.039 in.) or less is detected during the inspection required by paragraph (a) of this AD, accomplish either paragraph (c)(1) or (c)(2) of this AD, in accordance with Airbus Service Bulletin A300–53–0329, Revision 01 (for Airbus Model A300 series airplanes); A300–53–6105, Revision 01 (for Airbus Model A300–600 series airplanes); or A310–53–2101, Revision 01 (for Airbus Model A310 series airplanes); all dated October 17, 1997; as applicable.

(1) Repeat the inspection required by paragraph (a) of this AD at the interval specified in Figure 1, Sheet 1, of the applicable service bulletin, for the depth of wear damage detected. Or,

(2) Prior to further flight, repair the wear damage. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 6,000 flight cycles.

(d) If any wear damage measuring more than 1 mm (0.039 in.), and less than or equal to 2 mm (0.078 in.), is detected during the inspection required by paragraph (a) of this AD: Prior to further flight, repair in accordance with Airbus Service Bulletin A300–53–0329, Revision 01 (for Airbus Model A300 series airplanes); A300–53–6105, Revision 01 (for Airbus Model A300–600 series airplanes); or A310–53–2101, Revision 01 (for Airbus Model A310 series airplanes); all dated October 17, 1997; as applicable. Repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles.

(e) If any wear damage measuring more than 2 mm (0.078 in.) is detected during the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Repeat the visual inspection thereafter at intervals not to exceed 6,000 flight cycles.

(f) 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 Maintence 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.

(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) Except as provided by paragraph (e) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–53–0329, Revision 01, dated October 17, 1997; Airbus Service Bulletin A300–53–6105, Revision 01, dated October 17, 1997; or A310–53–2101, Revision 01, dated October

17, 1997; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–116–222(B), dated May 21, 1997.

(i) This amendment becomes effective on November 20, 1998.

Issued in Renton, Washington, on October 6, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27460 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–260–AD; Amendment 39–10837; AD 98–21–29]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes, that requires a one-time visual inspection to determine the part number of the fuel shutoff valve installed in the outboard engines. The AD also requires replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. This amendment is prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed on in-service airplanes. The actions specified by this AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage and, consequently, lead to an engine fire.

DATES: Effective November 20, 1998.

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

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or ITT Aerospace Controls, 28150 Industry Drive, Valencia, California 91355. 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: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2686; fax (425) 227–1181.

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 Boeing Model 747–100, –200, –300, and –400 series airplanes was published in the **Federal Register** on February 7, 1997 (62 FR 5783). That action proposed to require a one–time visual inspection to determine the part number of the fuel shutoff valve installed in the outboard engines. That action also proposed to require replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow–on actions.

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

One commenter supports the proposed rule.

Request To Revise Applicability of Proposed AD

One commenter, the manufacturer, requests that the FAA limit the applicability of the proposed AD to airplanes having line numbers 629 through 1006 inclusive. Another commenter requests that the proposed AD be limited to only Boeing Model 747–400 series airplanes.

The manufacturer states that the subject fuel shutoff valve with the faulty thermal relief assembly was delivered to them no earlier than January 1986. Therefore, the manufacturer estimates that airplanes starting with line number 629—the first Boeing Model 747 series airplane delivered in January 1986—could be subject to the identified unsafe condition.

The manufacturer also states that eight in–service events have occurred on Boeing Model 747–400 series airplanes powered by General Electric or Rolls Royce engines that were installed in the outboard positions only. There have been no confirmed events on General Electric or Rolls Royce engines installed in the inboard positions, or Boeing Model 747–400 series airplanes or Boeing 747–100, –200, and –300, 747SP, and 747SR series airplanes (i.e., Classic airplanes) powered by Pratt & Whitney series engines. The manufacturer states that Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996 (referenced in the proposal as an appropriate source of service information), included line numbers 1 through 1006 inclusive because at the time the alert service bulletin was released, a comprehensive installation comparison had not been completed nor had the quantitative risk assessment been concluded.

Since issuance of the alert service bulletin, the manufacturer has concluded that the close location of pneumatic ducts to the fuel lines for the outboard engine increases the possibility of higher pressures in the outboard engine fuel lines after the engines are shut down. The two Rolls Royce in–service events on the fuel cooled oil cooler (FCOC) can be attributed to the fact that the FCOC is a low pressure design.

The second commenter believes that malfunctioning spar valve thermal relief assemblies are a secondary cause of the subject problem. The commenter states that the primary cause is the unique configuration of the outboard strut on Boeing Model 747–400 series airplanes that has an excessive heat source near the fuel line.

The FAA concurs partially. The FAA does not agree with the commenter's request to limit the applicability of the final rule to only Boeing Model 747–400 series airplanes. The FAA points out that the incidents that prompted this AD occurred on certain Boeing Model 747 series airplanes on which the spar valves had a modified thermal relief assembly. Because these spar valves may be installed on airplanes other than Model 747–400 series airplanes, the FAA has determined that these airplanes also are subject to the addressed unsafe condition. In addition, the heat from sources close to the fuel lines do not per se create the problem. However, the FAA does agree with the manufacturer's request to limit the applicability of the final rule to airplanes having line numbers 629

through 1006 inclusive since the Boeing Model 747 series airplane having line number 629 was the first airplane delivered on which the subject valve was installed. Therefore, the FAA has revised the applicability of the final rule accordingly.

Request To Extend Compliance Time of Visual Inspection

Several commenters request that the compliance time for accomplishment of the visual inspection, as specified in paragraph (a) of the proposed AD, be extended from the proposed 12 months. One of these commenters states that a 24-month compliance time will allow the inspection to be accomplished during a regularly scheduled ''C'' check, and thereby eliminate any significant disruptions in flight schedules. Another commenter suggests a 15-month compliance time.

The FAA concurs that the compliance time can be extended somewhat. The FAA's intent was that the inspection be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet, when the airplanes would be located at a base where special equipment and trained personnel would be readily available, if necessary. Based on the information supplied by the commenters, the FAA now recognizes that 18 months corresponds more closely to the interval representative of most of the affected operators' normal maintenance schedules. Paragraph (a) of the final rule has been revised to reflect a compliance time of 18 months. The FAA does not consider that this extension of an additional 6 months for compliance will adversely affect safety.

Request To Revise Part Numbers

One commenter requests that the FAA reference the suffix letter ''A'' or ''M,'' as identified in Boeing Alert Service Bulletin 747–28A2199, for part numbers specified in the proposed AD. The FAA does not concur. The commenter is incorrect that these suffixes appear in the subject Boeing alert service bulletin; they appear in ITT Service Bulletin SB125334–28–01. After reviewing the ITT service bulletin, the FAA finds that these suffixes are meant for the parts after they have been modified and are not used for the identification of the appropriate part numbers, as suggested by the commenter. Therefore, the FAA finds that no change to the final rule is necessary.

Request To Perform Inspection on One Valve at a Time

Two commenters request that the FAA allow operators to inspect the fuel shutoff valves [required by paragraph (a) of the proposed AD] one at a time within the proposed 12-month compliance time. One commenter states that it will not be able to accomplish the proposed inspections and replacement (if required) without scheduling its airplanes out-of-service for extended periods of time. The FAA concurs partially. If an operator elects to inspect the valves one at a time within the specified compliance time, it is the operator's prerogative to do so. The FAA finds no change to the final rule is necessary.

Request for Clarification of Requirements of Proposal

Several commenters question whether the requirement to perform an inspection to detect fuel leaks on all four engines is correct in paragraph (b) of the proposed AD. Other commenters question why this inspection is necessary. Two other commenters believe that paragraph (b) of the proposed AD should address only ''the outboard engines'' or ''engines number 1 and 4,'' rather than ''all four engines.'' These commenters question the reason for leak checking the inboard engines.

The FAA finds that clarification is necessary. Although the FAA has only received reports of the high pressure occurring in the fuel line of the outboard engines, the FAA notes that an inboard engine could have been located previously in the outboard position. Therefore, as discussed previously in the notice of proposed rulemaking (NPRM), the FAA finds that it is necessary that the subject inspection be accomplished on all four engines. However, if an operator has documentation that demonstrates that the inboard engines have never been located in the outboard position, the FAA has determined that the operator does not have to conduct the inspection on those inboard engines. The FAA has revised the final rule to include a new paragraph (c) specifying this provision.

Request To Reference Another Source of Service Information

One commenter requests that the FAA allow operators to accomplish the inspection required by paragraph (b) of the proposed AD in accordance with Section 28–22–07 of the 747 Airplane Maintenance Manual, rather than Chapter 71. If not, the commenter requests that the FAA reference a specific leak check in Chapter 71. The FAA does not concur. The FAA notes that the procedures for accomplishing the subject inspection are under the heading ''Fuel and Oil Leak Checks'' in Chapter 71. Therefore, no change to the final rule is necessary.

Request To Revise Proposed Actions Based on Future Service Information

The manufacturer also states that it will revise Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996, to add a step to check the maintenance records for Model 747 series airplanes having line numbers 1 through 1006 inclusive, powered by General Electric and Roll Royce engines. If previous maintenance on the valves has been accomplished, the revised service bulletin would include procedures for inspection of the valve part number, and replacement, if necessary; if no maintenance on valves has been accomplished, the inspection would not be necessary.

From this comment, the FAA infers that the commenter is requesting that the proposed AD be revised to include these procedures. The FAA does not concur. The manufacturer has not issued a revision to the referenced alert service bulletin. The FAA does not consider it appropriate to delay the issuance of this final rule. When the new service bulletin is issued, the FAA will review it and may consider future rulemaking action.

Request To Revise Cost Estimate

One commenter requests that the FAA revise the cost estimate of the proposed AD to reflect the latest values cited in a Notice of Status Change for the alert service bulletin. The FAA does not concur. The FAA is unaware of a Notice of Status Change for Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996.

Explanation of Changes Made to Proposal

The NPRM indicated that the airplanes affected by the proposed AD were Boeing Model 747–100, –200, –300, and –400 series airplanes. The proposed AD was intended to apply to all Boeing Model 747 series airplanes that have the faulty fuel shutoff spar valves installed, including Model 747SP and 747SR series airplanes. The estimate of the affected fleet size that was provided in the NPRM included those airplanes, which many, including the manufacturer, consider to be part of the Model 747–100 series. Those models are listed separately on the Model 747 Type Certificate Data Sheet. Therefore, in order to clarify that this AD does apply to those models, the FAA has revised the final rule to list the affected airplanes as Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 418 Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes of the affected design in the worldwide fleet. The FAA estimates that 24 airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours per airplane to accomplish the required one-time visual inspection to determine the part number of the valve, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this visual inspection required by this AD on U.S. operators is estimated to be $5,760, or $240 per airplane.

Should an operator be required to accomplish the necessary one-time inspection to detect leaks and cracks (after replacement of the valve or modification of the assembly), it will take approximately 16 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this one-time inspection is estimated to be $960 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.

Should an operator elect to modify the valve body assembly of the fuel system rather than replace a discrepant valve, it would take approximately 20 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $404 (2 kits) per airplane. Based on these figures, the cost impact of any necessary modification action is estimated to be $1,604 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 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:

98–21–29 Boeing: Amendment 39–10837. Docket 96–NM–260–AD.

Applicability: Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes, having line numbers 629 through 1006 inclusive, and powered by General Electric or Rolls Royce engines; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent high fuel pressure in components between the fuel shutoff spar valve and the engine fuel shutoff valve, which could result in failure of the fuel system components, lead to fuel leakage, and, consequently, lead to a possible engine fire, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform a one-time visual inspection to determine the part number of the fuel shutoff valve installed in the left- and right-hand outboard engines, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996.

(1) If a valve having part number (P/N) S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is *not* installed, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the valve with a new valve, in accordance with the alert service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the alert service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

(b) Except as provided in paragraph (c) of this AD, prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with the applicable section that pertains to Rolls Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 Airplane Maintenance Manual (AMM). If any leak is detected, prior to further flight, replace the part with a serviceable part.

(c) For airplanes having maintenance records that positively demonstrate that the inboard engines have never been located in the outboard position: Prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on the outboard engines only, in accordance with the applicable section that pertains to Rolls Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 AMM. If any leak is detected, prior to further flight, replace the part with a serviceable part.

(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 2: 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) Except as provided by paragraphs (b) and (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996; or ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or ITT Aerospace Controls, 28150 Industry Drive, Valencia, California 91355. 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 November 20, 1998.

Issued in Renton, Washington, on October 6, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27459 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–187–AD; Amendment 39–10840; AD 98–21–32]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A300, A310, and A300–600 series airplanes, that currently requires performing a ram air turbine (RAT) extension test; removing and disassembling the RAT uplock mechanism; performing an inspection to detect corrosion of the RAT uplock mechanism, and replacement with a new assembly, if necessary; and cleaning all the parts of the RAT control shaft and its bearing component parts. This amendment requires modification of the RAT unlocking control unit, which constitutes terminating action for the repetitive tests and inspections. This amendment also limits the applicability of the existing AD. 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 of the RAT uplock pin/shaft and needle, which could result in failure of the RAT to deploy and consequent loss of emergency hydraulic power to the flight controls in the event that power is lost in both engines.

DATES: Effective November 20, 1998.

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

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 2, 1997 (62 FR 55726, October 28, 1997).

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

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–22–06, amendment 39–10177 (62 FR 55726, October 28, 1997), which is applicable to all Airbus Model A300, A310, and A300–600 series airplanes, was published in the **Federal Register** on August 13, 1998 (63 FR 43349). The action proposed to continue to require performing a ram air turbine (RAT) extension test; removing and disassembling the RAT uplock mechanism; performing an inspection to detect corrosion of the RAT uplock mechanism, and replacement with a new assembly, if necessary; and cleaning all the parts of the RAT control shaft and its bearing component parts. The action also proposed to require modification of the RAT unlocking control unit, which constitutes terminating action for the repetitive tests and inspections. Additionally, the action proposed to limit the applicability of the existing AD.

Comments

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

The commenter supports the proposed rule.

Explanation of Correction Made to This Final Rule

In paragraph (a) of the proposed rule, the FAA inadvertently referenced Airbus Service Bulletins A300–29–0108, dated April 1, 1996; A310–29–2076, dated April 1, 1996; and A300–29–6037, dated April 1, 1996; for accomplishment of the action required by paragraph (a)(1) of the NPRM. However, the Airplane Maintenance Manual is the correct reference for accomplishment of the action required by paragraph (a)(1). Paragraph (a) of this final rule has been revised accordingly.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 126 Model A300, A310, and A300–600 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 97–22–06, and retained in this AD, take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the previously required actions on U.S. operators is estimated to be $75,600, or $600 per airplane.

The new modification that is required in this AD action will take approximately 9 work hours per airplane to accomplish, at an average

labor rate of $60 per work hour. Required parts will cost approximately $1,972 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $316,512, or $2,512 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 removing amendment 39–10177 (62 FR 55726, October 28, 1997), and by adding a new airworthiness directive (AD), amendment 39–10840, to read as follows:

98–21–32 Airbus Industrie: Amendment 39–10840. Docket 98–NM–187–AD. Supersedes AD 97–22–06, Amendment 39–10177.

Applicability: Model A300, A310, and A300–600 series airplanes on which Airbus Modification 11527 has not 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the ram air turbine (RAT) uplock pin/shaft and needle, which could result in failure of the RAT to deploy and consequent loss of emergency hydraulic power to the flight controls in the event that power is lost in both engines, accomplish the following:

Restatement of the Requirements of AD 97–22–06

(a) Within 30 months since the date of manufacture, or within 3 months after December 2, 1997 (the effective date of AD 97–22–06, amendment 39–10177), whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD. Thereafter, repeat these actions at intervals not to exceed 30 months.

(1) Perform a RAT extension test on the ground, in accordance with the procedures specified in the Airplane Maintenance Manual.

(2) Disassemble and remove the uplock mechanism of the RAT and perform a visual inspection of the uplock mechanism to detect corrosion, in accordance with Airbus Service Bulletin A300–29–0108, dated April 1, 1996 (for Model A300 series airplanes); A310–29–2076, dated April 1, 1996 (for Model A310 series airplanes); or A300–29–6037, dated April 1, 1996 (for Model A300–600 series airplanes); as applicable.

Note 2: For the purposes of this AD, the RAT uplock mechanism includes both the lever assembly and uplock unit.

(i) If no corrosion is detected: Prior to further flight, clean and lubricate the uplock mechanism and its associated parts, reinstall the assembly, and perform a retraction/extension/retraction of the RAT, in accordance with the applicable service bulletin.

(ii) If any corrosion is detected in any part of the uplock mechanism, prior to further flight, accomplish either paragraph (a)(2)(ii)(A) or (a)(2)(ii)(B) of this AD in accordance with the applicable service bulletin.

(A) Replace the uplock mechanism with a new part and perform a retraction/extension/retraction of the RAT, in accordance with the applicable service bulletin. Or

(B) Clean and lubricate the uplock mechanism and its associated parts. Within 30 days following accomplishment of this cleaning and lubrication, replace the uplock mechanism with a new part and perform a retraction/extension/retraction of the RAT.

(b) Initial accomplishment of the actions required by paragraph (a) of this AD that have been performed in accordance with Airbus All Operator Telex 29–16, Revision 01, dated January 10, 1996, is considered acceptable for compliance with the initial RAT extension test and an initial visual inspection as required by paragraph (a) of this AD. However, the first repetitive inspection, as required by paragraph (a) of this AD, must be performed within 30 months after that RAT extension test and visual inspection were conducted, and repeated thereafter at intervals not to exceed 30 months.

New Requirements of This AD

(c) Within 30 months after the effective date of this AD, modify the RAT unlocking control unit in accordance with Airbus Service Bulletin A300–29–0109 (for Model A300 series airplanes); A310–29–2077 (for Model A310 series airplanes); or A300–29–6038 (for Model A300–600 series airplanes); all dated January 27, 1997; as applicable. Accomplishment of this modification constitutes terminating action for the repetitive test and inspection requirements of this AD.

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

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

(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) Except as provided by paragraph (a)(1) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–29–0108, dated April 1, 1996; Airbus Service Bulletin A310–29–2076, dated April 1, 1996; Airbus Service Bulletin A300–29–6037, dated April 1, 1996; Airbus Service Bulletin A300–29–0109, dated January 27, 1997; Airbus Service Bulletin A310–29–2077, dated January 27, 1997; and Airbus Service Bulletin A300–29–6038; dated January 27, 1997; as applicable.

(1) The incorporation by reference of Airbus Service Bulletin A300–29–0109, dated January 27, 1997; Airbus Service Bulletin A310–29–2077, dated January 27, 1997; and Airbus Service Bulletin A300–29–6038; dated January 27, 1997; 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 Airbus Service Bulletin A300–29–0108, dated April 1, 1996; Airbus Service Bulletin A310–29–2076, dated April 1, 1996; and Airbus Service Bulletin A300–29–6037, dated April 1, 1996; was approved previously by the Director of the Federal Register as of December 2, 1997 (62 FR 55726, October 28, 1997).

(3) Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 95–163–182(B)R3, dated May 7, 1997.

(g) This amendment becomes effective on November 20, 1998.

Issued in Renton, Washington, on October 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27482 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–288–AD; Amendment 39–10839; AD 98–21–31]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.NUREG

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 series airplanes. This action requires incorporating into the FAA-approved maintenance program certain torque values for installing certain nuts and bolts of the engine attachment fittings; and follow-on actions, 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 cracking of the nuts and bolts of the engine attachment fittings due to overtorquing; such cracking could propagate and result in separation of the engine from the airplane.

DATES: Effective November 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before November 16, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–288–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from AirbusIndustrie, 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax(425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that the October 1, 1997, revision of the Airbus Industrie A300 Airplane Maintenance Manual provided an incorrect, excessive torque value range of 450–500 foot pounds, instead of the correct range of 320–340 foot pounds, for installation of the nuts and bolts of the forward and aft attachment fittings for CF6–50C2 engines. Such overtorquing could result in cracking of the nuts and bolts, which, if allowed to propagate, could cause separation of the engine from the airplane.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) A300/AOT 71–07, datedSeptember 8, 1998. The AOT describes procedures for a one-time inspection of the engine change job card to determine the torque value range specified for installing the nuts and bolts of the engine forward and aft fittings. Additionally, for airplanes for which the maintenance program is determined to contain incorrect torque values, the AOT describes procedures for correcting the job card, and either replacing all nuts and bolts with new parts or inspecting the nuts and bolts for cracks and eventually replacing all nuts and bolts with new parts. The DGAC approved this AOT and issued French airworthiness directive T98–376–260 (B) 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 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 cracking of the nuts and bolts of the engine attachment fittings due to overtorquing, which could result in crack propagation and consequent separation of the engine from the airplane. This AD requires incorporating into the FAA-approved maintenance program certain torque values for installing certain nuts and bolts; and accomplishing follow-on actions specified in the AOT, if necessary.

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–288–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:

98–21–31 Airbus Industrie: Amendment 39–10839. Docket 98–NM–288–AD.

Applicability: All Model A300 series airplanes equipped with CF6–50C2 engines, 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 prevent cracking of the nuts and bolts of the engine attachment fittings due to overtorquing, which could result in crack propagation and consequent separation of the engine from the airplane, accomplish the following:

(a) For all airplanes: Within 10 flight cycles after the effective date of this AD, incorporate the torque value range for the nuts and bolts of the engine forward and aft attachment fittings into the FAA-approved maintenance program, to indicate the correct range specified by Airbus All Operators Telex (AOT) A300/AOT 71–07, dated September 8, 1998.

(b) For airplanes on which an engine has been replaced between October 1, 1997, and 10 days after the effective date of this AD; if either.

- The incorrect torque value range was incorporated for the nuts and bolts of the engine attachment fittings, as specified in the October 1, 1997, revision of the Airbus Industrie A300 Airplane Maintenance Manual (AMM); or
- Maintenance records do not indicate incorporation of the correct torque values, as specified in Airbus All Operators Telex (AOT) A300/AOT 71–07, dated September 8, 1998:

Within 10 flight cycles after the effective date of this AD, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Replace all nuts and bolts with new parts, in accordance with the AOT. Or

(2) Remove all nuts and bolts; perform a penetrant inspection to detect cracking of the nuts and bolts, in accordance with the AOT; and accomplish paragraph (b)(2)(i) or (b)(2)(ii), as applicable, of this AD.

(i) If no crack is detected, prior to further flight, reinstall the nuts and bolts that were removed for the inspection. Within 50 flight cycles, replace all nuts and bolts with new parts, in accordance with the AOT.

(ii) If any crack is detected in any nut or bolt, prior to further flight, replace the cracked nut or bolt with a new part and reinstall the uncracked nuts and bolts. Within 50 flight cycles, replace (with a new part) any nut and bolt that has not been replaced within the last 50 flight cycles, in accordance with the AOT.

(c) For airplanes on which an engine has been replaced between October 1, 1997, and 10 days after the effective date of this AD, using the correct torque value range for the nuts and bolts of the engine attachment fittings, as specified in Airbus All Operators Telex (AOT) AOT/A300 71–07, dated September 8, 1998: No further action is required by this AD.

(d) As of the effective date of this AD, no person shall reinstall, on any airplane, any nut or bolt that has been replaced with a new part in accordance with paragraph (b) of this AD.

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

(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.

(g) Except for the maintenance program revision provided for in paragraph (a) of this AD, the actions shall be done in accordance with Airbus All Operators Telex (AOT) A300/AOT 71–07, dated September 8, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive T98–376–260 (B).

(h) This amendment becomes effective on November 2, 1998.

Issued in Renton, Washington, on October 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27480 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–341–AD; Amendment 39–10842; AD 98–21–34]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300, A310, and A300–600 series airplanes, that requires repetitive inspections to detect corrosion and cracks on the bottom area of the wing skin, and corrective action, 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 corrosion and cracks on the bottom area of the wing skin, which could result in reduced structural integrity of the airplane.

DATES: Effective November 20, 1998.

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

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

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300, A310, and A300–600 series airplanes was published in the **Federal Register** on March 24, 1998 (63 FR 14044). That action proposed to require repetitive inspections to detect corrosion and cracks on the bottom area of the wing skin, and corrective action, if necessary.

Comments

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

Request to Clarify Certain Data in Table 3

The commenter (the manufacturer) requests that the proposal be revised to specify the correct value for a certain inspection interval. The commenter notes that the compliance time listed in Table 3. of the proposed AD specifies that the nondestructive testing (NDT) high frequency eddy current (HFEC) inspection interval for area ''1, 2, 3a'' should read ''*21,100* flight hours,'' instead of ''*12,100* flight hours.''

The FAA concurs. Based on a review of the information provided by the manufacturer, the FAA finds that, as published, the proposed AD contains a typographical error in Table 3. in the ''NDT (HFEC) Interval'' column for area ''1, 2, 3a.'' The FAA has revised Table 3. of the final rule to indicate the correct inspection interval of *21,100* flight hours.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 49 Model A300 and A310 series airplanes, and 51 Model A300–600 series airplanes, of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane per inspection cycle 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 $48,000, or $480 per airplane, per inspection 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:

98–21–34 Airbus Industrie: Amendment 39–10842. Docket 97–NM–341–AD.

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

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 detect and correct corrosion and cracks on the bottom wing skin area, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) At the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable: Except as required by paragraphs (b) and (c) of this AD, perform an inspection for corrosion and cracks on the bottom wing skin area, and accomplish follow-on corrective actions, in accordance with Airbus Service Bulletin A300–57–0204, dated December 4, 1995 (for Model A300 series airplanes); A310–57–2061, dated December 4, 1995 (for Model A310 series airplanes); or A300–57–6047, Revision 01, dated October 16, 1996, as revised by Change Notice 1.A., dated February 24, 1997 (for Model A300–600 series airplanes); as applicable; subsequently referred to in this AD as the ''applicable'' service bulletins. Thereafter, repeat the inspection at intervals not to exceed 5 years.

(1) For airplanes with 5 years or less since date of manufacture: Prior to the accumulation of 5 years since date of manufacture or within 18 months after the effective date of this AD, whichever occurs later.

(2) For airplanes with more than 5 years, but less than 15 years since date of manufacture: Within 18 months after the effective date of this AD.

(3) For airplanes with more than 15 years, but less than 20 years since date of manufacture: Within 12 months after the effective date of this AD.

(4) For airplanes with more than 20 years since date of manufacture: Within 6 months after the effective date of this AD.

(b) If any corrosion or crack is found during an inspection required by paragraph (a) of this AD, and the applicable service bulletin specifies to contact Airbus for an appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(c) If any crack is found during an inspection required by paragraph (a) of this AD, and the applicable service bulletin specifies to refer to Table B, Figure 4, of the service bulletin to determine the fatigue inspection threshold and interval: Use Table 1, 2, 3, 4, or 5, of this AD, as applicable, to determine the fatigue inspection threshold and interval in flight cycles (FC) or flight hours (FH).

TABLE 1.—AIRBUS SERVICE BULLETIN A300–57–204 (MODEL A300 B2) FATIGUE INSPECTION

Area	Threshold (FC or FH, whichever occurs first)	Detailed visual interval (FC or FH, whichever occurs first)	NDT (HFEC) Interval (FC or FH, whichever occurs first)
1, 2, 3a [1]	10,400 FC or 15,800 FH	10,400 FC or 15,800 FH	10,400 FC or 15,800 FH.
3b, 4a [2]	7,200 FC or 11,000 FH	2,500 FC or 3,800 FH	6,300 FC or 9,600 FH.
4b	10,400 FC or 15,800 FH	10,400 FC or 15,800 FH	10,400 FC or 15,800 FH.
5, 6	9,900 FC or 15,100 FH	8,700 FC or 13,200 FH	9,900 FC or 15,100 FH.
7, 8	6,600 FC or 10,000 FH	5,000 FC or 7,700 FH	6,400 FC or 9,700 FH.

[1] Area 3, as defined by Table B, Table 4, of SB A300–57–0204, has been split into areas 3a and 3b with a borderline between stiffener 43.2 and lattice flange 44 for Tables 1, 2, and 3 of this AD.

[2] Area 4, as defined by Table B, Table 4, of SB A300–57–0204, has been split into areas 4a and 4b with a borderline between lattice flange 44 for stiffener 44.1 for Tables 1, 2, and 3 of this AD.

TABLE 2.—AIRBUS SERVICE BULLETIN A300–57–204 (MODEL A300 B4–100) FATIGUE INSPECTION

Area	Threshold (FC or FH, whichever occurs first)	Detailed visual interval (FC or FH, whichever occurs first)	NDT (HFEC) interval (FC or FH, whichever occurs first)
1, 2, 3a	9,500 FC or 15,600 FH	8,600 FC or 14,200 FH	9,500 FC or 15,600 FH.
3b, 4a	6,700 FC or 12,000 FH	2,000 FC or 3,300 FH	5,000 FC or 8,200 FH.
4b	9,500 FC or 15,600 FH	8,600 FC or 14,200 FH	9,500 FC or 15,600 FH.
5, 6	8,200 FC or 13,400 FH	7,200 FC or 11,900 FH	8,200 FC or 13,400 FH.
7, 8	4,600 FC or 7,600 FH	3,600 FC or 5,900 FH	4,500 FC or 7,400 FH.

TABLE 3.—AIRBUS SERVICE BULLETIN A300–57–204 (MODEL A300 B4–100) FATIGUE INSPECTION

Area	Threshold (FC or FH, whichever occurs first)	Detailed visual interval (FC or FH, whichever occurs first)	NDT (HFEC) interval (FC or FH, whichever occurs first)
1, 2, 3a	9,900 FC or 21,600 FH	9,000 FC or 19,200 FH	9,900 FC or 21,100 FH.
3b, 4a	7,000 FC or 14,900 FH	2,100 FC or 4,500 FH	5,200 FC or 11,100 FH.
4b	9,900 FC or 21,100 FH	9,000 FC or 19,200 FH	9,900 FC or 21,100 FH.
5, 6	8,500 FC or 18,100 FH	7,500 FC or 16,000 FH	8,500 FC or 18,100 FH.
7, 8	4,800 FC or 10,200 FH	3,700 FC or 7,900 FH	4,700 FC or 10,000 FH.

TABLE 4.—AIRBUS SERVICE BULLETIN A330–57–2061 (MODEL A310 AND A310–300) FATIGUE INSPECTION

Area	Threshold (FC or FH, whichever occurs first)	Detailed visual interval (FC or FH, whichever occurs first)	NDT (HFEC) interval (FC or FH, whichever occurs first)
1	12,800 FC or 36,600 FH	10,500 FC or 29,900 FH	12,800 FC or 36,600 FH.
2	5,700 FC or 16,300 FH	4,600 FC or 13,100 FH	5,700 FC or 16,300 FH.
3, 5	5,100 FC or 14,700 FH	4,100 FC or 11,800 FH	5,100 FC or 14,700 FH.
4	4,500 FC or 12,800 FH	1,800 FC or 5,100 FH	4,500 FC or 12,800 FH.
6	19,400 FC or 55,300 FH	16,500 FC or 47,000 FH	19,400 FC or 55,300 FH.
7	16,300 FC or 46,500 FH	13,800 FC or 39,500 FH	16,300 FC or 46,500 FH.

TABLE 5.—AIRBUS SERVICE BULLETIN A300–57–6047 (MODEL A300–600) FATIGUE INSPECTION

Area	Threshold (FC or FH, whichever occurs first)	Detailed visual interval (FC or FH, whichever occurs first)	NDT (HFEC) interval (FC or FH, whichever occurs first)
1, 2	13,600 FC or 42,900 FH	11,800 FC or 37,000 FH	15,500 FC or 48,800 FH.
3	6,500 FC or 20,400 FH	5,800 FC or 18,400 FH	6,900 FC or 21,600 FH.
4, 6	4,800 FC or 15,100 FH	4,500 FC or 14,200 FH	5,000 FC or 15,700 FH
5	2,100 FC or 6,500 FH	900 FC or 3,000 FH	2,100 FC or 6,500 FH.
7	5,700 FC or 18,100 FH	5,500 FC or 17,200 FH	6,300 FC or 19,800 FH.
8	2,400 FC or 7,400 FH	2,100 FC or 6,500 FH	2,400 FC or 7,400 FH.

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

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

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

(f) Except as provided by paragraphs (b) and (c) of this AD, the actions shall be done in accordance with the following Airbus service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
A300–57–0204, December 4, 1995	1–101	Original	December 4, 1995.
A310–57–2061, December 4, 1995	1–111	Original	December 4, 1995.
A300–57–6047, October 16, 1996	1–3, 29, 30	01	October 16, 1996.
	4–29, 31–65	Original	January 4, 1996.
Change Notice 1.A., February 24, 1997, for Airbus Service Bulletin A300–57–6047, October 16, 1996.	1, 2	Original	February 24, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–006–210(B), dated January 2, 1997.

(g) This amendment becomes effective on November 20, 1998.

Issued in Renton, Washington, on October 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27479 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–278–AD; Amendment 39–10841; AD 98–21–33]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F.28 Mark 0070 and 0100 series airplanes, that requires a one-time inspection of the torque links of the main landing gear (MLG) assemblies to determine if the lockwire is present on the apex bolt; and corrective action, 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 failure of the MLG due to loose connections between the upper and lower torque links of the MLG.

DATES: Effective November 20, 1998.

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

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, The Netherlands. This information may be examined at the 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 Fokker Model F.28 Mark 0070 and 0100 series airplanes was published in the **Federal Register** on January 29, 1998 (63 FR 4406). That action proposed to require a one-time inspection of the torque links of the main landing gear (MLG) assemblies to determine if the lockwire is present on the apex bolt; and corrective action, if necessary.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request to Revise Area of Inspection

One commenter requests that paragraph (b) of the proposal be clarified to more accurately define the area to be inspected. The commenter states that the proposal, which specified that the MLG ''torque links'' are to be inspected before installation, could cause confusion because the inspection actually pertains to the ''torque link joint apex pin and nut installation.''

The FAA concurs. Paragraph (b) of the final rule has been revised to clarify that the ''torque link joint apex pin and nut installation'' is to be inspected before installation.

Comment Regarding Availability of Service Information

The same commenter suggests that paragraph (b) of the proposal should be revised because Fokker All Operator Message (AOM) AOF100.013, Reference TS96.68988, dated December 19, 1996 (which is cited in the proposal as the appropriate source of service information), refers to revision pages and a figure that have not yet been distributed.

Although the commenter does not identify a specific request in regard to the AD, the FAA infers that the commenter is concerned about the lack of availability of procedure 32–11–10–400–814–A (Figure 32–11–10–990–034–A00) or procedure 32–11–10–400–814–B (Figure 32–11–10–990–034–B00), which are referenced in the AOM as additional sources of service information. The FAA has determined that this information is available from the manufacturer, and suggests that a further request for the referenced pages may be necessary. No change to the final rule in this regard is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 131 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, 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 $7,860, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–21–33 Fokker: Amendment 39–10841. Docket 97–NM–278–AD.

Applicability: All Model F.28 Mark 0070 and 0100 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main landing gear (MLG) due to loose connections between the upper and lower torque links of the MLG, accomplish the following:

(a) Inspect the torque links of the left and right MLG assemblies to determine if the lockwire is installed on the apex bolt, in accordance with Fokker F100 All Operator Message (AOM) AOF100.013, Reference TS96.68988, dated December 19, 1996, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. If any discrepancy is found, prior to further flight, retorque the apex bolt and install lockwire in accordance with the AOM.

(1) For airplanes equipped with Menasco Aerospace, Ltd., MLG assemblies: Inspect within 5 days after the effective date of this AD.

(2) For airplanes equipped with Messier-Dowty, Ltd., MLG assemblies: Inspect within 30 days after the effective date of this AD.

(b) As of the effective date of this AD, no person shall install on any airplane an MLG torque link joint apex pin and nut installation, unless it has been inspected and corrective action has been accomplished, in accordance with Fokker F100 AOM AOF100.013, Reference TS96.68988, dated December 19, 1996.

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

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

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

(e) The actions shall be done in accordance with Fokker F100 All Operator Message (AOM) AOF100.013, Reference TS96.68988, dated December 19, 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 Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, The Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1996–147 (A), dated December 23, 1996.

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

Issued in Renton, Washington, on October 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27478 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–148–AD; Amendment 39–10843; AD 98–21–35]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models A200CT, B200, B200C, B200CT, 200T/B200T, 300, B300, and B300C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Models A200CT, B200, B200C, B200CT, 200T/B200T, 300, B300, and B300C airplanes. This AD requires replacing the main landing gear left and right actuator clevis assembly. Reports of main landing gear failure on two of the affected airplanes prompted this action. The actions specified by this AD are intended to prevent failure of the actuator clevis assembly in the main landing gear caused by fatigue cracking of the original design part, which could result in loss of control of the airplane during landing operations.

DATES: Effective November 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 23, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. 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–148–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. Steven E. Potter, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

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 Raytheon Models A200CT, B200, B200C, B200CT, 200T/B200T, 300, B300, and B300C airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 5, 1998 (63 FR 24756). The NPRM proposed to require replacing the left and right main landing gear (MLG) actuator clevis assembly with a new actuator clevis assembly of improved design. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2728, Issued: June, 1997, Revision No. 1, dated February, 1998.

The NPRM was the result of reports of main landing gear failure on two of the affected airplanes.

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 897 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $581 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $790,257, or $881 per airplane.

The manufacturer has informed the FAA that 105 owners/operators of these airplanes have already accomplished this action; thereby reducing the total cost impact of this AD on U.S. operators by $92,505, from $790,257 to $697,752.

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:

98–21–35 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39–10843; Docket No. 97–CE–148–AD.

Applicability: Airplane models listed below, certificated in any category.

Model	Serial No.
B200	BB–1158, BB–1167, BB–1193 through BB–1263, BB–1265 through BB–1286, BB–1287, BB–1288, BB–1290 through BB–1300, BB–1302 through BB–1425, BB–1427 through BB–1447, BB–1449, BB–1450, BB–1453, BB–1455, BB–1456, and BB–1458 through BB–1559.
B200C	BL–124 through BL–140.
B200CT (FW–II)	FG–1 and FG–2.
B200T/B200T	BT–31 through BT–38.
300	FA–1 through FA–230 and FF–1 through FF–19.
B300	FL–1 through FL–159.
B300C	FM–1 through FM–9 and FN–1.
A200CT (C–12D).	BP–46 through BP–51.
A200CT (C–12F).	BP–52 through BP–63.
A200CT (RC–12K).	FE–1 through FE–9.
A200CT (RC–12N).	FE–10 through FE–24.
A200CT (RC–12P).	FE–25 through FE–31, FE–33, and FE–35.
A200CT (RC–12Q).	FE–32, FE–34, and FE–36.
B200C (C–12F)	BP–64 through BP–71, BL–73 through BL–112, and BL–118 through BL–123.
B200C (UC–12F).	BU–1 through BU–10.
B200CT (RC–12F).	BU–11 and BU–12.
B200C (UC–12M).	BV–1 through BV–10.
B200C (RC–12M).	BV–11 and BV–12.
B200C (C–12R)	BW–1 through BW–29.

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 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent failure of the actuator clevis assembly in the main landing gear caused by fatigue cracking of the original design part, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Replace the left and right main landing gear (MLG) actuator clevis assembly with a new MLG actuator clevis assembly of improved design in accordance with the Accomplishment Instructions section in Raytheon Aircraft Mandatory Service Bulletin No. 2728, Issued: June, 1997, Revision No. 1, February, 1998.

(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 can 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, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

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

(d) The replacements required by this AD shall be done in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2728, Issued: June, 1997, Revision No. 1, February, 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 the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. 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.

(e) This amendment becomes effective on November 23, 1998.

Issued in Kansas City, Missouri, on October 7, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27604 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–45]

Establishment of Class E Airspace; Oak Grove, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment establishes Class E airspace at Oak Grove, LA. The development of two global positioning system (GPS) standard instrument approach procedures (SIAP), helicopter approaches, to the Costello Airport, Oak Grove, LA, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet for more above the surface for instrument flight rules (IFR) operations to Costello Airport, Oak Grove, LA.

DATES: Effective 0901 UTC, January 28, 1999. Comments must be received on or before November 30, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–45, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Forth Worth, TX between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal businesses hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 establishes the Class E airspace at Oak Grove, LA. The development of two GPS SIAP's, helicopter approaches, to the Costello Airport, Oak Grove, LA, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to Costello Airport, Oak Grove, LA.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ASW–45.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant rule'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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 the Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

ASW LA E5 Oak Grove, LA [New]

Costello Airport, LA
(lat. 32°58′01″N., long. 91°25′34″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Costello Airport.

* * * * *

Issued in Fort Worth, TX, on October 5, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–27799 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–46]

Revision of Class E Airspace; Hugo, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Class E airspace at Hugo, OK. The development of a nondirectional radio beacon (NDB) standard instrument approach procedure (SIAP) to Stan Stamper Municipal Airport, Hugo, OK, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to Stan Stamper Municipal Airport, Hugo, OK.

DATES: Effective 0901 UTC, January 28, 1999. Comments must be received on or before November 30, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–46, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Hugo, OK. The development of a NDB SIAP to Stan Stamper Municipal Airport, Hugo, OK, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to Stan Stamper Municipal Airport, Hugo, OK.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ASW–46.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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) 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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 the Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

ASW OK E5 Hugo, OK [Revised]

Stan Stamper Municipal Airport, OK
(Lat. 34°02′06″ N., long. 95°32′31″ W.)
Hugo NDB
(Lat. 34°02′23″ N., long. 95°32′22″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Stan Stamper Municipal Airport and within 2.5 miles each side of the 187° bearing of the Hugo NDB extending from the 6.3-mile radius to 7.6 miles south of the airport, excluding that airspace which overlies the Antlers, OK Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on October 5, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–27798 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–41]

Revision of Class E Airspace; Lake Charles, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule published on July 28, 1998, which revises Class E airspace at Lake Charles, LA.

EFFECTIVE DATE: The direct final rule published at 63 FR 40171 is effective 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 28, 1998 (63 FR 40171). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on October 5, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–27800 Filed 10–15–98; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–140]

RIN 2115–AA97

Safety Zone: Storrow Drive Connector Bridge (Central Artery Tunnel Project), Charles River, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Central Artery Tunnel Project, Storrow Drive Connector Bridge construction on the Charles River. The safety zone temporarily closes all waters of the Charles River between the Gridley Lock and Dam and the western side of the Amtrak Railroad Bridge while bridge spans for the Storrow Drive Connector Bridge are erected. The safety zone is needed to protect vessels from the hazards posed by bridge construction activities upon a navigable waterway.

EFFECTIVE DATE: This rule is effective from September 30, 1998 through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: LT Dennis O'Mara, Waterways Management Division, Coast Guard Marine Safety Office Boston, (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with bridge construction activities upon a navigable waterway.

Background and Purpose

As part of the Central Artery Tunnel Project, a new bridge, the Storrow Drive Connector Bridge, will be built over the Charles River, Boston, MA. Section 1 of

the Storrow Drive Connector Bridge, which will be located on the south side of the Charles River between the Gridley Lock and Dam and the Amtrak Railroad Bridge, is presently under construction. Six bridge spans need to be erected during the construction of Section 1. These bridge spans will be transported to Boston on board barges. The barges will be towed into Boston Harbor with a single bridge span on each barge. This will occur on six separate occasions over the next several months. The spans will then be transported through the Gridley Lock, put into place using a crane on a barge and secured. The crane and barge cannot be shifted by vessel wakes during the securing process. Therefore, a safety zone is necessary to allow the safe erection of the six spans and to protect vessel traffic.

This regulation establishes a safety zone in all waters of the Charles River between the Gridley Lock and Dam and the western side of the Amtrak Railroad Bridge. This safety zone prevents entry into or movement within this portion of the Charles River. Upon notification from the primary contractor on the project, the Coast Guard will make Marine Safety Information Broadcasts informing mariners of the activation of this safety zone. The expected duration of the safety zone will vary between eight and forty-eight hours depending upon construction requirements. The safety zone will be activated primarily on nights and/or weekends as construction on the Storrow Drive Connector Bridge is restricted by weekday commuter rail traffic on the Amtrak Railroad Bridge.

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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory polices and procedures of DOT is unnecessary. There is expected to be minimal recreational and commercial traffic in this area, in part due to the seasonal end of the recreational and tourist boating season. Commercial tour operators have received advance notification of the project and can make alternate arrangements. Due to the limited number and duration of the arrivals, departures and transits, the Coast Guard expects the economic impact of this regulation to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the 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 rule will not have a significant impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant 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 reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 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), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–140 to read as follows:

§ 165.T01–140 Safety Zone: Storrow Drive Connector Bridge (Central Artery Tunnel Project), Charles River, Boston, MA.

(a) *Location.* The following area is a safety zone: All waters of the Charles River between the Gridley Lock and Dam and the western side of the AMTRAK Railroad Bridge.

(b) *Effective Date.* This section is effective from September 30, 1998 to December 31, 1998.

(c) *Notification.* Upon notification from the primary contractor on the Storrow Drive Connector Bridge construction project that a span is ready to be erected, the Coast Guard will make Marine Safety Information Broadcasts informing mariners of the activation of this safety zone. The expected duration of the safety zone will vary between eight and forty-eight hours depending upon construction requirements. The safety zone will be activated primarily on nights and/or weekends.

(d) *Regulations.* (1) Entry into or movement within this zone is prohibited unless authorized by the COTP Boston.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(3) The general regulations covering safety zones in section 165.23 of this part apply.

Dated: September 18, 1998.

J.L. Grenier,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 98–27872 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300744; FRL–6037–8]

RIN 2070–AB78

Azoxystrobin; Time-limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the combined residues of azoxystrobin [methyl(E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate] and

its *Z* isomer in or on potatoes. This action is in response to the combined efforts of Wisconsin potato growers, University extension specialists, Zeneca Ag Products, and EPA to generate the information necessary for registration of the reduced risk fungicide, azoxystrobin, for use against the pests late blight and early blight of potatoes. This regulation establishes a maximum permissible level of 0.03 parts per million (ppm) for residues of azoxystrobin and its *Z* isomer in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on October 18, 1999.

DATES: This regulation is effective October 16, 1998. Objections and requests for hearings must be received by EPA on or before December 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300744], 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–300744], 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. 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–300744]. 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: John Bazuin, Jr., 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) 305–7381, e-mail: bazuin.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, in cooperation with Wisconsin potato growers, University extension specialists, and Zeneca Ag Products, Inc., pursuant to sections 408(e) and (r) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (r), is establishing a tolerance for combined residues of the fungicide azoxystrobin and its *Z* isomer, in or on potatoes at 0.03 part per million (ppm). This tolerance will expire and is revoked on October 18, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations. The only comments received concerning the proposed rule were from the United States Department of Agriculture, which requested some modifications to the summary (these changes were made) and indicated their feeling that the comment period of 15 days was very short (the reasons behind the use of such a short comment period were explained in the proposed rule)(63 FR 48664, September 11, 1998)(FRL–6026–8)).

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

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. . . .''

Section 5 of FIFRA authorizes EPA to issue an experimental use permit for a pesticide. This provision was not amended by FQPA. EPA has established regulations governing such experimental use permits in 40 CFR part 172. Section 408(r) of FFDCA authorizes EPA to issue time-limited tolerances for pesticide residues resulting from FIFRA experimental use permits.

II. Risk Assessment and Statutory Findings

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. The Agency has determined that azoxystrobin is a reduced risk pesticide for use on potatoes.

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 azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of azoxystrobin and its *Z* isomer on potatoes at 0.03 ppm. EPA's assessment of the dietary and other exposures and risks associated with establishing the tolerance follows.

A. Toxicity

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 azoxystrobin are discussed below.

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 adverse effects (the ''no-observed adverse effect level'' or ''NOAEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOAEL from the study with the lowest NOAEL 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 NOAEL 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 NOAEL) 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/NOAEL 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.

III. 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 azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for 12 months for combined residues of azoxystrobin and its *Z* isomer on potatoes at 0.03 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 and The Agency's selection of toxicological endpoints upon which to assess risk caused by azoxystrobin are discussed below.

Both permanent and time-limited tolerances have been established (40 CFR 180.507) for the combined residues of azoxystrobin and its *Z* isomer, in or on a variety of raw agricultural commodities. Permanent tolerances have been established for bananas, grapes, peaches, peanuts, pecans, and tomatoes. Time-limited tolerances have been established for the fat, liver, and meat of cattle, goats, hogs, horses, poultry, and sheep; kidney of cattle; eggs; milk; cucurbits; parsley; rice; and watercress. The time-limited tolerances stem from the issuance of several FIFRA section 18 emergency exemptions for the use of azoxystrobin. The risk assessments were conducted by EPA to assess dietary exposures and risks from azoxystrobin as follows:

1. *Acute toxicity.* The Agency evaluated the existing toxicology database for azoxystrobin. No acute dietary endpoint was identified, no developmental toxicity was observed in the rabbit and rat studies reviewed, and no primary neurotoxicity was seen in the acute neurotoxicity study. Therefore, no risk has been identified for this scenario and a risk assessment is not needed.

2. *Short- and intermediate-term toxicity.* The Agency evaluated the existing toxicology database for short- and intermediate-term dermal and inhalation exposure and determined that this risk assessment is also not required. In a 21-day dermal toxicity study the NOAEL was 1,000 mg/kg/day at the highest dose tested (Acute inhalation toxicity category III).

3. *Chronic toxicity.* EPA has established the RfD for azoxystrobin at 0.18 milligrams/kilogram/day (mg/kg/day). This RfD is based on on a chronic toxicity study in rats with a NOAEL of 18.2 mg/kg/day. The endpoint effects were reduced body weights and bile duct lesions at the lowest effect level (LEL) of 34 mg/kg/day. An Uncertainty Factor (UF) of 100 was used to account for both the interspecies extrapolation and the intraspecies variability.

4. *Carcinogenicity.* Carcinogenicity testing of azoxystrobin in two appropriate species of mammals revealed no evidence that this fungicide is carcinogenic. Therefore, EPA classifies azoxystrobin as ''not likely'' to be a human carcinogen in line with the proposed revised Cancer Guidelines.

B. Exposures and Risks

1. *From food and feed uses.* Permanent tolerances have been established (40 CFR 180.507(a)) for the combined residues of azoxystrobin and its *Z* isomer, in or on a variety of raw agricultural commodities at levels ranging from 0.01 ppm in pecans to 1.0 ppm in grapes. In addition, time-limited tolerances have been established (40 CFR 180.507(b), at levels ranging from 0.006 ppm in milk to 20 ppm in rice hulls, in conjunction with section 18 requests. Risk assessments were conducted by EPA to assess dietary exposures and risks from azoxystrobin 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. The Agency did not conduct an acute risk assessment because no toxicological endpoint of concern was identified during review of available data.

ii. *Short- and intermediate-term exposure and risk.* Short- and intermediate-term risk assessments are performed for a food-use pesticide if a toxicology study has indicated the possibility of an effect of concern as a result of an exposure of 1 day to several months. The Agency did conduct such an assessment because no toxicological endpoint of concern was identified.

iii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, the Agency has made very conservative assumptions -- 100% of potatoes and all other commodities having azoxystrobin tolerances will contain azoxystrobin residues and those residues would be at the level of the tolerance -- which result in an overestimation of human dietary exposure. Thus, in making a safety determination for this tolerance, HED is taking into account this conservative exposure assessment.The existing azoxystrobin tolerances (published, pending, and including the necessary section 18 tolerance(s)) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

Population Sub-Group	TMRC (mg/kg/day)	Percent RFD
U.S. Population (48 States)	0.003	1.8
Nursing Infants (<1 year old)	0.004	2
Non-Nursing Infants (<1 year old)	0.011	8
Children (1-6 years old)	0.007	4
Children (7-12 years old)	0.004	2
Hispanics	0.004	2
Non-Hispanics Others	0.005	3
U.S. Population (summer season)	0.003	2
U.S. Population (Northeast region)	0.003	2
U.S. Population (Western region)	0.003	2
U.S. Population (Pacific region)	0.003	2
Females (13+, nursing)	0.003	2
Females (13-19, not pregnant or nursing)	0.002	1

Neither the U.S. population as a whole nor any of the subgroups whose food consumption patterns were analyzed for dietary exposure and risk to azoxystrobin reached even one-twelfth of the RfD under these assumed theoretical maximum exposures to azoxystrobin for all published, pending, and proposed tolerances. Moreover, real-world exposure is likely to be substantially lower than this.

2. *From drinking water.* There is no established Maximum Contaminant Level for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established.

i. *Acute exposure and risk.* An acute risk assessment was not appropriate since no toxicological endpoint of concern was identified for this scenario during review of the available data.

ii. *Short- and intermediate-term toxicity.* A short- and intermediate-term risk assessment was not appropriate since no toxicological endpoint of concern was identified for this scenario during review of the available data.

iii. *Chronic exposure and risk.* Based on the chronic dietary (food) exposure estimates, chronic drinking water levels of concern (DWLOC) for azoxystrobin were calculated and are summarized in Table 1. Estimated environmental concentrations (EECs) using generic expected environmental concentration modeling (GENEEC) for azoxystrobin on bananas, grapes, peaches, peanuts, pecans, tomatoes, and wheat are listed in the SWAT Team Second Interim Report (6/20/97). The highest EEC for azoxystrobin in surface water is from the application of azoxystrobin on grapes (39 µg/L) and is substantially lower than the drinking water levels of concern (DWLOCs) calculated. Therefore, chronic exposure to azoxystrobin residues in drinking water do not exceed the Agency's level of concern.

TABLE 1.— DRINKING WATER LEVELS OF CONCERN

Population Subgroup	RfD(mg/kg/day)	TMRC Food Exposure (mg/kg/day)	Max Water Exposure (mg/kg/day)[1]	DWLOC [2,3,4] (µg/L)
US Population (48 States)	0.18	0.0027	0.178	6200
Females (13 + years old, not pregnant or nursing)	0.18	0.0019	0.178	5300
Non-nursing Infants (< 1 year old)	0.18	0.0113	0.169	1680

[1] Maximum Water Exposure (mg/kg/day) = RfD (mg/kg/day) - TMRC from DRES (mg/kg/day)
[2] DWLOC(µg/L) = Max water exposure (mg/kg/day) * body wt (kg) /(10^{-3} mg/µg)*water consumed daily (L/day)
[3] HED Default body wts for males, females, and children are 70 kg, 60 kg, and 10 kg respectively.
[4] HED Default Daily Drinking Rates are 2 L/Day for Adults and 1 L/Day for children

3. *From non-dietary exposure.* Azoxystrobin is not currently registered for use on residential non-food sites.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Azoxystrobin is related to the naturally occurring strobilurins. The Agency has recently registered another strobilurin type pesticide for a nonfood use. 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 azoxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. For the purposes of this tolerance action, therefore, EPA has not assumed that azoxystrobin has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* This risk assessment is not necessary since no acute toxicological end-point of concern was identified for this exposure scenario during review of the available data.

2. *Chronic risk.* Using the conservative TMRC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, the Agency has estimated that exposure to azoxystrobin from food will utilize 2% of the RfD for the U.S. population as a whole. The Agency generally is not concerned about exposures below 100 percent 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 azoxystrobin in drinking water, the Agency does not expect the aggregate exposure to exceed 100% of the RfD. Under current Agency guidelines, the registered non-dietary uses of azoxystrobin do not constitute a chronic exposure scenario and EPA concludes that there is a reasonable

certainty that no harm will result from aggregate exposure to currently registered azoxystrobin residues.

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. This risk assessment is not needed for azoxystrobin because no dermal or systemic effects were seen in the repeated dose dermal study at the limit dose. Additionally, no indoor or outdoor residential exposure uses are currently registered for azoxystrobin.

4. *Aggregate cancer risk for U.S. population.* This risk assessment is also not needed. Azoxystrobin is classified as ''not likely'' to be a carcinogen under the proposed revised Carcinogenicity Guidelines because carcinogenicity testing was performed on two appropriate species and no evidence of carcinogenicity was found.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to azoxystrobin residues.

D. 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 azoxystrobin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-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 margin of exposure (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. *Rabbit.* In the developmental toxicity study in rabbits, developmental NOAEL was 500 mg/kg/day, the highest dose tested (HDT). Because there were no treatment-related effects, the developmental LEL was >500 mg/kg/day. The maternal NOAEL was 150 mg/kg/day. The maternal LEL of 500 mg/kg/day was based on decreased body weight gain during dosing.

b. *Rat.* In the developmental toxicity study in rats, the maternal (systemic) NOAEL was not established. The maternal LEL of 25 mg/kg/day at the lowest dose tested (LDT) was based on increased salivation. The developmental (fetal) NOAEL was 100 mg/kg/day (HDT).

iii. *Reproductive toxicity study— Rat.* In the reproductive toxicity study (MRID #43678144) in rats, the parental (systemic) NOAEL was 32.3 mg/kg/day. The parental LEL of 165.4 mg/kg/day was based on decreased body weights in males and females, decreased food consumption and increased adjusted liver weights in females, and cholangitis. The reproductive NOAEL was 32.3 mg/kg/day. The reproductive LEL of 165.4 mg/kg/day was based on increased weanling liver weights and decreased body weights for pups of both generations.

iv. *Conclusion.* The pre- and post-natal toxicology database for azoxystrobin is complete with respect to current toxicological data requirements. The results of these studies indicate that infants and children are no more sensitive to exposure to azoxystrobin than are adults, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation reproductive toxicity study in rats. Accordingly, EPA has determined that the standard margin of safety will protect the safety of infants and children and the additional tenfold safety factor can therefore be removed.

2. *Chronic risk.* Using the exposure assumptions described above, EPA has concluded that aggregate exposure to azoxystrobin from food will utilize 2 to 8% 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 azoxystrobin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

IV. Other Considerations

A. Metabolism In Plants and Animals

The metabolism of azoxystrobin as well as the nature of the residues is adequately understood for purposes of the time-limited tolerance. Plant metabolism has been evaluated in three diverse crops; grapes, wheat and peanuts, which is required to define similar metabolism of azoxystrobin in a wide range of crops. Parent azoxystrobin is the major component found in crops. Azoxystrobin does not accumulate in crop seeds or fruits. Metabolism of azoxystrobin in plants is complex, with more than 15 metabolites identified. These metabolites are present at low levels, typically much less than 5% of the total radioactive residue level.

The qualitative nature of the residue in animals is adequately understood for the purposes of this proposed 1-year time-limited tolerance. Establishment of a time-limited tolerance of 0.03 ppm for azoxystrobin in/on potatoes is not expected to lead to detectable azoxystrobin residues in animal commodities.

B. Analytical Enforcement Methodology

An analytical method, gas chromatography with nitrogen-phosphorus detection (GC-NPD) or, in mobile phase, by high performance liquid chromatography with ultraviolet detection (HPLC-UV), is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the level proposed for this time-limited tolerance. The Agency has concluded that the method is adequate for enforcement of tolerances in/on other non-oily raw agricultural commodities. The Agency also concludes that this method is adequate for enforcement of the proposed time-limited tolerance in/on potatoes. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5229).

C. Magnitude of Residues

Residues of azoxystrobin and its *Z* isomer are not expected to exceed 0.03 ppm in/on potatoes as a result of this EUP use. A time-limited tolerance should be established at this level.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits for azoxystrobin in/on potatoes.

E. Rotational Crop Restrictions

Rotational crop data were previously submitted. Based on this information, a 45-day plantback interval is appropriate for all crops other than those having azoxystrobin tolerances.

V. Conclusion

Therefore, a time-limited tolerance is established for combined residues of azoxystrobin and its *Z* isomer in potatoes at 0.03 ppm. This tolerance will expire and is revoked on October 18, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

VI. 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 (r) 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 December 15, 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.

VII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300744] (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.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a time-limited tolerance under FFDCA section 408(d). EPA is establishing this tolerance in cooperation with Wisconsin potato growers, University extension specialists, and Zeneca Ag Products, Inc. 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 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).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Agency previously assessed whether establishing tolerances, exemption 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.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If

the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local or Tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. 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 has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to today's 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, Feed additives, Food additives, Reporting and recordkeeping requirements.

Dated: October 6, 1998.

James Jones,

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.

2. Section 180.507(a) is amended by designating the text following the paragraph heading as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

(a) * * *

(2) *Time-limited tolerance.* A tolerance to expire on October 18, 1999, is established for the combined residues of azoxystrobin [methyl(*E*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate] and its *Z* isomer in or on the following commodity.

Commodity	Parts per million	Expiration Date
Potatoes	0.03	October 18, 1999

* * * * *

[FR Doc. 98–27835 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300732; FRL–6035–2]

RIN 2070–AB78

Hexythiazox; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of hexythiazox [trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide] (CAS No. 78587–05–0) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million (ppm) of the parent compound) in or on dried hops. BASF Corporation, Agricultural Products requested this tolerance 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 October 16, 1998. Objections and requests for hearings must be received by EPA on or before December 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300732], 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–300732], 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. 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–300732]. 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: Beth Edwards, 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) 305–5400, e-mail: edwards.beth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 17, 1998 (63 FR 38644)(FRL–6019–1), 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 (4E4411) for a tolerance on dried hops by BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709. This notice included a summary of the petition prepared by BASF Corporation, as required under the FFDCA as amended by the Food Quality Protection Act (FQPA) of 1996. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.448 be amended by establishing a tolerance for residues of the insecticide hexythiazox, in or on dried hops at 2.0 parts per million (ppm).

This action pertains only to imported hops. There are no U.S. registrations for the use of hexythiazox on hops.

I. Risk Assessment and Statutory Findings

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. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

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 hexythiazox and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of hexythiazox on dried hops at 2.0 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 hexythiazox are discussed below.

1. A battery of acute toxicity studies places technical grade hexythiazox in Toxicity Category IV for acute oral LD_{50} (LD_{50} > 5,000 milligram/kilograms (mg/kg)), Category III for dermal LD_{50} (LD_{50} > 5,000 mg/kg), Category III for inhalation LC_{50} (LC_{50} > 2.0 mg/L), Category III for primary eye irritation (showed mild irritation (reddened conjunctiva)), Category IV for dermal irritation (non irritant). Hexythiazox is a non-sensitizer.

2. In a 1–month feeding study in dogs, the No-Observed Adverse Effect Level (NOAEL) was 1.75 mg/kg/day and the Lowest Observed Adverse Effect Level (LOAEL) was 12.5 mg/kg/day, based on increased liver and adrenal weights.

3. In a 1–year feeding study in dogs, the NOAEL was 2.5 mg/kg/day and the LOAEL was 12.5 mg/kg/day, based on increased alkaline phosphatase, increased adrenal and liver weights, and liver and adrenal lesions.

4. In a carcinogenicity study in mice, the NOAEL was 36 mg/kg/day and the LOAEL was 215 mg/kg/day. Effects were decreased bodyweight in males and increased hepatocellular carcinomas and combined adenoma/carcinomas.

5. In a chronic feeding/carcinogenicity study in rats, the NOAEL (systemic) was 26 mg/kg/day and the LOAEL (systemic) was 180 mg/kg/day based on decreased body weight gain and increased liver weights in both sexes.

6. In a developmental toxicity study in rats, the maternal NOAEL was 240 mg/kg/day and the maternal LOAEL was 720 mg/kg/day based on increased ovarian weights. The developmental NOAEL was 240 mg/kg/day and the developmental LOAEL was 720 mg/kg/day based on decreased bone ossification.

7. In a developmental toxicity study in rabbits, the maternal NOAEL was 1,080 mg/kg/day (HDT); the maternal LOAEL was not determined. The developmental NOAEL was 1,080 mg/kg/day (HDT); the developmental LOAEL was not determined.

8. In a 2–generation reproduction study in rats, the parental NOAEL was 35 mg/kg/day and the parental LOAEL was 200 mg/kg/day based on decreased body weight gain, decreased food consumption and efficiency, and increased liver, kidney and ovarian weights. The reproductive NOAEL was 35 mg/kg/day and the reproductive LOAEL was 200 mg/kg/day based on decreased pup body weight during lactation, delayed hair growth and eye opening.

B. Toxicological Endpoints

1. *Acute toxicity.* A dose and endpoint for acute dietary risk assessment was not selected due to the lack of toxicological effects attributable to a single exposure (dose) in studies available in the data base including the developmental toxicity studies in rats and rabbits with hexythiazox.

2. *Short- and intermediate-term toxicity.* A dose or endpoint for short-, intermediate-, or long-term (non-cancer) dermal risk assessment was not selected because of the lack of appropriate endpoints and the lack of long-term exposure based on the current use pattern for hexythiazox.

Except for some acute inhalation toxicity studies, there are no inhalation toxicity studies available for use in selecting the dose and endpoint for this risk assessment. There are LC_{50} studies on the technical materials indicating a probable low toxicity.

3. *Chronic toxicity*. EPA has established the RfD for hexythiazox at 0.025 mg/kg/day. This RfD is based on a 1–year feeding study in dogs using a NOAEL of 2.5 mg/kg/day. The LOAEL was 12.5 mg/kg/day based on increased alkaline phosphatase, increased adrenal and liver weights, and liver and adrenal lesions.

4. *Carcinogenicity*. Hexythiazox is classified as a Group C chemical (possible human carcinogen) with a $Q_1^* = 2.22 \times 10^{-2}$ mg/kg/day. This was based on hepatocellular carcinomas in female mice.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.448) for the residues of hexythiazox, on apples at 0.02 ppm and pears at 0.30 ppm. There are also Section 18 uses for cotton, strawberries and dates. Risk assessments were conducted by EPA to assess dietary exposures from hexythiazox as follows:

The following assumptions were used in the chronic dietary (food) risk assessment: Tolerance level residues for dried hops, and all other commodities with published, pending, permanent or time-limited hexythiazox tolerances; and, percent crop-treated information for commodities with permanent tolerances. Thus, this risk assessment should be viewed as partially refined. Further refinement using anticipated residue values would result in a lower estimate of chronic (non-cancer) dietary exposure (food only).

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings:

a. That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue.

b. That the exposure estimate does not underestimate exposure for any significant subpopulation group.

c. If data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated as required by the section 408(b)(2)(F), EPA may require registrants to submit data on percent crop treated.

The Agency used percent crop treated (PCT) information as follows:

A routine chronic dietary exposure analysis for dried hops was based on 6–8% of crop treated for apples, 1–5% of crop treated for pears, < 1% of crop treated for cotton, < 1% of crop treated for grapes, and < 1% of crop treated for peaches. These data were derived from Doane and Maritz. This action pertains to dried hops grown in Germany and imported to the United States. There are no available data on hexythiazox use on hops which would be imported to the United States.

The Agency believes that the three conditions listed Unit II.C.1.a.-c. of this preamble have been met. With respect to Unit II.C.1.a., the percent of crop treated estimates are derived from Federal and private market survey data which are reliable and have a valid basis. 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 the crop treated, the Agency is reasonably certain that the percentage of the food treated is not likely to be underestimated. As to Unit II.C.1.b. and c., regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the consumption of food bearing hexythiazox in a particular area.

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. Due to the lack of toxicological effects attributable to a single exposure (dose) in studies available in the data base including the developmental toxicity studies in rats and rabbits, there is no acute risk.

ii. *Chronic exposure and risk*. The Reference dose (RfD) used for chronic dietary analysis is 0.025 mg/kg/day. This assessment was done using the Dietary Risk Evaluation System (DRES) with the 1977–78 food consumption data. This chronic dietary (food) risk assessment used the following assumptions: (a) Tolerance level residues for the proposed tolerance and all other commodities with published, pending, permanent or time-limited, hexythiazox tolerances; and, (b) percent crop-treated information for commodities with permanent tolerances. Thus, this risk assessment should be viewed as partially refined. Further refinement using anticipated residue values would result in a lower estimate of chronic (non-cancer) dietary exposure (food only).

The following table 1 summarizes the estimated dietary exposures for the U.S. population and those population subgroups that include infants and children. There are no population subgroups with risk estimates above that of the U.S. population.

TABLE 1.— CHRONIC (NON-CANCER) DIETARY EXPOSURE AND RISK FOR HEXYTHIAZOX

Subgroup:	Exposure (mg/kg bwt/day)	Percent Chronic RfD
U.S. Population (48 States)	0.00012	<1%
Nursing Infants (< 1 year old)	0.000028	<1%
Non-nursing Infants (< 1 year old)	0.00012	< 1%
Children (1 to 6 years old)	0.00020	< 1%
Children (7 to 12 years old)	0.00014	< 1%

2. *From drinking water*. This action pertains only to imported hops. There are no U.S. registrations for the use of hexythiazox on hops. No residues of hexythiazox from this use will be expected to appear in U.S. drinking water.

There are no Maximum Contaminant Levels (MCL) or Health Advisory (HA) levels established for residues of hexythiazox in drinking water. Hexythiazox is relatively immobile and not persistent.

i. *Acute exposure and risk*. Due to the lack of toxicological effects attributable to a single exposure (dose) in studies available in the data base including the developmental toxicity studies in rats and rabbits, there is no acute risk.

ii. *Chronic exposure and risk*. The estimated average concentration of hexythiazox in surface water (56–day average - for chronic exposure) is 0.28 parts per billion (ppb). The ground water screening level for hexythiazox is

0.00147 ppb. These estimates are based upon an application rate of 0.187 lbs active ingredient/acre (ai/A). This is the maximum application rate requested for the emergency exemptions for use on hops and dates. EPA used the Generic Estimated Environmental Concentration (GENEEC- simulates the transport of a pesticide off the agricultural field) model to estimate the chronic environmental concentration of hexythiazox residues in surface water, and the SCI-GROW (Screening Concentration In GROund Water) model to estimate the concentration of hexythiazox residues in ground water. SCI-GROW is a prototype model for estimating ''worst case'' ground water concentrations of pesticides. SCI-GROW is biased in that studies where the pesticide is not detected in ground water are not included in the data set. Thus, it is not expected that SCI-GROW estimates would be exceeded. It should be noted that the GENEEC model was designed for use in ecological risk assessment. It is not an ideal tool for use in drinking water risk assessment. GENEEC could overestimate actual drinking water concentrations. Thus, this model should be considered a screening tool.

The Agency has calculated drinking water levels of concern (DWLOC's) for chronic (non-cancer) exposure to hexythiazox in drinking water for various population subgroups. The DWLOC's for hexythiazox (chronic exposure) are summarized in the following table 2.

TABLE 2.— DRINKING WATER LEVELS OF CONCERN FOR CHRONIC (NON-CANCER) EXPOSURE TO HEXYTHIAZOX

Population Subgroup	Dietary Exposure (mg/kg bwt/day)	Max. Exposure from Water (mg/kg bwt/day)	Body-weight (kg)	Daily Water Consumption (Liters)	DWLOC (µg/L)
U.S. Population (48 States)	0.00012	0.025	70	2	870
Females (20 yrs and older, not pregnant or nursing)	0.000099	0.025	60	2	750
Children (1 – 6 years old)	0.00019	0.025	10	1	250

To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the chronic RfD (0.025 mg/kg bwt/day) to obtain the acceptable chronic (non-cancer) exposure to hexythiazox in drinking water. DWLOC's were then calculated using default body weights and drinking water consumption figures as indicated in columns 4 and 5 of table 2 above. Therefore, the DWLOC's do not exceed EPA's levels of concern.

The Agency has calculated a drinking water level of concern (DWLOC) for chronic (cancer) exposure to hexythiazox in surface and ground water for the U.S. population (48 States). The DWLOC for hexythiazox (cancer exposure) is summarized in the following table 3.

TABLE 3.— DRINKING WATER LEVELS OF CONCERN FOR CHRONIC (CANCER) EXPOSURE TO HEXYTHIAZOX

Population Subgroup	Dietary Exposure (mg/kg bwt/day)	Max. Exposure from Water (mg/kg bwt/day)	Body-weight (kg)	Daily Water Consumption (Liters)	DWLOC (µg/L)
U.S. Population (48 States)	0.000019	0.000026	70	2	0.91

To calculate the DWLOC for chronic (cancer) exposure relative to a chronic (cancer) toxicity endpoint, the chronic (cancer) dietary food exposure was subtracted from the maximum allowable hexythiazox exposure relative to the Q_1* to obtain the acceptable chronic (non-cancer) exposure to hexythiazox in drinking water. The maximum allowable hexythiazox exposure is calculated to be 0.000045 mg/kg bwt/day (i.e. negligible risk level (1.0×10^{-6}) divided by the Q_1* (0.0222 mg/kg bwt/day^{-1})). The DWLOC was then calculated using default body weights and drinking water consumption figures as indicated in columns 4 and 5 of table 3 above.

3. *From non-dietary exposure.* This action pertains to an import tolerance. In addition, hexythiazox is not registered for any residential uses. Therefore, there is no risk associated with non-dietary exposure.

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.''

EPA does not have, at this time, available data to determine whether hexythiazox 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, hexythiazox 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 hexythiazox has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such

chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

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

1. *Chronic risk*. Using tolerance level residues and percent crop treated exposure assumptions described above, EPA has concluded that aggregate exposure to hexythiazox from food will utilize < 1% of the RfD for the U.S. population. There are no population subgroups with risk estimates above that of the U.S. population. 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 hexythiazox in drinking water, 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 from aggregate exposure to hexythiazox residues.

The following table 4 summarizes the estimated dietary exposures for the U.S. population and those population subgroups that include infants and children.

TABLE 4.— CHRONIC (NON-CANCER) DIETARY EXPOSURE AND RISK FOR HEXYTHIAZOX

Subgroup	Exposure (mg/kg bwt/day)	Percent Chronic RfD
U.S. Population (48 States)	0.00012	< 1%
Nursing Infants (< 1 year old)	0.000028	< 1%
Non-nursing Infants (< 1 year old)	0.00012	< 1%
Children (1 to 6 years old)	0.00020	< 1%
Children (7 to 12 years old)	0.00014	< 1%

The estimated average concentration (highest value) of hexythiazox in surface and ground water (0.28 ppb) is less than EPA's levels of concern for hexythiazox in drinking water (870, 750 and 250 ppb) as a contribution to chronic (non-cancer) aggregate exposure. Therefore, taking into account the present uses and the use proposed in this action, EPA concludes with reasonable certainty that residues of hexythiazox in drinking water (when considered along with other sources of chronic (non-cancer) exposure for which EPA has reliable data) would not result in unacceptable levels of chronic (non-cancer) aggregate human health risk estimates at this time.

EPA bases this determination on a comparison of estimated average concentrations of hexythiazox in surface water to back-calculated ''levels of concern'' for hexythiazox in drinking water. The estimates of hexythiazox in surface and ground water are derived from water quality models that use conservative assumptions (health-protective) regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of concern in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of hexythiazox residues in drinking water as a part of the chronic (non-cancer) aggregate risk assessment process.

Despite the potential for hexythiazox exposure from water, EPA concludes that there is a reasonable certainty that no harm will result to infants, children, or adults from chronic (non-cancer) aggregate exposure to hexythiazox residues.

2. *Aggregate cancer risk for U.S. population*. The assumptions of this carcinogenic dietary (food) risk assessment are the same as discussed above under Chronic (non-cancer) Risk (food only). Exposure data for strawberries, cotton seed oil and cotton seed meal were amortized over 6 years (second year section 18) for this cancer exposure assessment; the exposure estimate for dates was amortized over 5 years (first year section 18). EPA assumes a duration of 5 years for first year section 18 requests. For repeat section 18 requests, the duration is considered to be the number of years that previous section 18s have been granted for that commodity plus 5 years. For the U.S. population (48 States), the hexythiazox dietary exposure is estimated to be 0.019 g/kg bwt/day. This exposure estimate results in a cancer risk estimate (food only) of 4.3×10^{-7}.

This cancer risk estimate is less than the Agency's level of concern. It is normally not the Agency's policy to amortize exposure data for risk calculations when establishing tolerances. However, because tolerance level residues and partially refined percent crop treated estimates were used for this action, the Agency believes that the cancer risk is overestimated.

The estimated average concentration (highest value) of hexythiazox in surface and ground water (0.28 ppb) is less than EPA's level of concern for hexythiazox in drinking water as a contribution to chronic (cancer) aggregate exposure (0.91 ppb). Therefore, taking into account the present uses and the use proposed in this action, EPA concludes with reasonable certainty that residues of hexythiazox in drinking water (when considered along with other sources of chronic (cancer) exposure for which EPA has reliable data) would not result in unacceptable levels of chronic (cancer) aggregate human health risk estimates at this time. EPA bases this determination on a comparison of estimated average concentrations of hexythiazox in surface and ground water to a back-calculated ''level of concern'' for hexythiazox in drinking water. The estimates of hexythiazox in surface and ground water are derived from water quality models that use conservative assumptions (health-protective) regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, a level of concern in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of hexythiazox residues in drinking water as a part of the chronic (cancer) aggregate risk assessment process.

Despite the potential for hexythiazox exposure from water, EPA concludes that there is a reasonable certainty that no harm will result to infants, children, or adults from chronic (cancer) aggregate exposure to hexythiazox residues.

3. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to hexythiazox 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 hexythiazox, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–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 margin of exposure (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*. In a developmental toxicity study, 24 pregnant rats (strain not specified) received hexythiazox (NA-73) in gum Arabic by gavage at dose levels of 0, 240, 720, or 2,160 mg/kg/day from G.D. (gestation day) 7–17. The maternal NOAEL was 240 mg/kg/day. The maternal LOAEL was 720 mg/kg/day based on increased ovarian weights. The developmental NOAEL was 240 mg/kg/day. The developmental LOAEL was 720 mg/kg/day based on reduced bone ossification. In a developmental toxicity study in rabbits, pregnant NZW rabbits (12–14/dose) received hexythiazox (NA–73) at dose levels of 0, 120, 360 or 1,080 mg/kg/day from GD 6 to 18. No maternal or developmental toxicity was noted at 1,080 mg/kg/day at the highest dose tested. Both maternal and developmental NOAEL's were 1,080 mg/kg/day, the highest dose tested.

iii. *Reproductive toxicity study*. In a reproductive toxicity study, Fisher rats (20–30/dose group) were fed hexythiazox (NA–73) in the diet at doses of 0, 60, 400, or 2,400 ppm (0, 5, 35 or 200 mg/kg/day) for 2–generations. No reproductive toxicity was noted. The parental (systemic) NOAEL was 35 mg/kg/day. The parental (systemic) LOAEL of 200 mg/kg/day was based on decreased body weight gain, food consumption and food efficiency as well as increased liver, kidney and ovarian weights. No histopathological changes were noted in the ovaries. The reproductive NOAEL was 35 mg/kg/day. The reproductive LOAEL was 200 mg/kg/day based on decreased pup body weight during lactation, in addition to delays in hair growth and eye opening.

iv. *Pre- and post-natal sensitivity*. The pre- and post-natal toxicology data base for hexythiazox is complete with respect to current toxicological data requirements. The results of these studies indicate that infants and children are not more sensitive to exposure, based on the results of the rat and rabbit developmental toxicity studies as well as the 2–generation reproductive toxicity study in rats.

v. *Conclusion*. There is a complete toxicity database for hexythiazox and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Considering this and the fact that no pre- or post-natal toxicity was shown, EPA concluded that infants and children would be safe without the aditional tenfold safety factor.

2. *Chronic risk*. Using the exposure assumptions described above, EPA has concluded that aggregate exposure to hexythiazox 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 hexythiazox in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to hexythiazox residues.

III. Other Considerations

A. Metabolism in Plants and Animals

Additional plant metabolism data were not submitted for this tolerance. Metabolism studies have been submitted and reviewed in conjunction with petitions for hexythiazox tolerances on apples, grapes, citrus and pears. In studies with foliar application, there was very little translocation of hexythiazox from the leaves. Recovery of residues for hexythiazox and its hydroxylated metabolites was 95% in apple leaves 91 days after application, 69 and 63% in pear and citrus leaves 90 days after application, and 92% in grape leaves 56 days after application. Given the fairly limited metabolism of hexythiazox observed in these crops and that hops is a minor crop, the Agency concludes that the nature of the residue is understood for the purposes of this tolerance. The residue of concern is hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety. Livestock feedstuffs are not derived from hops (OPPTS 860.1000). Thus, the nature of the residue in livestock is not of concern for the proposed tolerance.

B. Analytical Enforcement Methodology

BASF has proposed Method 343/1 for enforcement of the proposed tolerance. An independent laboratory validation of this method was performed by Horizon Labs (MRID 439235–02). Satisfactory recoveries were obtained by the independent laboratory. The method has been successfully validated by the Agency. Minor deficiencies (additional interference testing for 3 ais and minor revisions) concerning this method are outstanding. The Agency concludes an adequate method (Method 343/1, MRID 439235–01.) is available for enforcement purposes; this method is available from PIRIB/IRSD.

Data concerning the recovery of hexythiazox via the FDA Multiresidue Methods of PAM I have been submitted. Hexythiazox is recoverable by the FDA multiresidue methods. Data concerning the recovery of hexythiazox metabolites (PT–1–8, PT–1–2 and PT–1–4) via the FDA Multiresidue Methods have not been submitted. The Agency concludes adequate analytical methods are available to enforce the proposed tolerance for residues of hexythiazox and its metabolites in/on imported hops (dried). The Agency further concludes submission of the additional multiresidue data for hexythiazox metabolites will not be required for this tolerance on imported hops.

C. Magnitude of Residues

Four trials were performed in Bavaria (MRID 433616–04). Ordoval was diluted in water to 0.045% and applied at a rate of 3,333 litres/hectare (L/ha) (150 g ai/ha, 1X) using a mistblower. Hops were harvested 28 days after application and kiln dried. The dried hops were processed into beer, resulting in the fractionation of residues into spent hops, brewers yeast, dregs and beer. Currently, residue data for processed hops products are not required. Samples were analyzed using BASF Method 343. The method was validated at 0.5 and 10 ppm. The average recoveries were 79.8 ± 16.1% (n=8) for fresh hops and 69.6 ± 15.2% (n=2) for dried hops. The maximum residue observed in the treated dried hops was 1.53 ppm.

Five trials were performed in Bavaria (MRID 433616–05). Ordoval was diluted in water to 0.045% and applied at a rate of 3,333 L/ha (150 g ai/ha, 1X) using a mistblower. Hops were harvested 27 days after application and kiln dried. Samples were analyzed using BASF Method 343. The method was validated at 0.5 and 1.0 ppm (fresh) or 1.0 and

10.0 ppm (dried). The average recoveries were 77.9 ± 20.6% (n=6) for fresh hops and 82.3 ± 4.8% (n=2) for dried hops. The maximum residue observed in the treated dried hops was 0.79 ppm.

The maximum residue observed in dried hops was 1.53 ppm. These data support the establishment of a 2.0 ppm tolerance for residues of hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety in/on hops cones, dried.

D. International Residue Limits

There is no Codex proposal, nor Canadian or Mexican limits for residues of hexythiazox on hops. Therefore, a compatibility issue is not relevant to the proposed tolerance. However, Codex limits are established for hexythiazox per se on other crops. As the U.S. enforcement method converts hexythiazox and its metabolites to a common moiety, harmonization would require new enforcement methodology to be developed and validated.

IV. Conclusion

Therefore, the tolerance is established for residues of hexythiazox in/on dried hops at 2.0 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 December 15, 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–300732] (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 Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epamail.epa.gov.

E-mailed objections and hearing requests 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 in this unit 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

A. Certain Acts and Executive Orders

This final rule establishes a 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 tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the 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.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

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: October 1, 1998.

James Jones,

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.

2. In § 180.448 by revising paragraph (a) to read as follows:

§ 180.448 Hexythiazox; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the miticide hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound) in or on the following commodities:

Commodity	Parts per million
Apples	0.02
Hops	2.0
Pears	0.30

* * * * *

[FR Doc. 98–27841 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62158B; FRL–6040–1]

RIN 2070–AD11

Lead; Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors; Withdrawal of Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal.

SUMMARY: Due to receipt of adverse comments, EPA is withdrawing a final rule published in the **Federal Register** of September 2, 1998, that would have established fees for accreditation of training programs and certification of lead-based paint activities contractors under the authority of section 402(a)(3) of the Toxics Substances Control Act.

DATES: The final rule published September 2, 1998 (63 FR 46668) is withdrawn as of October 16, 1998.

FOR FURTHER INFORMATION CONTACT: Mike Wilson, National Program Chemicals Division (Mail Code 7404), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 260–4664; fax number: (202) 260–0770 or by e-mail: wilson.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 2, 1998 (63 FR 46668) (FRL–6017–8), EPA issued a final rule under Title IV of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2683, 2682, and 2684). Section 402(a)(3) of TSCA directs EPA to promulgate regulations which establish fees to recover for the U.S. Treasury the Agency's cost of administering and enforcing the standards and requirements applicable to lead-based paint training programs and contractors engaged in lead-based paint activities.

EPA published the action as a final rule without prior notice and

opportunity to comment because the Agency believed that providing notice and an opportunity to comment was unnecessary and contrary to the public interest. Therefore, the Agency applied the ''good cause'' exemption in the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) that allows agencies in limited circumstances to issue final rules without first providing notice and an opportunity for comment. While not required to do so under the APA, EPA delayed the effective date until October 19, 1998, providing a 30–day public comment period. EPA stated that if significant adverse comment was received, the Agency would withdraw the rule prior to the effective date and the comments would be addressed in a subsequent final rule. EPA simultaneously issued a companion proposed rule in the **Federal Register** (63 FR 46734) (FRL–6017–7) to ensure that the public was aware of its opportunity to comment, and to provide the APA-required proposal in the event that significant adverse comment was received and issuance of a subsequent final rule was necessary.

The comment period ended on October 2, 1998. The Agency has determined that significant adverse comments were received and is today issuing a withdrawal of the final rule. A subsequent final rule will be issued prior to February 28, 1999, which will address comments received during the comment period. EPA will not institute a second comment period for this action.

II. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This action does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), or Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled ''Enhancing Intergovernmental Partnerships'' (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and Tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's action does not create an unfunded Federal mandate on State, local or Tribal governments. The action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

III. 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 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: October 13, 1998.

Susan A. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–27840 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4300

[WO–420–1050–00–24]

RIN 1004–AD06

Grazing Administration; Alaska; Reindeer; General

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is revising its regulations that provide for the administration of permits for grazing reindeer in Alaska. These regulations explain how Native Alaskans may apply for permits and what a permit entitles

them to do. BLM has translated the regulations into Plain Language and, with a few exceptions, has not changed the substance of the regulations.

DATES: Effective November 16, 1998.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry Field, BLM Northern District Office, Fairbanks, Alaska, Telephone: 907–474–2343 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule as Adopted
III. Responses to Comments
IV. Procedural Matters

I. Background

Part 4300 of Title 43 of the Code of Federal Regulations implements the provisions of the Act of September 1, 1937 (50 Stat. 900; 25 U.S.C. 500, et seq.) (Act). That Act authorizes the Secretary of the Interior to manage the reindeer industry in Alaska in order to maintain a self-sustaining industry for Alaska Natives. The Act also authorizes the Secretary to issue permits to Natives for grazing reindeer on public lands.

The final rule published today is the last stage of the rulemaking process that is concluding in the revision of the regulations at 43 CFR 4300. This rule was preceded by a proposed rule that was published in the **Federal Register** on November 1, 1996 (61 FR 56497). The proposed rule, which was written in Plain Language, clarified the application procedures for reindeer grazing permits. BLM invited public comments for 30 days and received comments from a private citizen. We also received internal comments.

II. Final Rule as Adopted

The final rule is adopted with changes to the proposed rule as discussed in the Responses to Comments section. In summary, the final rule revises the definition of reindeer to clarify the reindeer's relationship to wild caribou; expands the reasons for cancellation of a permit to include those reasons currently used by BLM to reduce or modify a permit, as spelled out in § 4300.50; and clarifies that a $10 filing fee must be paid for each application but no annual use fee is required.

III. Responses to Comments

Discussed below are the issues raised in the comments that BLM received during the 30-day comment period on the proposed rule to revise 43 CFR part 4300.

1. Comment: The commenter believes BLM should list the name and number of any forms required for submitting grazing permit applications and state that none is required when appropriate.

Response: We have adopted the commenter's suggestion and amended the rule as follows:

—Revised § 4300.2 to specify the name and number of the forms used in this part—the Reindeer Grazing Permit (Form 4132–2), the Grazing Lease or Permit Application (Form 4201–1), and Range Improvement Permit (Form 4120–7). Also corrected § 4300.2 to delete the reference to reports having to be on a BLM-approved form.

—Added a statement to §§ 4300.30(a) (protest of a permit application), 4300.45 (annual reports), 4300.59 (assignment of permits), and 4300.80 (reindeer crossing permit) that the permittee is not required to use a particular format nor a BLM-approved form when completing actions under these sections.

2. Comment: In § 4300.23, BLM should provide a time frame for issuing a permit.

Response: We have revised § 4300.23 to state that BLM generally responds to an applicant within 120 days and keeps the applicant informed if there are delays in meeting that time frame.

3. Comment: In § 4300.25, the commenter has a problem with BLM issuing a grazing permit at its discretion.

Response: We have expanded § 4300.25 to point out that BLM's discretionary decisions are based on sound resource management guidelines developed in land use plans and in consultation with other State and Federal resource management agencies.

4. Comment: Section 4300.55 should identify the BLM official that makes the final decision when there is an appeal of the readjustment of a permit area.

Response: We have added information to § 4300.55 to advise that the BLM Field Office Manager makes the bureau decision and the BLM official's decision can be appealed to the Interior Board of Land Appeals (IBLA) under 43 CFR part 4. The IBLA makes the final decision.

5. In response to internal comments, we have made several technical amendments to the proposed regulation:

—Corrected the November 1, 1996, preamble of the 4300 proposed rule (61 FR 56497) and revised §§ 4300.22 and 4300.57 to provide that a $10 filing fee is required for each reindeer grazing application but no annual use fee is required. Also, revised § 4300.57 to clarify that the application for renewal is completed on the same form as the original application.

The proposed rule incorrectly stated that a $10 application fee must be paid each year of the reindeer grazing permit. Actually, BLM only requires a $10 filing fee to accompany each application. For multi-year grazing permits, the $10 filing fee submitted with each application is the only fee required.

—Replaced the word ''default'' in § 4300.71(b) to more closely track language in § 4300.71(a)(2). Paragraph (a) (2) lists one of the reasons that BLM may cancel a permit as the failure of the permittee to comply with the provisions of the permit or the regulations of part 4300. Paragraph (b) uses the term ''default'' in the sense of ''failure to comply.'' To make the terms in paragraphs (a) and (b) consistent, we have substituted ''failure to comply'' for ''default'' the first time it appears in paragraph (b) and substituted ''noncompliance'' for ''default'' the second time it appears in that paragraph.

—Replaced the term ''Federal land'' with ''public land'' in § 4300.90(a) for consistency and accuracy. ''Public land'', as discussed in § 4300.10, is the correct term to describe the types of land for which a reindeer grazing application may be filed.

IV. Procedural Matters

National Environmental Policy Act

BLM has determined that this final rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and that the final rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusion'' means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

This final rule qualifies as a categorical exclusion under item 1.10 for regulations of an administrative, financial, legal, technical, or procedural nature. The final rule does not change the rights of customers who may file applications and has no impact on the environment. The rule will simplify the

application procedures and make clear to applicants the legal requirements they need to meet.

Paperwork Reduction Act

BLM has submitted the information collection requirements in this final rule to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We will not require collection of this information until OMB has given its approval.

Sections of this final rule with information collection requirements are §§ 4300.20, 4300.57, 4300.80, and 4300.45, and BLM estimates the public reporting burden of these sections to average 1 hour per response for the first three sections and 15 minutes per response for the fourth section. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 401–LS, Washington, DC 20240, and the Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior (1004–AD06), Office of Management and Budget, Washington, DC 20503.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the discussion in the preamble above, the final rule will not materially change the way BLM processes applications, and will not affect the rights of customers who may file applications for grazing reindeer. The rule only simplifies the application procedures and makes clear to applicants the legal requirements they need to meet. BLM anticipates that this final rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Revision of 43 CFR part 4300 will not result in any unfunded mandate to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

Executive Order 12612

The final rule will not have a substantial direct effect 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, BLM has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to clarify existing regulations in a way that does not materially change the regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal author of this rule is Frances Watson, Regulatory Affairs Group, Telephone: 202–452–5006 (Commercial or FTS).

List of Subjects in 43 CFR Part 4300

Administrative practice and procedure, Alaska, Grazing lands, Range management, Reindeer, Reporting and recordkeeping requirements.

Dated: September 22, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management

For the reasons set forth in the preamble, and under the authority of 25 U.S.C 500k, BLM is revising 43 CFR part 4300 to read as follows:

PART 4300—GRAZING ADMINISTRATION; ALASKA; REINDEER; GENERAL

General Information

Sec.

4300.1 What is a reindeer?
4300.2 Is there a special form for my application?

Before you Apply for a Reindeer Grazing Permit

4300.10 On what types of public land can I obtain a reindeer grazing permit?
4300.11 Who qualifies to apply for a permit?
4300.12 What is the definition of a Native?

Applying for a Grazing Permit

4300.20 How do I apply for a permit?
4300.21 What must I include in my application?
4300.22 What fees must I pay?
4300.23 After I file my application, can I use the land before BLM issues my permit?
4300.24 Does my filed application mean that no one else can file an application?
4300.25 Does my filed application mean I will automatically receive a permit?

Protests Against a Grazing Permit Application

4300.30 Can someone else protest my permit application?

Conditions of Your Approved Permit

4300.40 How long can I graze reindeer with my permit?
4300.41 What will the permit say about the number of reindeer and where I can graze them?
4300.42 If I have existing improvements on the land, will these be allowed in the initial permit?
4300.43 What should I do if I want to construct and maintain improvements on the land?
4300.44 Are there any major restrictions on my grazing permit that I might otherwise think are allowed?
4300.45 Must I submit any reports?

Changes That Can Affect Your Permit

Other Uses of the Land

4300.50 Are there other uses of the land that may affect my permit?
4300.51 Will I be notified if another use, disposal, or withdrawal occurs on the land?
4300.52 Can other persons use the land in my permit for mineral exploration or production?

Changes in the Size of the Permitted Area

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Reindeer Crossing Permit

4300.80 How can I get a permit to cross reindeer over public lands?

Trespass

4300.90 That is a trespass?

Authority: 25 U.S.C. 500k, and 43 U.S.C. 1701 *et seq.*

General Information

§ 4300.1 What is a reindeer?

Reindeer, *Rangifer tarandus,* are a semi-domesticated member of the deer family, Cervidae. They are essentially the same animal as their wild cousins, the caribou, but tend to be smaller than caribou. Reindeer and caribou are different subspecies of the same family, genus, and species. The term ''reindeer'' includes caribou that have been introduced into animal husbandry or have joined reindeer herds, the offspring of these caribou, and the offspring of reindeer.

§ 4300.2 Is there a special form for my application?

All applications you submit to BLM must be on a BLM-approved form and in duplicate. The forms to be used in this part are the Grazing Lease or Permit Application (Form 4201–1), the Reindeer Grazing Permit (Form 4132–2), and the Range Improvement Permit (Form 4120–7).

Before You Apply for a Reindeer Grazing Permit

§ 4300.10 On what types of public land can I obtain a reindeer grazing permit?

(a) You may apply for public lands that are vacant and unappropriated.

(b) You may apply for public lands which have been withdrawn for any purpose, but the Department or agency with administrative jurisdiction of the withdrawn lands must give its prior consent, and may impose terms or conditions on the use of the land.

(c) If the lands you apply for are within natural caribou migration routes, or if they have other important values for wildlife, BLM will consult with the Alaska Department of Fish and Game before issuing a permit. BLM may include such lands in a permit at its discretion, and a permit will contain any special terms and conditions to protect wildlife resources.

§ 4300.11 Who qualifies to apply for a permit?

Natives, groups, associations or corporations of Natives as defined by the Act of September 1, 1937 (50 Stat. 900) qualify. If you are a Native corporation, you must be organized under the laws of the United States or the State of Alaska. Native corporations organized under the Alaska Native Claims Settlement Act also qualify.

§ 4300.12 What is the definition of a Native?

Natives are:

(a) Native Indians, Eskimos, and Aleuts of whole or part blood living in Alaska at the time of the Treaty of Cession of Alaska to the United States, and their descendants of whole or part blood; and

(b) Indians and Eskimos who, between 1867 and September 1, 1937, migrated into Alaska from Canada, and their descendants of whole or part blood.

Applying for a Grazing Permit

§ 4300.20 How do I apply for a permit?

You must execute a completed application for a grazing permit (Form 4201–1) and file it in the BLM office with jurisdiction over the lands for which you are applying.

§ 4300.21 What must I include in my application?

(a) You must include a certification of reindeer allotment to you, signed by the Bureau of Indian Affairs, if you are to receive a herd from the Government. If you obtain reindeer from a source other than the Government, you should state the source and show evidence of purchase or option to purchase.

(b) Your initial application must list the location of and describe the improvements you own in the application area. You must have this statement verified by the Bureau of Indian Affairs before you submit it to BLM.

§ 4300.22 What fees must I pay?

You must pay a $10 filing fee with each application. No grazing fee will be charged.

§ 4300.23 After I file my application, can I use the land before BLM issues my permit?

No. You cannot use the land until BLM issues you a permit. Generally, BLM will issue a permit within 120 days after receiving an application and will keep you informed if there are delays in meeting that timeframe.

§ 4300.24 Does my filed application mean that no one else can file an application?

No. The filing of your application will not segregate the land. Anyone else may file an application and BLM may dispose of the lands under the public land laws.

§ 4300.25 Does my filed application mean I will automatically receive a permit?

No. BLM issues grazing permits at its discretion. Our decisionmaking is based on resource management guidelines developed in land use plans and in consultation with other State and Federal resource management agencies.

Protests Against a Grazing Permit Application

§ 4300.30 Can someone else protest my permit application?

(a) Yes, anyone may file a protest with BLM. The protest does not have to be in a particular format nor on a BLM-approved form but it must:

(1) Be filed in duplicate with BLM;

(2) Contain a complete description of all facts upon which it is based;

(3) Describe the lands involved; and

(4) Be accompanied by evidence of service of a copy of the protest on the applicant.

(b) If the person protesting also wants a grazing permit for all or part of the land described in the protested application, the protest must be accompanied by a grazing permit application.

Conditions of Your Approved Permit

§ 4300.40 How long can I graze reindeer with my permit?

BLM issues permits for a maximum of 10 years, except when you request a shorter term, or when BLM determines that a shorter period is in the public interest. The issued permit will specify the number of years you can graze reindeer.

§ 4300.41 What will the permit say about the number of reindeer and where I can graze them?

(a) The permit will indicate the maximum number of reindeer you can graze on the permit area based on range conditions. BLM can adjust this number if range conditions change, as for example, by natural causes, overgrazing, or fire.

(b) The permit will restrict grazing to a definitely described area which BLM feels is usable and adequate for your needs.

§ 4300.42 If I have existing improvements on the land, will these be allowed in the initial permit?

Yes, any improvements existing on the land will be allowed.

§ 4300.43 What should I do if I want to construct and maintain improvements on the land?

(a) You should file an application (Form 4120–7) with BLM for a permit to do this. A permit will allow you to construct, maintain, and use any fence, building, corral, reservoir, well or other improvement needed for grazing under the grazing permit; and

(b) You must comply with Alaska state law in the construction and maintenance of fences, but any fence must be constructed to permit ingress and egress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

§ 4300.44 Are there any major restrictions on my grazing permit that I might otherwise think are allowed?

Yes. You must not:

(a) Enclose roads, trails and highways as to disturb public travel there;

(b) Interfere with existing communication lines or other improvements;

(c) Prevent legal hunting, fishing or trapping on the land;

(d) Prevent access by persons, such as miners and mineral prospectors, entitled to lawfully enter; or

(e) Graze reindeer without complying with applicable State and Federal laws on livestock quarantine and sanitation.

§ 4300.45 Must I submit any reports?

Yes. Before April 1 of the second permit year and each year afterwards, you must submit a report in duplicate to BLM which describes your grazing operations during the preceding year. Reports do not have to be on a BLM-approved form nor in a particular format.

Changes That Can Affect Your Permit

Other Uses of the Land

§ 4300.50 Are there other uses of the land that may affect my permit?

Yes. The lands described in your grazing permit and the subsurface can be affected by uses that BLM considers more important than grazing. Your permit can be modified or reduced in size or canceled by BLM to allow for:

(a) Protection, development and use of the natural resources, e.g., minerals, timber, and water, under applicable laws and regulations;

(b) Agricultural use;

(c) Applications for and the acquisition of homesites, easements, permits, leases or other rights and uses, or any disposal or withdrawal, under the applicable public land laws; or

(d) Temporary closing of portions of the permitted area to grazing whenever, because of improper handling of reindeer, overgrazing, fire or other cause, BLM judges this necessary to restore the range to its normal condition.

§ 4300.51 Will I be notified if another use, disposal or withdrawal occurs on the land?

Yes. If there is a settlement, location, entry, disposal, or withdrawal on any lands described in your permit, BLM will notify you and will reduce your permit area by the amount of the area involved.

§ 4300.52 Can other persons use the land in my permit for mineral exploration or production?

Yes. Unless the land is otherwise withdrawn, the land in your permit is subject to lease or leasing under the mineral leasing laws and under the Geothermal Steam Act, and mineral materials disposal under the Materials Act. Also, it can be prospected, located, and purchased under the mining laws and applicable regulations at 43 CFR Group 3800.

Changes in the Size of the Permit Area

§ 4300.53 Can BLM reduce the size of the land in my permit?

Yes. BLM may reduce it at any time but must notify you at least 30 days before taking this action. BLM can reduce the area when:

(a) BLM determines that the area is too large for the number of reindeer you are grazing; or

(b) When disposal, withdrawal, natural causes, such as drought or fire, or any other reason in § 4300.50 so requires.

§ 4300.54 Can BLM increase the size of the land in my permit?

Yes. BLM may increase the area on its own initiative or by your request if BLM determines that the area is too small for the number of reindeer you are grazing. BLM will give you at least 30 days' notice of this action.

§ 4300.55 What if I don't agree with an adjustment of my permit area?

You must contact BLM within the notice period to show cause why the area should not be adjusted. After the BLM field office manager makes a decision on the adjustment, you have the right to appeal that decision to the Interior Board of Land Appeals (IBLA) under 43 CFR part 4. The IBLA makes the final decision.

Permit Renewals

§ 4300.57 How do I apply for a renewal of my permit?

You must submit an application for renewal, using the same form as the original application, between four and eight months before the permit expires. A $10 filing fee must accompany the application.

§ 4300.58 Will the renewed permit be exactly the same as the old permit?

At its discretion, BLM may offer you a renewed grazing permit with such terms, conditions, and duration that it determines are in the public interest.

Assigning Your Permit to Another Party

§ 4300.59 If I want to assign my permit to another party, when must I notify BLM?

You must file a proposed assignment of your permit, in whole or in part, in duplicate with BLM within 90 days of the assignment execution date. No particular format is required. The assignment is effective when BLM approves it.

§ 4300.60 What must be included in my assignment document?

Assignments must contain:

(a) All terms and conditions agreed to by the parties;

(b) A showing under §§ 4300.11 and 4300.12 that the assignee is qualified to hold a permit;

(c) A showing under § 4300.21(a) regarding a reindeer allotment; and

(d) The assignee's statement agreeing to be bound by the provisions of the permit.

§ 4300.61 Can I sublease any part of the land in my permit?

No.

Closing Out Your Permit

§ 4300.70 May I relinquish my permit?

Yes. You may relinquish the permit by filing advance written notice with BLM. Your relinquishment will be effective on the date you indicate, as long as it is at least 30 days after the date you file.

§ 4300.71 Under what circumstances can BLM modify, reduce or cancel my permit?

(a) BLM may cancel the permit if:

(1) BLM issued it improperly through error as to a material fact;

(2) You fail to comply with any of the provisions of the permit or the regulations of this part; or

(3) Disposal, withdrawal, natural causes, such as drought or fire, or any other reason in § 4300.50 so requires.

(b) BLM will not cancel the permit for failure to comply until BLM has notified you in writing of the nature of your noncompliance, and you have been given at least 30 days to show why BLM should not cancel your permit.

(c) BLM may modify or reduce a permit in accordance with § 4300.50.

§ 4300.72 May I remove my personal property or improvements when the permit expires or terminates?

(a) Yes. Within 90 days of the expiration or termination of the grazing permit, or within any extension period, you may remove all your personal property and any removable range improvements you own, such as fences, corrals, and buildings.

(b) Property that is not removed within the time allowed will become property of the United States.

Reindeer Crossing Permits

§ 4300.80 How can I get a permit to cross reindeer over public lands?

(a) BLM may issue a crossing permit free of charge when you file an application with BLM at least 30 days before the crossing is to begin. Lands crossed may include lands under a grazing permit.

(b) The application does not have to be on a BLM-approved form nor in a particular format, but it must show:

(1) The number of reindeer to be driven;

(2) The start date;

(3) The approximate period of time required for the crossing; and

(4) The land to be crossed.

(c) You must comply with applicable State and Federal laws on livestock quarantine and sanitation when crossing reindeer on public land.

Trespass

§ 4300.90 What is a trespass?

(a) A trespass is any use of Federal land for reindeer grazing purposes without a valid permit issued under the regulations of this part; a trespass is unlawful and is prohibited.

(b) Any person who willfully violates the regulations in this part will be deemed guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than $500.

[FR Doc. 98–27758 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE47

Endangered and Threatened Wildlife and Plants; Final Rule to Establish an Additional Manatee Sanctuary in Kings Bay, Crystal River, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: With this final rule, the Fish and Wildlife Service (Service) establishes an additional West Indian manatee (*Trichecus manatus*) sanctuary in Citrus County, Florida, adjacent to Kings Bay/Crystal River at the confluence of the Three Sisters Spring run with a residential canal, and prohibits all waterborne activities in the sanctuary for a period of November 15 through March 31 of each year. This final action will prevent the taking of manatees by harassment resulting from waterborne activities ''which includes, but is not limited to swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations'' during the winter months. This increases the number of sanctuaries in Kings Bay from six to seven and has been initiated to prevent harassment caused by increasing public use at this site. This action is taken under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972, as amended.

DATES: This rule is effective November 16, 1998.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner at the above address, (904/232–2580, ext.117); or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service (813/893–3651); or Elizabeth Souheaver, Refuge Manager, Chassahowitzka National Wildlife Refuge, U.S. Fish and Wildlife Service (352/563–2088).

SUPPLEMENTARY INFORMATION:

Background

Crystal River is a tidal river on the west coast of Florida. Forming the headwaters of Crystal River is Kings Bay, a lake-like body of water fed by numerous freshwater springs. The Kings Bay springs constitute one of the most important natural warm-water refuges for manatees, a federally listed endangered species. More than 250 animals may seek refuge in the Bay's warm waters during winter cold periods. With the winter presence of manatees and its sheltered, warm and clear waters. Kings Bay also attracts large numbers of waterborne users (boaters, recreational divers, snorkelers, and swimmers) most of whom seek out manatees for a close viewing experience. The influx of visitors, primarily there to see and interact with manatees, provides a major economic impact to the Crystal River community.

Large aggregations of manatees apparently did not exist in Kings Bay until recent times (Beeler and O'Shea 1988). The first careful counts were made in the late 1960s. Since then manatee numbers have increased significantly. In 1967–1968, Hartman (1979) counted 38 animals. By 1981-1982, the maximum winter count increased to 114 animals (Powell and Rathbun 1984). In December 1994, the count was 271 (U.S. Fish and Wildlife Service, unpublished data) and in January 1998, the count was 298. Both births and immigration of animals from other areas have contributed to the increases in manatee numbers at Crystal River.

The second revision of the Florida Manatee Recovery Plan (U.S. Fish and Wildlife Service, 1995) identifies the need to minimize disturbance and harassment of manatees in the wild. This concern for the welfare of manatees in Kings Bay has resulted in the establishment of a series of sanctuary areas to protect manatees from any potential negative impacts of human activities. The first three sanctuaries were created in 1980, encompassing a total of about 10 acres in Kings Bay. These were closed to all human access

each winter from November 15 to March 31 and provided manatees with areas where they could retreat from waterborne users. To better administer and protect the Bay's manatee habitat, the Service purchased several islands associated with the sanctuaries in 1983 and established the Crystal River National Wildlife Refuge. During the 1980's, the number of manatees and divers increased steadily, resulting in the need for additional manatee sanctuaries. In 1994, the Service established three additional sanctuaries and expanded an existing sanctuary. The six sanctuaries encompass approximately 39 acres within Kings Bay.

The Kings Bay manatee sanctuary system provides significant protection to the more than 250 manatees that use this area as a winter warm-water refuge. With the large number of manatees using Kings Bay and an increasing number of recreational divers and snorkelers coming to Crystal River to seek close encounters with manatees, another problem area outside the existing sanctuary system has been identified.

Since the establishment of the three most recent sanctuaries, reports of waterborne users harassing manatees and causing manatees to leave the Three Sisters Spring run area has been documented by researchers, refuge staff and concerned citizens. The Save the Manatee Club and the U.S. Marine Mammal Commission have urged the Service to act to protect manatees utilizing the Three Sisters Spring run area. Dive shop operations have acknowledged that there is a manatee harassment problem in the area around Three Sisters Spring.

Prior to the winter of 1996–97, the Service and local interest groups met separately with local dive shop owners to discuss the harassment issue and the feasibility of establishing a new sanctuary. There was a consensus that a sanctuary was needed and that it would be more effective if it was developed through a local city or county ordinance. Representatives of each of the local dive shops wrote letters recognizing the need for a small sanctuary near Three Sisters Spring and recommended that the regulations be promulgated locally. To date, the local government has not adopted regulation(s) to establish a sanctuary at this site.

The Service funded a manatee and human interaction study at Three Sisters Spring (January 23–February 17, 1997) which confirmed that harassment was occurring and documented instances in which manatees left the warm waters at the confluence of the spring run and the residential canal when divers, snorkelers and/or swimmers arrived (Wooding 1997). The Service is concerned that these animals may be leaving earlier than if they were left undisturbed.

Reasons for Determination

In deciding to implement the emergency rule and proceed with a proposed rule, the Service carefully assessed the best available information, including the aforementioned study to evaluate manatee and human interactions at Three Sisters Spring. The study clearly documented a manatee harassment problem at the site. With more than 250 manatees using the sanctuary system along with an increasing number of visitors who seek close encounters with manatees, manatees are experiencing more frequent disturbance at Three Sisters Spring. Without sufficient space to rest free from harassment, a significant proportion of the manatees depending upon the Kings Bay springs could be at considerable risk should they be driven away from essential warm water areas. Based on this evaluation, the preferred action is to establish an additional sanctuary at the confluence of the Three Sisters Spring run and a residential canal in Kings Bay, Crystal River, Citrus County, Florida.

Due to insufficient time to complete preparations for establishing a permanent sanctuary before cold weather would arrive in November 1997, the Service proceeded with an emergency rule (November 26, 1997 (62 FR 63036)) that established an interim manatee sanctuary at Three Sisters Spring for the November 24, 1997, through March 23, 1998, time period. The emergency sanctuary was marked with a buoy system similar to the other sanctuaries. To date, weekly aerial surveys by refuge biologists have documented that manatee use of the sanctuary has remained consistent and public use has remained at high numbers. The public has respected the boundaries as is reflected by few enforcement violations at the sanctuary.

A proposed rule to establish a permanent manatee sanctuary at Three Sisters Spring was simultaneously published on November 26, 1997 (62 FR 63062) with the emergency rule. The proposed rule offered a public hearing, if requested, and announced a 60-day public comment period that ended January 28, 1998. Also, on November 17 and 28, 1997, legal notices were placed in the *Citrus County Chronicle* and *The St. Petersburg Times Citrus Edition*, respectively, advertising the emergency and proposed rules and soliciting public comment.

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972, as amended, and is codified in 50 CFR part 17, subpart J. Under subpart J, the Director may establish, by regulation, manatee protection areas whenever he/she determines there is substantial evidence that there is imminent danger of a taking (including harassment) of one or more manatees, and that such establishment is necessary to prevent such a taking.

The sanctuary is located on the west side of the confluence of Three Sisters Spring run and the residential canal, Kings Bay, Crystal River, Citrus County, Florida. The sanctuary is less than one quarter acre in size. A standard survey of the sanctuary area has been performed. The new area will be delineated with buoys, as are the existing sanctuaries.

Summary of Comments and Recommendations

We received a total of seven letters during the comment period. All were supportive and recommended that the Service establish a permanent sanctuary as proposed. The U.S. Marine Mammal Commission's letter supported the Service's proposal, but stated that they were concerned that establishing the sanctuary through local efforts (city, county) would create the potential for inconsistencies in rule provisions and enforcement actions, such as the amounts of penalties for violation. Although the Service indicated in the proposed rule that it would leave the option open for local government to establish a sanctuary at Three Sisters Spring, this did not occur and the Service has proceeded with this final rule. The Marine Mammal Commission letter also commended the Service for the progress it is making to address manatee harassment problems at Kings Bay and suggested several additional measures to address the harassment issue. To further reduce harassment, the Service has increased public outreach efforts designed to educate boaters, swimmers, and divers on how they can avoid harassing or disturbing manatees. The Service has established a Manatee Education Center located near Crystal River at the Homossassa Springs State Park. The Service, in cooperation with the Save the Manatee Club and the Professional Association of Diving Instructors, has developed a new educational brochure entitled *If You Love Me, Don't Disturb Me.* This brochure specifically addresses the

issue of swimmer interactions with manatees. It is expected that over 50,000 copies will be distributed to the public during 1998.

In light of the supportive comments received from the media, citizens, and local dive shops, and the fact that local city and county governments did not step forward to establish the sanctuary themselves, the Service has concluded that it is in the best interest of the manatee to make the emergency sanctuary permanent. This is needed to accommodate the increase in the number of manatees using the Three Sisters Spring area as a warm water refuge, and to offset harassment from the increasing public use. The sanctuary system is essential to ensure adequate undisturbed natural areas in Kings Bay, where manatees can meet their needs, including warm water, food, and areas for resting and socializing. No changes to the proposed rule are necessary or warranted and, since there was no request for a public hearing, the Service is proceeding with this final rule action.

National Environmental Policy Act

The Service has determined this action qualifies as a categorical exclusion in accordance with 516 DM 2, Appendix 1 and 516 DM 5, Appendix 1. No further National Environmental Policy Act documentation will, therefore, be made.

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action and was not subject to review by the Office of Management and Budget.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. It is not expected that any significant impacts would result from the establishment of a sanctuary of less than one quarter acre in size at Three Sisters Spring. The dive shops, tour operators and public are supportive of the sanctuary and respected the boundaries of the emergency rule, as was reflected by few enforcement violations at the emergency sanctuary.

b. This rule will not create inconsistencies with other agencies' actions. The precedent to establish manatee sanctuaries in Kings Bay was established when the first three sanctuaries were created in 1980, encompassing a total of about 10 acres in Kings Bay. These were closed to all human access each winter from November 15 to March 31 and provided manatees with areas where they could retreat from waterborne users. In 1994, the Service established three additional sanctuaries and expanded an existing sanctuary. The six sanctuaries encompass approximately 39 acres within Kings Bay. The Service does not believe that the establishment of a seventh manatee sanctuary at Three Sisters Spring, which will be less than one quarter acre in size, would conflict with existing or proposed human activities or hinder public utilization of the Three Sisters Spring area. Over 400 acres of waterways in Kings Bay are available for public use. The emergency sanctuary was marked with a buoy system similar to the other sanctuaries from November 26, 1997, until March 26, 1998. Weekly aerial surveys by refuge biologists documented that manatee use of the sanctuary remained consistent and that the public use also remained at high numbers. The public respected the boundaries as was reflected by few enforcement violations at the sanctuary.

c. This final rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. There are minimal restrictions to existing human uses of the Three Sisters Spring area as a result of this rule, but the restriction has been shown to enhance manatee viewing opportunities. No entitlements, grants, user fees, loan programs or the rights and obligations of their recipients are expected to occur.

d. This rule will not raise novel legal or policy issues. The Service has previously established six other manatee sanctuaries in Kings Bay—three in 1980, their expansion and the creation of the Crystal River National Wildlife Refuge in 1983 and three new sanctuaries and the expansion of an existing sanctuary in 1994. This final action will reduce the need for enforcement actions to prevent the taking of manatees by harassment resulting from human-related waterborne activities such as swimming, diving, snorkeling, fishing, the use of water vehicles and dredging and filling operations in the Three Sisters Spring area.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Neither a Regulatory Flexibility Analysis nor a Small Entity Compliance Guide is required. The additional manatee sanctuary in King's Bay will be less than one quarter acre in size, bringing the total area of seasonally-restricted manatee sanctuaries in King's Bay to approximately 40 acres. Over 400 acres of waterways in King's Bay are available for public use and local dive shops have expressed support for an additional manatee sanctuary at Three Sisters Spring.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will restrict waterborne activities seasonally in less than one quarter acre of waterway. This will bring the total acreage in seasonally restricted sanctuaries in Kings Bay to approximately 40 acres, leaving over 400 acres in Kings Bay available for public use. Thus, this rule should have little or no effect on local dive shops, etc. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. County and local governments abstained from developing a local sanctuary ordinance and opted for the Service to establish the sanctuary.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. The sanctuary is located over state owned submerged bottoms. This sanctuary, as have the previous six manatee sanctuaries that are adjacent to private lands, allows property owners navigational access to their property

during the November 15 through March 31 closures.

Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The Service coordinated with the State of Florida on the development of a manatee sanctuary at Three Sisters Spring.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq*. The regulation does not impose record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

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Author

The primary author of this final rule is Robert O. Turner, Manatee Coordinator (see **ADDRESSES** section above).

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub.L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.108 by adding paragraph (a)(7) and revising the map at the end of the section to read as follows:

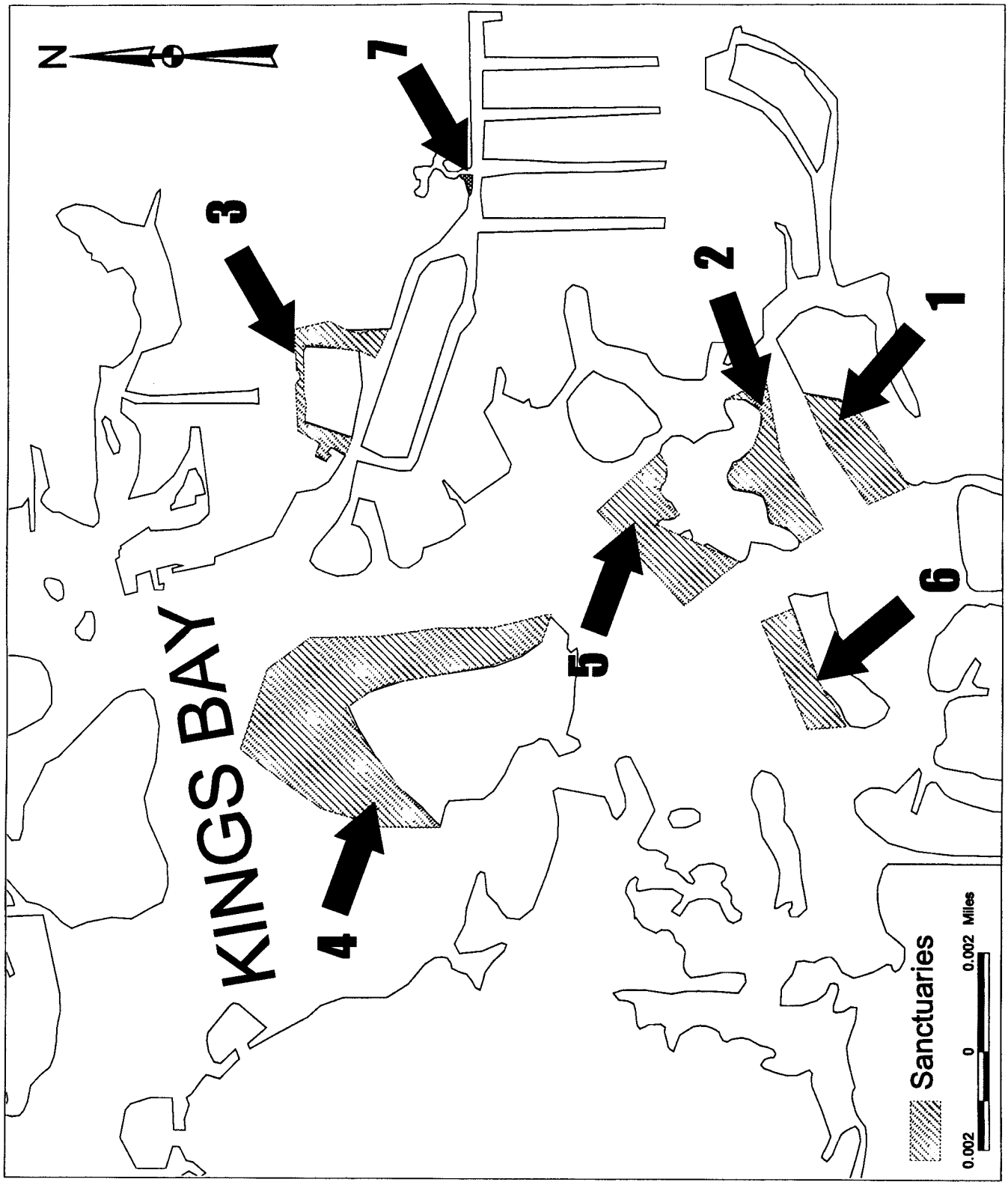
§ 17.108 List of designated manatee protection areas.

(a) * * *

(7) A tract of submerged land, lying in Section 28, Township 18 South, Range 17 East, Tallahassee Meridian, Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 28 (N–1651797.56 E–463846.96) Florida Coordinate System, West Zone, NAD 1983, N.G.S. adjustment of 1990 (expressed in U.S. survey feet); thence N. 40°08′47″ E., 5551.65 feet (5551.57 feet grid distance) to an aluminum monument stamped ''PSM 3341 1998'' (N1656009.01 E-467449.35) marking the Point of Beginning; thence N. 77°06′49″ E., 71.84 feet to an aluminum monument stamped ''PSM3341 1998'' (N–1656025.04, N–467519.38); thence S. 04°37′09″ W., 29.88 feet to an aluminum monument stamped ''PSM 3341 1998'' (N–1655995.26 E–467516.98); thence N. 78°29′57″ W., 69.01 feet to the point of beginning; to be known as the Three Sisters Spring Sanctuary.

* * * * *

BILLING CODE 4310–55–P



Dated: October 8, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–27733 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 9712229312–7312–01; I.D. 093098B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-based Whiting Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 1998 regular season for the shore-based fishery for Pacific whiting (whiting), and resumption of a 10,000–lb (4,536–kg) trip limit, at 2 p.m. (local time) l.t. October 13, 1998, because the allocation for the shore-based sector will be reached by that time. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. This action is intended to keep the harvest of whiting at levels announced by NMFS on January 6, 1998.

DATES: Effective from 2 p.m. l.t. October 13,1998, until the effective date of the 1999 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**, unless modified, superseded, or rescinded. Comments will be accepted through November 2, 1998.

ADDRESSES: Submit comment to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or William Hogarth, Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Katherine A. King at 206-526-6140 or Svein Fougner at 562–980–4040.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR 660.323(a)(4) (62 FR 27519, May 20, 1997) established separate allocations for the catcher/processor, mothership, and shore-based (also called ''shoreside'') sectors of the whiting fishery. Each allocation is a harvest guideline, which, when reached, results in the end of the primary season for that sector. The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors. The allocations, which are based on the 1998 commercial harvest guideline for whiting of 207,000 metric tons (mt), are: 70,400 mt (34 percent) for the catcher/processor sector; 49,700 mt (24 percent) for the mothership sector; and 86,900 mt (42 percent) for the shoreside sector.

The best available information on October 8, 1998, indicated that 5,432.75 mt of whiting had been taken by the shore-based sector through October 7, 1998, and that the 86,900 mt shore-based allocation would be reached by 2 p.m. l.t. October 13, 1998. Accordingly, the primary season for the shore-based sector ends at 2 p.m. l.t. October 13, 1998, at which time no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a catcher boat in the shore-based sector. The regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for the shore-based sector as the period(s) when the large-scale target fishery is conducted (when routine trip limits accommodating small fresh fish and bait fisheries and bycatch in other fisheries under § 660.323(b) are not needed nor in effect). The 10,000 lb (4,536–kg) trip limit, which also had been in effect before the primary season, is intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(C), NMFS herein announces:

Effective 2 p.m. l.t. October 13, 1998—No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(C) and is exempt from review under E.O. 12866.

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

Dated: October 9, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–27816 Filed 10–13–98; 2:48 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 63, No. 200

Friday, October 16, 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

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 97–110–2]

RIN 0579–AA92

Importation of Grapefruit, Lemons, and Oranges From Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: We are advising the public that we are extending by 120 days the comment period for our proposed rule regarding the importation of grapefruit, lemons, and oranges from Argentina and that we have scheduled a public hearing to give interested persons an opportunity for the oral presentation of data, views, and arguments regarding that proposed rule.

DATES: Consideration will be given only to comments on Docket No. 97–110–1 that are received on or before February 11, 1999. We will also consider comments made at a public hearing that will be held in Thousand Oaks, CA, on December 17, 1998, from 9 a.m. to 5 p.m.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–110–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–110–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room. The public hearing will be held at the Civic Arts Plaza, Scherr Forum, 2100 East Thousand Oaks Boulevard, Thousand Oaks, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Campbell, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799; e-mail: Ronald.C.Campbell@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1998, the Animal and Plant Health Inspection Service (APHIS) published a proposed rule in the **Federal Register** (63 FR 43117–43125, Docket No. 97–110–1) to amend the citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. In that document, we also proposed to amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These proposed changes would allow grapefruit, lemons, and oranges to be imported into the United States from Argentina subject to certain conditions.

In response to requests received following the publication of the proposed rule, we have scheduled a public hearing to be held in Thousand Oaks, CA, on December 17, 1998.

The purpose of this hearing is to give interested persons an opportunity for the oral presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to the comments at the hearing, except to clarify or explain provisions of the proposed rule.

A representative of APHIS will preside at the public hearing. Any interested person may appear and be heard in person, by attorney, or by other representative. Written statements may be submitted and will be made part of the hearing record. Persons who wish to speak at a public hearing will be asked to provide their name and organization. We ask that anyone who reads a statement or submits a written statement provide two copies to the presiding officer at the hearing.

The public hearing will begin at 9 a.m. and is scheduled to end at 5 p.m., local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. If the number of speakers at the hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

In the August 12, 1998, proposed rule, we stated that comments on the proposed rule were required to be received on or before October 13, 1998. However, in order to receive and consider the comments to be presented at the public hearing, and to accommodate persons who may wish to comment on issues that may be raised at the public hearing, we are extending by 120 days the comment period for the proposed rule. Therefore, we will consider all comments that are received on or before February 11, 1999.

Done in Washington, DC, this 9th day of October 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–27791 Filed 10–13–98; 12:17 pm]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Medical Use of Byproduct Material; Workshop

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of workshop.

SUMMARY: The Nuclear Regulatory Commission has developed a proposed rulemaking for a comprehensive revision of its regulations governing the medical use of byproduct material in 10 CFR part 35, ''Medical Use of Byproduct Material,'' and a proposed revision of its 1979 Medical Use Policy Statement (MPS). Throughout the development of the proposed rule and MPS, the Commission solicited input from the various interests that may be affected by these proposed revisions. The Commission is now soliciting comments on the proposed rule and MPS through

two mechanisms—publishing the documents in the **Federal Register** for a 90-day public comment period (63 FR 43516 and 63 FR 43580, August 13, 1998); and convening facilitated public meetings and a workshop, during the public comment period, to discuss the Commission's proposed resolution of the major issues. The workshop on NRC's medical rulemaking initiative will be held during the Organization of Agreement States' (OAS) 1998 All Agreement States Meeting, in Bedford, New Hampshire.

DATES: The workshop will be held on October 31, 1998, from 9 a.m. to 12 noon.

ADDRESSES: The Wayfarer Inn, 121 South River Road, Bedford, NH 03110, telephone 603–622–3766.

FOR FURTHER INFORMATION CONTACT: Cathy Haney, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, telephone 301–415–6825, e-mail cxh@nrc.gov.

SUPPLEMENTARY INFORMATION: After a comprehensive review of its medical use program, the Commission directed the staff to revise 10 CFR part 35, associated guidance documents, and, if necessary, the Commission's 1979 MPS (Staff Requirements Memorandum (SRM)—COMSECY–96–057, ''Materials/Medical Oversight'' (DSI 7), dated March 20, 1997). The Commission's SRM specifically directed the restructuring of Part 35 into a risk-informed, more performance-based regulation. In its SRM dated June 30, 1997, ''SECY–97–115, Program for Revision of 10 CFR part 35, 'Medical Uses of Byproduct Material' and Associated **Federal Register** Notice,'' the Commission approved the staff's proposed plan for the revision of Part 35 and the Commission's 1979 MPS. The schedule the Commission approved in SRM–SECY–97–115 provides for the rulemaking to be completed by June 1999. After Commission approval of the staff's program to revise part 35 and associated guidance documents, the staff initiated the rulemaking process, as announced in 62 FR 42219 (August 6, 1997).

The proposed rule and MPS were developed using a group approach. A Working Group and Steering Group, consisting of representatives from NRC, OAS, and the Conference of Radiation Control Program Directors, Inc., were established to develop rule text alternatives, rule language, and associated guidance documents. State participation in the process was intended to enhance development of corresponding rules in State regulations, to provide an opportunity for early State input, and to allow State staff to assess potential impacts of NRC draft language on the regulation of non-Atomic Energy Act materials used in medical diagnosis, treatment, or research, in the States.

The proposed revision of part 35 is based on the Commission's directions in the SRMs of March 20, 1997, and June 30, 1997. The revision is intended to make part 35 a more risk-informed, performance-based regulation that will: (1) Focus the regulations on those medical procedures that pose the highest risk, from a radiation safety aspect, with a subsequent decrease in the oversight of low-risk activities; (2) focus on those requirements that are essential for patient safety; (3) initiate improvements in NRC's medical program, by implementing recommendations from internal staff audits, other rulemaking activities, and results of analyses in medical issues papers; (4) incorporate regulatory requirements for new treatment modalities; (5) reference, as appropriate, available industry guidance and standards; and (6) provide for capturing relevant safety-significant events.

The program for revising part 35, associated guidance document, and MPS has provided more opportunity for input from potentially affected parties (the medical community and the public) than is provided by the typical notice and comment rulemaking process. Based on the worthwhile public input received during the early rulemaking process, the Commission believes that it is important for interests affected by the proposed revisions not only to have an opportunity to comment on the proposed rulemaking and MPS, but also to have an opportunity to discuss the proposed revisions with one another and the Commission. Accordingly, the Commission is convening three public meetings (63 FR 39763, July 24, 1998) and a workshop, during the public comment period, where representatives of the interests that may be affected by the proposed rulemaking and MPS will have an opportunity to discuss the proposed revisions.

The workshop will be open to the public, on a space available basis. The agenda for the workshop will focus on discussion of: (1) The proposed revision of part 35 and the MPS; (2) proposed changes in licensing, inspection and enforcement philosophy; (3) implementation costs; (4) resolution of cross-cutting issues; and (5) Agreement State issues. However, the workshop will also provide enough flexibility for the public to have an opportunity to comment on related rulemaking issues.

Members of the public who are unable to attend the workshop can send comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or provide comments via NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). The comment periods for the proposed rule and the MPS end on November 12 and November 13 ,1998, respectively. Comments received after these dates will be considered if it is practical to do so, but the Commission is only able to ensure consideration of comments received on or before these dates.

Dated at Rockville, Maryland this 9th day of October, 1998.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–27809 Filed 10–15–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–66–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company Models 1900, 1900C, and 1900D airplanes. The proposed AD would require inspecting the main landing gear hydraulic actuators to determine whether a certain Frisby Aerospace actuator is installed, and reworking or replacing any of these Frisby Aerospace actuators. The proposed AD is the result of reports of fatigue cracks in the end cap of main landing gear hydraulic actuators manufactured by Frisby Aerospace and installed on the affected airplanes. The actions specified by the proposed AD are intended to prevent the main landing gear from not locking down due to the hydraulic actuator cracking and separating, which could result in loss of control of the airplane during landing, taxi, or ground operations.

DATES: Comments must be received on or before December 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–66–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul C. DeVore, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–66–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–66–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of fatigue cracks in the end cap of main landing gear hydraulic actuators manufactured by Frisby Aerospace and installed on certain Raytheon Models 1900, 1900C, and 1900D airplanes. These actuators, part number (P/N) 114–380041–11 and P/N 114–380041–13, have a sharp internal corner in the machined-end cap. The repetitive loads that are experienced in this area cause these fatigue cracks to form inside the actuator.

These fatigue cracks, if not detected and corrected in a timely manner, could continue to grow until the actuator separated and the main landing gear would not lock down. This would result in loss of control of the airplane during landing, taxi, or ground operations.

Relevant Service Information

Raytheon has issued Mandatory Service Bulletin SB.32–3141, Issued: January, 1998, which specifies procedures for inspecting the main landing gear hydraulic actuators to determine whether any Frisby Aerospace P/N 114–380041–11 or P/N 114–380041–13 main landing gear hydraulic actuator is installed. This service bulletin also specifies removing and either replacing or reworking the above-referenced Frisby Aerospace main landing gear hydraulic actuators. The procedures for the removal and replacement are included in the applicable maintenance manual. The procedures for the rework are included in Frisby Aerospace Service Bulletin 1FA10043, dated October 1997.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent the main landing gear from not locking down due to the hydraulic actuator cracking and separating, which could result in loss of control of the airplane during landing, taxi, or ground operations.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 1900, 1900C, and 1900D airplanes of the same type design, the FAA is proposing AD action. The proposed AD would require inspecting the main landing gear hydraulic actuators to determine whether any Frisby Aerospace actuator, P/N 114–380041–11 or P/N 114–380041–13, is installed, and reworking or replacing any of these Frisby Aerospace actuators.

Accomplishment of the proposed inspection would be required in accordance with Raytheon Mandatory Service Bulletin SB.32–3141, Issued: January, 1998. Accomplishment of the proposed removal and replacement would be required in accordance with the applicable maintenance manual. Accomplishment of the proposed rework would be required in accordance with Frisby Aerospace Service Bulletin 1FA10043, dated October 1997.

Cost Impact

The FAA estimates that 378 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed inspection. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $22,680, or $60 per airplane.

If any of the affected airplanes would have any of the affected Frisby Aerospace main landing gear hydraulic actuators installed, it would take approximately 5 workhours per actuator to accomplish the proposed replacement and an additional 4 workhours per actuator to accomplish the proposed rework. The average labor rate is approximately $60 per hour. Parts would cost $3,871 for each new actuator; $2865 for each overhauled actuator; and $1,997 for each rework/upgrade kit. Based on these figures, the cost impact on those operators choosing the proposed replacement of the main landing gear hydraulic actuators would be approximately $8,342 per airplane that would have two new actuators installed, or $6,330 per airplane that would have two overhauled actuators installed; and the cost impact on those operators choosing to incorporate the main landing gear hydraulic actuator rework/upgrade kit on each actuator would be approximately $5,074 per airplane. Raytheon will give warranty credit for a replacement actuator until January 2001.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this

proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Docket No. 98–CE–66–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial Nos.
1900	UA–2 and UA–3.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–299.

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: Inspection required as indicated below, unless already accomplished; and replacement or rework, if required, would be prior to further flight after the inspection required in paragraph (a) of this AD, unless already accomplished:

Hours time-in-service (TIS) accumulated on the main landing gear hydraulic actuator	Inspection compliance time
Less Than 6,000 hours TIS	Upon accumulating 6,600 hours TIS on the actuator or within the next 600 hours TIS after the effective date of this AD, whichever occurs later.
6,000 hours TIS through 6,999 hours TIS	Within the next 600 hours TIS after the effective date of this AD.
7,000 hours TIS through 7,999 hours TIS	Within the next 500 hours TIS after the effective date of this AD.
8,000 hours TIS through 8,999 hours TIS	Within the next 400 hours TIS after the effective date of this AD.
9,000 hours TIS through 9,999 hours TIS	Within the next 300 hours TIS after the effective date of this AD.
10,000 Hours TIS or more	Within the next 200 Hours TIS after the effective date of this AD.

To prevent the main landing gear from not locking down due to the hydraulic actuator cracking and separating, which could result in loss of control of the airplane during landing, taxi, or ground operations, accomplish the following:

(a) Inspect the main landing gear hydraulic actuators to determine whether any Frisby Aerospace actuator, P/N 114–380041–11 or P/N 114–380041–13, is installed. Accomplish this inspection in accordance with Raytheon Mandatory Service Bulletin SB.32–3141, Issued: January, 1998.

(b) If any Frisby Aerospace actuator, P/N 114–380041–11 or P/N 114–380041–13, is installed, prior to further flight, remove it and accomplish one of the following:

(1) Replace the Frisby Aerospace actuator with one of a part number listed in the Material Information section of Raytheon Mandatory Service Bulletin SB.32–3141, Issued: January, 1998. Accomplish this replacement in accordance with the applicable maintenance manual; or

(2) Rework the Frisby Aerospace actuator by incorporating the kit referenced in the Material Information section of Raytheon Mandatory Service Bulletin SB.32–3141, Issued: January, 1998. Accomplish this rework in accordance with Frisby Aerospace Service Bulletin 1FA10043, dated October 1997.

(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 times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

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

Issued in Kansas City, Missouri, on October 8, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27761 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 161, 250, and 284

[Docket No. RM98–10–000]

Regulation of Short-Term Natural Gas Transportation Services; Availability of Commission Staff Papers on Auctions

October 9, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking, Notice of Availability of Commission Staff Papers on Auctions.

SUMMARY: The notice distributes a paper entitled ''Auctions and Their Use in Natural Gas Markets'' and a glossary of auction terms prepared by the staff of the Federal Energy Regulatory Commission. These materials will be used in connection with the workshop to be held on October 20, 1998 to discuss pipeline capacity auctions as contemplated in the Notice of Proposed Rulemaking (NOPR), issued on July 29, 1998. 63 FR 42982 (Aug. 11, 1998).

DATES: October 20, 1998, 9:30 a.m.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Laurel C. Hyde, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–208–0146.

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, NE., Room 2A, Washington, DC 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, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE, Washington, D.C. 20426.

Notice of Availability of Commission Staff Papers on Auctions

October 9, 1998.

On October 20, 1998, the staff of the Federal Energy Regulatory Commission is holding a workshop to discuss pipeline capacity auctions as contemplated in the Notice of Proposed Rulemaking (NOPR), issued on July 29, 1998.[1] The purpose of the workshop is for staff to provide background information about auctions and auction formats in order to facilitate comments on the capacity auctions proposed in NOPR.

The Commission staff has prepared a paper entitled ''Auctions and Their Use in Natural Gas Markets,'' as well as a glossary of auction terms. The paper discusses general issues of auction design and describes auctions that have been used in the natural gas and electric industries. To provide those planning on attending the workshop with background information about auctions and auction formats, the paper and glossary accompany this notice.

The September 18, 1998 notice[2] announcing the workshop asked those who have specific questions or who have identified areas in which clarification would be helpful to submit such questions or clarifications by October 13, 1998. Further information about the organization of the workshop may be distributed later after reviewing the questions or clarifications submitted. Depending on the amount of material to be covered at the workshop, it also may be necessary to establish a follow-up workshop.

Questions about the workshop should be directed to: Laurel C. Hyde, Office of Economic Policy, Federal Energy Regulatory Commission 888 First Street, NE., Washington, DC 20426, 202–208–0146.

David P. Boergers,

Secretary.

[FR Doc. 98–27777 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–P

[1] Regulation of Short-Term Natural Gas Transportation Services, Notice of Proposed Rulemaking, 63 FR 42982 (Aug. 11, 1998), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,533 (Jul. 29, 1998).

[2] 63 FR 51547 (Sept. 28, 1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 161, 250, and 284

[Docket Nos. RM98–10–000 and RM98–12–000]

Regulation of Short-Term Natural Gas Transportation Services and Interstate Natural Transportation Services; Extension of Time

Issued: October 8, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Extension of Time.

SUMMARY: On July 29, 1998, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (63 FR 42982, August 11, 1998) proposing an integrated package of revisions to its regulations governing interstate natural gas pipelines to reflect the changes in the market for short-term transportation services on pipelines. The date for filing comments is being extended at the request of several Trade Associations of regulated pipelines and interested parties.

DATES: Comments shall be filed on or before January 22, 1999.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: David P. Boergers, Secretary, 202–208–0400.

Notice of Extension of Time

October 8, 1998.

On October 2, 1998, the American Gas Association, the Interstate Natural Gas Association of America, the Natural Gas Supply Association, the Independent Petroleum Association of America, the Process Gas Consumers Group and American Iron and Steel Institute, and National Association of Consumer Advocates (Petitioners) filed a joint motion for an extension of time within which to file comments, in response to the Commission's Notice of Proposed Rulemaking (NOPR) issued July 29, 1998, in Docket No. RM98–10–000.

Contemporaneously with that Notice, the Commission issued a Notice of Inquiry (NOI) in Docket No. RM98–12

addressing a broad number of regulatory issues. The NOI also referenced the New York Public Service Commission's Petition for Rulemaking Proceeding (Petition), docketed RM98–11–000 regarding rate design. The Commission noted that the concerns raised by New York are similar to the issues raised by the Commission in the NOI, and therefore, should be discussed by commenters in the NOI proceeding, Docket No. RM98–12–000.

In their motion, Petitioners state that the NOPR, Petition, and NOI embrace a vast number of issues that will affect the interstate gas transportation market and create, if promulgated, a comprehensive change in the current way of doing business. The motion also states that because the NOPR and the NOI raise and request comment on legal, policy, operational, and economic issues, additional time is requested to prepare and file comments. On October 6, 1998, the Edison Electric Institute filed an answer in support of the Petitioners motion.

Upon consideration, notice is hereby given that an extension of time of the filing of comments on in the above-docketed proceedings is granted to and including January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–27805 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 216

[Docket No. 98N–0182]

List of Bulk Drug Substances That May Be Used in Pharmacy Compounding; Preliminary Draft Proposed Rule; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Availability of preliminary draft proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing regulations identifying the bulk drug substances that may be used in pharmacy compounding under the exemptions provided by the Federal Food, Drug, and Cosmetic Act (the act) even though they are neither the subject of a current United States Pharmacopeia (USP) or National Formulary (NF) monograph nor a component of an FDA approved drug. FDA's development and publication of this bulk drug list is required by the Food and Drug Administration Modernization Act of 1997 (Modernization Act). This preliminary draft of the proposed rule is being made available to allow full discussion of its contents at the Pharmacy Compounding Advisory Committee meeting to be held on October 14, 15, and 16, 1998. FDA is requesting comments concerning the preliminary draft of the proposed rule.

DATES: Submit written comments on or before October 30, 1998.

ADDRESSES: A copy of the preliminary draft proposed rule will be on display at the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit requests for copies of the preliminary draft proposed rule from the Drug Information Branch (HFD–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573, and the Center for Drug Evaluation and Research's Fax-on-Demand system at 301–827–0577 or 800–342–2722. An electronic version of the preliminary draft proposed rule is available via the Internet at ''http://www.fda.gov/cder/fdama'' under the subject ''Pharmacy Compounding.''

FOR FURTHER INFORMATION CONTACT: Robert J. Tonelli, Center for Drug Evaluation and Research (HFD–332), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7295.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, the President signed the Modernization Act (Pub. L. 105–115) into law. Section 127 of the Modernization Act, which adds section 503A to the act (21 U.S.C. 353a), clarifies the status of pharmacy compounding under Federal law.

Section 503A(d)(1) of the the act requires that, unless good cause is shown, FDA convene and consult with an advisory committee on compounding before issuing regulations listing bulk drug substances that may be used in pharmacy compounding. The Pharmacy Compounding Advisory Committee was established by a final rule published in the **Federal Register** of March 10, 1998 (63 FR 11596). A meeting of the advisory committee to discuss, among other things, the list of bulk drug substances that may be used in pharmacy compounding was announced in the **Federal Register** of September 4, 1998 (63 FR 47301). The meeting will be held on October 14, 15, and 16, 1998.

Under 21 CFR 10.40(f)(4) and 10.80(b)(2), FDA has decided to make available to the public a preliminary draft proposed rule identifying the bulk drug substances that may be used in pharmacy compounding under the exemptions provided by the act even though they are neither the subject of a current USP or NF monograph nor a component of an FDA approved drug. This preliminary draft proposed rule is being made available to facilitate a full and open discussion at the advisory committee meeting of the list of bulk drug substances that may be used in pharmacy compounding.

II. Request for Comments

Interested persons may, on or before October 30, 1998, submit to the Dockets Management Branch (address above) written comments regarding this preliminary draft 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 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.

(Authority: 21 U.S.C. 321 *et seq.*)

Dated: October 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–27814 Filed 10–13–98; 2:28 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–110332–98]

RIN–1545–AW43

Conversion to the Euro; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the change to the euro.

DATES: The public hearing originally scheduled for Tuesday, October 20, 1998, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed

regulations under sections 985 and 1001 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Wednesday, July 29, 1998 (63 FR 40383), announced that the public hearing on proposed regulations under sections 985 and 1001 of the Internal Revenue Code would be held on Tuesday, October 20, 1998, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC.

The public hearing scheduled for Tuesday, October 20, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–27753 Filed 10–15–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[OPP–300734; FRL–6035–7]

RIN 2070–AB78

Pesticides Tolerance Reassessment Actions; 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], Dichlobenil, Diphenylamine, O-Ethyl O-[4-(methylthio) phenyl] S-propyl phosphorodithioate [Sulprofos], Pendimethalin, and Terbacil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document announces the proposed revocation of tolerances for the herbicides 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], dichlobenil, pendimethalin, and terbacil; and the insecticide O-ethyl O-[4-(methylthio) phenyl] S-propyl phosphorodithioate [Sulprofos]. EPA expects to determine whether any individuals or groups want to support these tolerances. Also, this document is proposing the establishment and revision of tolerances for 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one (metribuzin), dichlobenil, pendimethalin, terbacil, and the plant growth regulator diphenylamine. In addition, EPA is also proposing to revise commodity terminology for 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], diphenylamine, and pendimethalin to conform to current practice. The regulatory actions in this notice are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances.

DATES: Comments must be received on or before December 15, 1998.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV of the ''SUPPLEMENTARY INFORMATION'' section of this document. Be sure to identify the appropriate docket number [OPP–300734].

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. Office location: Special Review Branch, Crystal Mall #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308-8037; e-mail: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the progress of tolerance reassessment?

By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. The regulatory actions proposed in this document pertain to the provosed revocation of 29 tolerances and/or exemptions, which count toward the August, 1999 review deadline of FIFRA, as amended by the Food Quality Protection Act (FQPA) of 1996.

II. Does this notice apply to me?

You may be affected by this notice if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Pesticide reregistration and other actions [see FIFRA section 4(g)(2)] include tolerance and exemption reassessment under FFDCA section 408. In this notice, the tolerance actions are proposed in coordination with the cancellation of associated registrations. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Agricultural Stakeholders.	Growers/Agricultural Workers Contractors [Certified/Commercial Applicators, Handlers, Advisors, etc.] Commercial Processors Pesticide Manufacturers User Groups Food Consumers
Food Distributors ...	Wholesale Contractors Retail Vendors Commercial Traders/Importers
Intergovernmental Stakeholders.	State, Local, and/or Tribal Government Agencies
Foreign Entities	Governments, Growers, Trade Groups

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, you can consult with the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

III. How can I get additional information or copies of this or other support documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under ''Federal Register - Environmental Documents.'' You can also go directly to the ''Federal Register'' listings at http://www.epa.gov/homepage/fedrgstr/.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP–300734], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall

#2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703-305-5805.

IV. How can I respond to this notice?

A. How and to whom do I submit comments to?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., [OPP–300734]) in your correspondence.

1. By mail. Submit written comments, identified by the docket control number [OPP–300734], to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460.

2. In person or by courier. Deliver written comments, identified by the docket control number [OPP–300734], to: Public Information and Records Integrity Branch, Office of Pesticide Programs, U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

3. Electronically. Submit your comments and/or data electronically by E-mail to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments in ASCII file format avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket control number [OPP–300734]. You may also file electronic comments and data online at many Federal Depository Libraries.

B. How should I handle CBI information in my comments?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

V. What is a 'tolerance''?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq*., as amended by the FQPA of 1996, Pub.L. 104–170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. 21 U.S.C. 346(a). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be ''adulterated,'' you can not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3 of FIFRA (7 U.S.C. *et seq*.).

VI. Why is EPA proposing the tolerance actions discussed below?

EPA has issued a Reregistration Eligibility Decision (RED) for each of the pesticides subject to this notice, except for sulprofos, which during the RED process was voluntarily canceled by the registrant. The RED contains the Agency's evaluation of the database for a pesticide, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and the Agency's decisions and conditions under which these uses and products will be eligible for reregistration. The safety findings for pesticide tolerances can be found in those RED documents. Printed copies of the RED may be obtained from EPA's National Center for Environmental Publications and Information (EPA/NCEPI), PO Box 42419, Cincinnati, OH 45242–2419, telephone 1-800-490-9198; fax 513-489-8695 and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 703-487-4650. Electronic copies of the RED are available on the internet at http://www.epa.gov/REDs.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients for which FIFRA registrations no longer exist. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. However, in accordance with FFDCA section 408, EPA will not revoke any tolerance or exemption proposed for revocation if any person demonstrates a need for the retention of the tolerance, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw agricultural commodities or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated.

Tolerances and exemptions established for pesticide chemicals with FIFRA registrations cover residues in or on both domestic and imported commodities. To retain these tolerances and exemptions, EPA must make a finding that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions.

For tolerances without U.S. registrations, EPA has the same toxicology and residue chemistry data requirements as are needed to support U.S. food-use registrations. For import tolerances, EPA applies these data requirements on a case-by-case basis to account for specific growing conditions in foreign countries. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. EPA is developing a guidance concerning submissions for import tolerance support. This guidance will be made available to interested stakeholders.) In most cases, EPA also requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s) or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as for domestic purposes; i.e., the studies are required to either

fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP requirements do not significantly affect the results of the studies.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the United States.

VII. Which pesticides are covered by this action?

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin, trade name Sencor] is an herbicide used on a wide range of crop and non-crop sites, including alfalfa, asparagus, barley, carrots, field corn, garbanzo beans, lentils, peas, potatoes, soybean, sugarcane, tomatoes, wheat, fallow land and turfgrasses, to selectively control broadleaf and grassy weed species. It is manufactured by Bayer Corporation.

Dichlobenil (trade names Casoron, Norosac) is a selective herbicide registered for use on cranberry bogs, dichondra, ornamentals; blackberry, raspberry, and blueberry fields; apple, pear, filbert, and cherry orchards; vineyards, and hybrid poplar-cottonwood plantations. It is manufactured by Uniroyal Chemical.

Diphenylamine is a plant growth regulator used post-harvest on apples to control storage scald. Elf Atochem and Pace International are the manufacturers of the chemical.

O-Ethyl O-[4-(methylthio) phenyl] S-propyl phosphorodithioate [Sulprofos] is an insecticide once used on cotton. It was manufactured by Bayer Corporation.

Pendimethalin (trade names Prowl, Squadron) is a selective herbicide used to control broadleaf weeds and grassy weed species on a number of crop and noncrop areas and on residential lawns and ornamentals. It is manufactured by American Cyanamid Corporation.

Terbacil (3-tert-butyl-5-chloro-6-methyluracil, trade name Sinbar) is an herbicide used to control barnyardgrass, broadleaf weeds, chickweed, clover, crabgrass, dandelion, foxtail, peppergrass, pigweed, quackgrass, ragweed, and ryegrass. It is manufactured by E. I. Du Pont de Nemours and Co., Incorporated.

VIII. What action is being taken?

This notice proposes revocation of FFDCA tolerances for residues of the herbicides 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], dichlobenil, pendimethalin, and terbacil; and the insecticide O-Ethyl O-[4-(methylthio) phenyl] S-propyl phosphorodithioate [Sulprofos] in or on commodities listed in the regulatory text because these pesticides are not registered under FIFRA for uses on the commodities. The registrations for these pesticide chemicals were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person in comments on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Changes in the commodity terminology and definitions are proposed in accordance with the revised Crop Group Regulation (40 CFR 180.41) and the updated Table I ''Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops' (August, 1996) in the Residue Chemistry Test Guidelines: OPPTS 860.1000 (EPA 721-C–96–169). Table I contains data on both crops and livestock diets, and lists feed commodities considered significant in livestock diets. Significant feedstuffs account for more than 99% of the available annual tonnage (on-a dry-matter basis) of feedstuffs used in the domestic production of more than 95 percent of beef and dairy cattle, poultry, swine, milk, and eggs. EPA has devised criteria to include or exclude feedstuffs from Table I and sets tolerances for significant feedstuffs. Tolerances are not set for feedstuffs which are neither significant nor a human food. Pesticide residues on such feedstuffs are governed by tolerances on the commodity from which they are derived (December 17, 1997, 62 FR 66020) (FRL–5753–1). These changes are technical in nature and have no effect on the scope of the tolerance.

This notice also proposes to establish and revise tolerances as given in the regulatory text. A determination of safety by EPA includes consideration of (a) potential cumulative effects with pesticides that have a common mode of toxicity, (b) aggregate risks resulting from exposure to residues in food and drinking water and exposure occuring due to pesticide application in residential settings, and (c) special sensitivity to children. FFDCA section 408(b)(2)(C) requires that when determining appropriate tolerances EPA apply an additional ten-fold safety factor for infants and children to take into account potential pre- and post-natal toxicity and the completeness of data on toxicity and exposure unless a different margin of safety, on the basis of reliable data, will be safe for infants and children. Retention, reduction, or removal of the ten-fold safety factor is based on a weight-of-evidence evaluation of all applicable data. Through the Reregistration Eligibility Decision (RED) process, EPA has determined that each of the amended tolerances meet the safety standards under FQPA for each of the following active ingredients. This safety finding determination is found in detail in the RED for the active ingredient. Each RED concerning an active ingredient is publically available as described in Unit VI of this proposed rule and by contacting the Pesticide Docket, Public Information and Records Integrity Branch, Information Resources and Services (7502C), Office of Pesticide Programs (OPP), U.S. EPA, Washington, DC 20460, telephone 703-305-5805.

4-Amino-6(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin]

The tolerance for lentils, vine hay in 40 CFR 180.332 is being proposed for revocation. Lentils, vine hay is no longer considered a significant livestock feed commodity. Contrary to the RED, a registered use now exists for sweet corn, as conveyed by EPA in a letter to the Bayer Corporation as of August, 1997. Therefore, the tolerance for corn, fresh (inc. sweet K + CWHR) will not be revoked. Tolerances for both barley, hay and wheat, hay are proposed to be established at 7 ppm. Tolerances for both asparagus and soybeans should be increased from 0.05 to 0.1 and from 0.1 to 0.3 ppm, respectively. The tolerance for peas, vine hay is proposed to be increased from 0.05 to 4 ppm (along with a proposed terminology revision to peas, field, hay); and the tolerance for sugarcane molasses was listed incorrectly as 0.3 ppm, it should be revised to reflect the correct tolerance of 2 ppm (August 24, 1978, 43 FR 35915), along with a proposed terminology revision to sugarcane, molasses. Other terminology changes are given in the regulatory text.

Dichlobenil

The tolerances listed under 40 CFR 180.231 are for the combined negligible residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzoic acid (2,6-DCBA). The Agency has determined that the metabolite 2,6-

Dichlorobenzamide (BAM) should be added to the tolerance expression and the metabolite 2,6-DCBA should be deleted from the tolerance expression. Tolerances for almond hulls; avocados; citrus; figs; and mangoes in 40 CFR 180.231 are being proposed for revocation because no registered uses exist. The tolerance for nuts in 40 CFR 180.231 is proposed for revocation and a tolerance for filberts is being proposed to be established at 0.1 parts per million, since the use of dichlobenil on all other nuts has been canceled. Based upon the available residue data and to reflect the combined residues of dichlobenil and BAM, tolerances for apples and pears should be increased from 0.15 to 0.5 ppm, and tolerances for blackberries, cranberries, and raspberries should be decreased from 0.15 to 0.10 ppm.

Diphenylamine

This notice proposes to establish tolerances of 0.01 ppm for residues in milk and meat, fat, and mbyp (excluding liver) of cattle, goats, horses, and sheep. Separate tolerances are proposed to be established at 0.1 ppm for residues of diphenylamine in liver of cattle, goats, horses, and sheep. A tolerance of 30 ppm is proposed to be established for diphenylamine residues in wet apple pomace. Also, this notice proposes to increase milk and meat tolerances for diphenylamine residues from 0 to 0.01 ppm based on adequate ruminant data. Terminology changes are given in the regulatory text.

O-Ethyl O-[4-(methylthio) phenyl] S-propyl phosphorodithioate [Sulprofos]

The tolerance for cottonseed oil in 40 CFR 185.3000 is being proposed for revocation because the registrant voluntarily canceled its registered use.

Pendimethalin

The tolerance for peanut, forage in 40 CFR 180.361(a) is being proposed for revocation because it is no longer considered a significant livestock feed commodity; therefore, a tolerance is not necessary. This notice proposes to establish a tolerance of 0.1 ppm for residues in or on rice, straw; and to raise the tolerance on rice grain from 0.05 to 0.1 ppm based on available field trial data and to reflect the analytical method's limit of quantitation for the combined residues of pendimethalin and its regulated metabolite. EPA also proposes to combine the tolerance for garlic, listed under 180.361(c) *Tolerances with regional registrations,* with tolerances 180.361(a), which lists tolerances for registrations without regional restriction, since EPA has data that supports a national registration and tolerance for garlic at the same level (0.1 ppm). Terminology changes are given in the regulatory text.

Terbacil

Tolerances for pears; pecans; sainfoin, forage; and sainfoin hay in 40 CFR 180.209(a) are being proposed for revocation because no registered uses exist. Tolerances for cattle, fat; cattle, mybp; cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; milk, fat; sheep, fat; sheep, mbyp; and sheep, meat in 40 CFR 180.209(a) are being proposed for revocation because there is no reasonable expectation of finite terbacil residues in animal commodities since available data support the establishment of lower alfalfa tolerances [40 CFR 180.6(a)(3)]. For further information, consult the RED for Terbacil. EPA is proposing that the tolerance expressions be unified to include terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyl-uracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil. In accordance, 40 CFR 180.209 sections (a)(1) and (a)(2) should be combined. To reflect the combined limit of detection for terbacil and its three regulated metabolites, this document proposes to raise the tolerances for terbacil residues in or on peaches from 0.1 to 0.2 ppm, blueberries from 0.1 to 0.2 ppm, and caneberries from 0.1 to 0.2 ppm. Based upon available residue data, tolerances should be increased for apples from 0.1 to 0.3 ppm, asparagus from 0.2 to 0.4 ppm, and sugarcane from 0.1 to 0.4 ppm; however, tolerances should be decreased for alfalfa, forage; from 5.0 to 1.0 ppm, and alfalfa, hay; from 5.0 to 2.0 ppm.

IX. When do these actions become effective?

EPA proposes that these actions become effective 90 days following publication of a final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days following publication of a final rule to ensure that all affected parties receive notice of EPA's action. For this particular proposed rule, the actions will affect uses which have been canceled for more than a year. This should ensure that commodities have cleared the channels of trade. If you have comments regarding existing stocks, please submit comments as described in Unit IV of this preamble.

Any commodities listed in the regulatory text of this notice that are treated with the pesticides subject to this notice, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

X. What can I do if I wish the Agency to maintain a tolerance that the Agency proposes to revoke?

In addition to submitting comments in response to this notice, you may also submit an objection. EPA subsequently issues a final rule after considering the comments that are submitted in response to this notice. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, the issues resolved in the final rule cannot be raised again in any subsequent proceedings.

This proposal provides 60 days for any interested person to demonstrate a need for retaining a tolerance, if retention of the tolerance will meet the tolerance standard established under FQPA. If EPA receives a comment to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify the data needed, the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FIFRA or FFDCA.

XI. How do the regulatory assessment requirements apply to this action?

A. Is this a ''significant regulatory action''?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action.'' The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not ''significant'' unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this action is not an economically significant regulatory action as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10-fold safety factor to risk assessments in order to ensure the protection of infants and children unless reliable data supports a different safety factor.

B. Does this action contain any reporting or recordkeeping requirements?

No. This action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

C. Does this action involve any ''unfunded mandates''?

No. This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

D. Do Executive Orders 12875 and 13084 require EPA to consult with States and Indian Tribal Governments prior to taking the action in this notice?

No. Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposed rule.

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governmen* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

E. Does this action involve any environmental justice issues?

No. This action is not expected to have any potential impacts on minorities and low income communities. Special consideration of environmental justice issues is not required under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

F. Does this action have a potentially significant impact on a substantial number of small entities?

No. Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that tolerance actions, including these specific tolerance actions, will not result in a significant economic impact on a substantial number of small entities. Because similar tolerance actions are expected to have the same general impact from chemical to chemical, this certification is applicable to all tolerance actions. Unless a particular tolerance action is expected to have impacts different than those used for the analysis, this determination will also serve as a ''generic'' certification for the promulgation of any pesticide tolerance action, and EPA will incorporate it by reference in future individual tolerance actions. This ''generic'' certification (46 FR 24950, May 4, 1981) and the rationale presented below has been provided to the Chief Counsel for Advocacy of the Small Business Administration. Technical changes such as changing the individual commodity name or crop group definition will have no impact on the crop itself or residue requirements. Therefore, I certify that these types of administrative changes will not have an economic impact or cause significant adverse effects on a substantial number of small entities.

EPA has determined that the revocation of a tolerance after the use of the pesticide becomes illegal in this country, will not have a significant impact on a substantial number of small entities, because such revocations do not have a significant impact on affected entities in general, regardless of the size of the entity. Since small entities are not disproportionally impacted, EPA considered the impacts on domestic growers and domestic importers of food products that could be affected by the revocation of the tolerance.

In the case of domestically grown food, the tolerances revoked by this notice will have no economic impact. Since the uses are no longer registered, uses have already been deleted from the pesticide product labels. U.S. growers may no longer purchase the pesticides in question for use on such crops and EPA believes that no existing stocks

remain of the pesticides in question labeled for the deleted uses. In these circumstances, revoking the tolerances after deletion of the uses should have no impact on food grown in the United States. However, food legally treated under FIFRA before the use deletions occurred will not be considered adulterated if the residue level complies with the tolerance in effect at the time of treatment [see FFDCA section 408(l)(5)].

Revocation may have an effect on domestic importers of foreign-grown food to the extent their foreign suppliers use pesticides in ways that result in residues no longer allowed in the United States. If foreign growers use a pesticide on crops for which there is no tolerance or exemption from the requirement of a tolerance, the food they grow will be considered adulterated and subject to detention and regulatory action if residues of the pesticide are found in or on the food when offered for import or imported into the United States. Nevertheless, the effect on U.S. importers is expected to be minimal regardless of their size.

In the absence of extraordinary circumstances, the revocation of a particular tolerance is unlikely to have a significant impact on the price of a commodity on the international market. Transaction costs may occur as a result of having to find alternative suppliers of food untreated with pesticides for which tolerances were revoked. Affected importers, however, would have the options of finding other suppliers in the same country or in other countries, or inducing the same supplier to switch to alternative pest controls. Given the existence of these options, EPA expects any price increases or transaction costs resulting from revocations to be minor. Given the overall minimal impact anticipated, revocations are not expected to have a significant impact on those affected, including small entities.

As to the pesticide uses involved in this action, EPA has reviewed its available data on imported food and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with the pesticides having tolerances that are proposed for revocation, generally within the same countries from which the relevant commodities are currently imported.

G. Does this action involve technical standards?

No. This tolerance action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, Section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

H. Are there any international trade issues raised by this action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL, however FFDCA section 408(b)(4) requires that EPA explain in a Federal Register notice the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA is developing a guidance concerning submissions for import tolerance support. This guidance will be made available to interested stakeholders.

I. Is this action subject to review under the Congressional Review Act?

No. This action is not a final rule. Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), only final rules must be submitted to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

Dated: September 28, 1998.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180 and 185 be amended to read 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 180.190 is revised to read as follows:

§ 180.190 Diphenylamine; tolerances for residues.

(a) *General.* Tolerances for residues of the plant regulator diphenylamine are established in or on the following commodities:

Commodity	Parts per million
Apple, pomace, wet	30
Apples from preharvest or postharvest use (including use of impregnated wraps).	10
Cattle, fat	0.01
Cattle, liver	0.1
Cattle, mbyp (excluding liver).	0.01
Cattle, meat	0.01
Goat, fat	0.01
Goat, liver	0.1
Goat, mbyp (excluding liver).	0.01
Goat, meat	0.01
Horse, fat	0.01
Horse, liver	0.1
Horse, mbyp (excluding liver).	0.01
Horse, meat	0.01
Milk	0.01
Sheep, fat	0.01
Sheep, liver	0.1
Sheep, mbyp (excluding liver).	0.01
Sheep, meat	0.01

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

c. In § 180.209, by alphabeticaly adding the entries in the table in paragraph (a)(1) to the table in paragraph (a)(2), by removing paragraph (a)(1), by redesignating paragraph (a)(2) as paragraph (a), and revising newly designated paragraph (a) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil, in or on raw agricultural commodities as follows:

Commodity	Parts per million
Alfalfa, forage	1.0
Alfalfa, hay	2.0
Apple	0.3
Asparagus	0.4
Blueberry	0.2
Caneberry (blackberry, boysenberry, dewberry, loganberry, raspberry, and youngberry, and varieties and/or hybrids of these).	0.2
Citrus fruits	0.1
Mint hay (peppermint and spearmint).	2.0
Peach	0.2
Strawberry	0.1
Sugarcane	0.4

* * * * *

d. Section 180.231 is revised to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) General. Tolerances are established for the combined residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzamide in or on the following raw agricultural commodities:

Commodity	Parts per million
Apple	0.5
Blackberry	0.1
Blueberry	0.15
Cranberry	0.1
Filbert	0.1
Grape	0.15
Pear	0.5
Raspberry	0.1
Stone fruits group	0.15

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

e. In § 180.332, paragraph (a) the table is revised to read as follows:

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, green	2
Alfalfa, hay	7
Asparagus	0.1
Barley, grain	0.75
Barley, hay	7
Barley, milled fractions (exceept flour).	3
Barley, straw	1
Carrots	0.3
Cattle, fat	0.7
Cattle, mbyp	0.7
Cattle, meat	0.7
Corn, field, stover	0.1
Corn, field, forage	0.1
Corn, fresh (inc. sweet K+CWHR).	0.05
Corn, grain (inc. popcorn)	0.05
Eggs	0.01
Goats, fat	0.7
Goats, mbyp	0.7
Goats, meat	0.7
Grass, forage	2
Grass, hay	7
Hogs, fat	0.7
Hogs, mbyp	0.7
Hogs, meat	0.7
Horses, fat	0.7
Horses, mbyp	0.7
Horses, meat	0.7
Lentil	0.5
Milk	0.05
Peas, field, hay	4
Pea, field, vine	0.5
Pea, seed	0.05
Pea, succulent	0.1
Potato, processed potato waste.	3
Potatoes	0.6
Poultry, fat	0.7
Poultry, mbyp	0.7
Poultry, meat	0.7
Sainfoin, forage	2
Sainfoin, hay	7
Sheep, fat	0.7
Sheep, mbyp	0.7
Sheep, meat	0.7
Soybean, seed	0.3
Soybeans, forage	4
Soybeans, hay	4
Sugarcane	0.1
Sugarcane, molasses	2
Tomatoes	0.1
Wheat, forage	2
Wheat, hay	7
Wheat, grain	0.75
Wheat, milled fractions (except flour).	3
Wheat, straw	1

* * * * *

f. In § 180.361, paragraph (a), the table is revised to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) * * *

Commodity	Parts per million
Bean, succulent and bean, seed.	0.1
Beans, forage	0.1
Beans, hay	0.1
Corn, field, stover	0.1
Corn, forage	0.1
Corn, sweet (K+CWHR)	0.1
Corn, field, grain	0.1
Corn, pop, grain	0.1
Cotton, undelinted seed	0.1
Onions, dry bulb	0.1
Peanuts	0.1
Peanut, hay	0.1
Peas (except field peas)	0.1
Potatoes	0.1
Rice, grain	0.1
Rice, straw	0.1
Sorghum, stover	0.1
Sorghum, forage	0.1
Sorghum, grain	0.1
Soybeans	0.1
Soybeans, forage	0.1
Soybeans, hay	0.1
Sugarcane	0.1
Sunflower, seeds	0.1

* * * * *

g. In § 180.361, paragraph (c), the entry for ''garlic'' is alphabetically added to the table in paragraph (a).

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.

§ 185.3000 [Removed]

b. By removing § 185.3000.

[FR Doc. 98–27707 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[I.D. 100798D]

North and South Atlantic Swordfish Fishery; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Highly Migratory Species Management Division of the National Marine Fisheries Service announces the schedule of public meetings to receive comments on the Atlantic swordfish import ban proposed rule published October 13, 1998.

DATES: See **SUPPLEMENTARY INFORMATION** for dates of the meetings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations of the meetings. Written comments on the proposed rule can be submitted to Rebecca Lent, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, fax: (310) 713–1917.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 301-713-2347.

SUPPLEMENTARY INFORMATION: The schedules and locations of the meetings are as follows:

1. Monday, October 26, 1998, 7 to 10 p.m. –- Ramada Inn at Kennedy Airport, Jamaica, NY 11430;

2. Monday, November 16, 1998, 7 to 10 p.m. –- Sheraton Biscayne Bay, 495 Brickell Ave., Miami, FL 33131;

3. Wednesday, November 18, 1998, 7 to 10 p.m. –- Holiday Inn Boston Airport, 225 McClellan Highway, Boston, MA 02128;

4. Thursday, November 19, 1998, 1 to 4 p.m. –- Glen M. Anderson Federal Building, 501 W. Ocean Blvd., Long Beach, CA 90802;

5. Monday November 23, 1998, 4 to 7 p.m. –- Doubletree Hotel, 18740 Pacific Highway South, Seattle, WA.

The proposed rule bans the import of undersized Atlantic swordfish (less than 33 lb (15 kg) dressed weight), extends dealer permitting and reporting requirements to swordfish importers, and establishes a Certificate of Eligibility program to aid in tracking imports. Copies of the proposed rule and supporting documents can be obtained from Rebecca Lent (see **ADDRESSES**).

Dated: October 9, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–27815 Filed 10–13–98; 2:48 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 200
Friday, October 16, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–041–2]

Secretary's Advisory Committee on Foreign Animal and Poultry Diseases

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent.

SUMMARY: We are giving notice that the Secretary of Agriculture intends to reestablish the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. Joe Annelli, Chief Staff Veterinarian, Emergency Programs, Veterinary Services, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231, (301) 734–8073.

SUPPLEMENTARY INFORMATION: The purpose of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases is to advise the Secretary of Agriculture regarding program operations and measures to suppress, control, or eradicate an outbreak of foot-and-mouth disease, or other destructive foreign animal or poultry diseases, in the event these diseases should enter the United States. The Committee also advises the Secretary of Agriculture of means to prevent these diseases.

Done in Washington, DC, this 9th day of October 1998.

Reba Pittman Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–27827 Filed 10–15–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–089–1]

Monsanto Co.; Receipt of Petition for Determination of Nonregulated Status for Canola Genetically Engineered for Glyphosate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Monsanto Company seeking a determination of nonregulated status for a canola line designated as RT73, which has been genetically engineered for tolerance to the herbicide glyphosate. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this canola line presents a plant pest risk.

DATES: Written comments must be received on or before December 15, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–089–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–089–1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Subhash Gupta, Biotechnology and Biological Analysis, PPQ, APHIS, Suite 4C46, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734–4885; e-mail: Kay.Peterson@usda.gov.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On August 4, 1998, APHIS received a petition (APHIS Petition No. 98–216–01p) from Monsanto Company (Monsanto) of St. Louis, MO, (Monsanto) requesting a determination of nonregulated status under 7 CFR part 340 for a canola (*Brassica napus* L.) line designated as RT73, which has been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto petition states that the subject canola line should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, canola line RT73 has been genetically engineered to express a CP4 EPSPS gene derived from *Agrobacterium* sp. strain CP4, and a *gox* gene derived from *Ochrobactrum anthropi* strain LBAA. The CP4 EPSPS gene encodes a 5-enolpyruvylshikimate-3-phosphate synthase (EPSPS) protein, and the *gox* gene encodes a glyphosate oxidoreductase (GOX) protein. The EPSPS and GOX proteins confer tolerance to the herbicide glyphosate. The *Agrobacterium tumefaciens* method was used to transfer the added genes into the parental canola Westar variety plants, and expression of the added genes is controlled in part by gene sequences derived from the plant pathogen figwort mosaic virus.

Canola line RT73 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. The subject canola line has been field tested since 1996 under APHIS permits. In the process of reviewing the permit applications for field trials of this canola line, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), ''plant pest'' is defined as ''any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants.'' APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. In cases in which genetically modified plants allow for a new use of an herbicide or involve a different use pattern for the herbicide, EPA must approve the new or different use. Accordingly, a submission has been made to EPA for registration of the herbicide glyphosate for use on canola. When the use of the herbicide on the genetically modified plant would result in an increase in the residues of the herbicide in a food or feed crop for which the herbicide is currently registered, or in new residues in a crop for which the herbicide is not currently registered, establishment of a new tolerance or a revision of the existing tolerance would be required. Residue tolerances for pesticides are established by EPA under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA.

FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering. Monsanto has completed consultation with FDA on the subject canola line.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of the Monsanto RT73 canola line and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa–150jj, 151–167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 9th day of October 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–27828 Filed 10–15–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Discovery Basin Ski Area Expansion, Philipsburg Ranger District, Beaverhead-Deerlodge National Forest, Granite County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: A private consulting firm, Land & Water Consulting, Inc., Missoula, Montana, and the Forest Service will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of the proposed action to expand the Discovery Basin Ski Area. The project area is located approximately 6 miles southeast of Philipsburg, Montana, primarily in the Summer Gulch and Echo Lake headwaters area.

The proposed expansion of the ski area would implement Phase III of the Discovery Basin Master Plan dated May 1988. A Special Use Permit will be required for the proposed action, which would authorize additional development, construction, and operation of ski area facilities on National Forest Systems lands. The Phase III expansion includes approximately 106 acres of cleared ski runs (6), 2.8 miles of new road, 2 acres of new parking, a restaurant on the top of Rumsey Mountain, expanded snowmaking capacity, and 9,400 feet of new chair lifts (2 lifts). Approximately 1,500 vertical feet of skiing would be added on the north side of Rumsey Mountain, serviced by a new chair lift. The other chair lift would be installed parallel to the existing on the south side of Rumsey Mountain in order to increase uphill skier capacity and reduce lift lines. New access roads would service the new lift station in Summer Gulch.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than November 27, 1998.

ADDRESSES: Send written comments to Deborah L.R. Austin, Forest Supervisor, c/o Bob Gilman, District Ranger, Philipsburg Ranger District, P.O. Box 805, Philipsburg, Montana 95858.

FOR FURTHER INFORMATION CONTACT: Ed Casey, Interdisciplinary Team Leader or Bill Sprauer, Recreation Specialist, Philipsburg Ranger District, P.O. Box 805, Philipsburg, MT, 59858, or phone: (406) 859–3211.

SUPPLEMENTARY INFORMATION: To accommodate the additional skiers anticipated with the new restaurant on top of Rumsey Mountain would include approximately 3,000 square feet of indoor space and 1,000 square feet of outdoor deck area. A septic system would be installed to serve the restaurant. Water would be supplied by a well in the base area and a pipeline.

The total area of National Forest lands affected by the ski area would increase from 1,970 acres to 2,220 acres if the expansion is approved.

Approximately 110 acres of the Fred Burr Roadless Area (No. 01–435) would

be affected by ski runs and the tree clearance for those runs. Proposed roads and lifts are outside the roadless area boundary.

Public participation is important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues. A scoping notice describing the project will be mailed to those that have requested information on activities on the Beaverhead-Deerlodge National Forest. If sufficient interest is expressed a public meeting will be held. Preliminary issues identified by Forest Service specialists include effects to wildlife habitats, visual quality, recreation, and adjacent private land.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) during the scoping process and (2) during the draft EIS comment period.

During the scoping process, the Forest Service is seeking additional information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The draft EIS should be available for review in April, 1999. The final EIS is scheduled for completion in June, 1999.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environment impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The Beaverhead-Deerlodge Forest Supervisor is the responsible official who will make the decision. She will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Deborah L.R. Austin,

Forest Supervisor, Beaverhead-Deerlodge National Forest.

[FR Doc. 98–27847 Filed 10–15–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Oaks/Avery Canal Hydrologic Restoration Project, Vegetative Plantings, Iberia/Vermilion Parish, Louisiana

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Oaks/Avery Canal Hydrologic Restoration Project—Vegetative Plantings, Iberia/Vermilion Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone number (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement is not needed for this project.

The project involves providing shoreline erosion protection along the north shore of Vermilion Bay between Oaks Canal and Avery Canal. This will consist of planting 27,000 linear feet of shoreline using smooth cordgrass transplants. The vegetation will be placed within the intertidal zone adjacent to the shoreline.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: October 6, 1998.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 98–27848 Filed 10–15–98; 8:45 am]

BILLING CODE 3410–16–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 commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and services previously furnished by such agencies.

EFFECTIVE DATE: November 16, 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 August 28 and September 4, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R. 45996 and 47227) 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 commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and 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 commodities and services to the Government.

2. The action will not 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.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Executive Twist Pen Shipper

M.R. 009

Drinking Straws

M.R. 1602—Neon Flex Straws
M.R. 1603—Striped Flex Straws

Services

Commissary Shelf Stocking, Custodial & Warehousing, MacDill Air Force Base, Florida
Grounds Maintenance, Florida Caribbean Science Center, 7920 NW 71st Street, Gainesville, Florida
Janitorial/Custodial, Florida Caribbean Science Center, 7920 NW 71st Street, Gainesville, Florida
Janitorial/Custodial, U.S. Army Reserve NCO Academy, Building 5516, Fort Dix, New Jersey
Operation of Postal Service Center, Langley Air Force Base, Virginia.

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 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 deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and services 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 and services are hereby deleted from the Procurement List:

Commodities

Mophead, Wet

7920–00–926–5499
7920–00–926–5501
7920–00–926–5502
7920–00–926–5498

Bag, Evidence

8105–00–NIB–0004
8105–00–NIB–0005
8105–00–NIB–0002
8105–00–NIB–0001
8105–00–NIB–0003

Services

Administrative Services, Social Security Administration, Great Lakes Program Service Center, 600 West Madison Street, Chicago, Illinois
Janitorial/Custodial, Federal Archives and Record Center, Building 12 and 22, Military Ocean Terminal, Bayonne, New Jersey
Janitorial/Custodial, U.S. Army Reserve Center, 400 Horsham Road, Horsham, Pennsylvania
Janitorial/Custodial, U.S. Army Reserve Center, Division & Woodlawn Avenue, Willow Grove, Pennsylvania
Janitorial/Custodial, Federal Building, 100 Bluestone Road, Mount Hope, West Virginia.

Louis R. Bartalot,
Deputy Director (Operations).

[FR Doc. 98–27862 Filed 10–15–98; 8:45 am]
BILLING CODE 6353–01–P

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 a commodity 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: November 16, 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 commodity 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 commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity 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 commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Hood, Balaclava, Cold Weather
8415–01–310–0606
NPA: NYSARC, Inc., Seneca-Cayuga Counties Chapter, Waterloo, New York

Services

Administrative Services, HUD Albany Office, 52 Corporate Circle, Albany, New York, NPA: The Workshop, Inc., Menands, New York

Operation of Individual Equipment Element Store, Whiteman Air Force Base, Missouri, NPA: Lighthouse for the Blind, St. Louis, Missouri

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 result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Cover, Cushion Assembly

2540–01–245–2524
2540–01–245–2525
2540–01–245–2526
2540–01–246–6212

Box, M16 Rifle

8140–00–X40–4785

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 98–27863 Filed 10–15–98; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on November 6, 1998, at the University of Massachusetts Lowell, Coburn Hall, Room 205, 850 Broadway, Lowell, Massachusetts 01854. The Committee will hold a planning meeting in the morning and a briefing session in the afternoon. The purpose of the briefing session is to hear about civil rights issues in Lowell from public officials and community representatives.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Fletcher Blanchard, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 8, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27854 Filed 10–15–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oregon Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on November 12, 1998, at the Double Tree Inn-Columbia River, 1401 North Haden Island Drive, Portland, Oregon 97217. The purpose of the meeting is to discuss current issues and plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Thomas Pilla, Acting Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 9, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27855 Filed 10–15–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Amended Final Results of Antidumping Duty Administrative Reviews Pursuant To Remand From the Court of International Trade: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative reviews.

EFFECTIVE DATE: October 15, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Wendy Frankel, Office of AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5346 or (202) 482–5849, respectively.

SUPPLEMENTARY INFORMATION:

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, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 353 (April 1997).

Amended Final Results

On March 13, 1997, the Department published the final results of its administrative reviews of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs) from the People's Republic of China (PRC) (62 FR 11813). These reviews cover five manufacturers/exporters and the period of review (POR) is February 1, 1996, through January 31, 1997.

After publication of our final results, we received timely allegations from two respondents, Shandong Machinery Import & Export Corporation (SMC) and Tianjin Machinery Import & Export Corporation (TMC), that we had made ministerial errors in our calculations for the final results. We also received timely rebuttal comments from O. Ames Co. (the petitioner). In particular, SMC alleged that the Department erroneously used the finished weight of another class of merchandise in the ocean freight calculations for two transactions involving the importation of hammers into the United States. Based on our analysis of the ministerial error allegations, we agree with SMC and, therefore, in accordance with 19 CFR 353.28, we have made a change to the final margin calculations only with regard to these sales. For a detailed discussion of the Department's analysis of the ministerial error allegations, see the Memorandum to Holly A. Kuga from the HFHTs Team, Analysis of Allegations of Ministerial Errors, dated August 21, 1998.

On September 16, 1998, the Court of International Trade granted the Department leave to correct the ministerial error pertaining to ocean freight charges. Pursuant to the Court's order, we are amending the final results of the antidumping duty administrative review of HFHTs from the PRC with regard to SMC. SMC's revised final weighted-average dumping margin is as follows:

Manufacturer/Exporter	Margin (percent)
Shandong Machinery Import & Export Corporation (SMC): (Hammers/Sledges)	6.02

The Department shall determine, and the U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. We will direct Customs to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of review (62 FR 11813, 11819) and as amended by this determination. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 353.28(c).

Dated: October 13, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–27884 Filed 10–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review; Certain Welded Carbon Steel Pipes and Tubes from Thailand.

SUMMARY: In response to a request by Saha Thai Steel Pipe Company, Ltd. (''Saha Thai''), and its affiliated exporter S.A.F. Pipe Export Co., Ltd., (''SAF''), and two importers, Ferro Union Inc. (''Ferro Union''), and ASOMA Corp. (''ASOMA''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from Thailand. This review covers the following manufacturer/exporter of the subject merchandise to the United States: Saha Thai/SAF. The period of review (POR) is March 1, 1996 through February 29, 1997. We received comments on the preliminary results and rebuttal comments from the petitioners and respondent.

Based on our analysis of comments received, we have calculated a margin for Saha Thai. The final weighted-average dumping margins are listed below in the section entitled Final Results of Review.

EFFECTIVE DATE: October 16, 1998.

FOR FURTHER INFORMATION CONTACT: John Totaro or Dorothy Woster, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1374 or (202) 482–3362, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (hereinafter, ''the Act'') by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19,

1997) (''Final Regulations''), do not govern this administrative review, citations to those regulations are provided, where appropriate, as a statement of current Departmental practice.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 7, 1997, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1996 through February 28, 1997 (62 FR 10521). A timely request for an administrative review of the antidumping order with respect to sales by Saha Thai/SAF during the POR was filed jointly by Saha Thai, SAF, Ferro Union, and ASOMA. The Department published a notice of initiation of this antidumping duty administrative review on April 24, 1997 (62 FR 19988). On May 14, 1997, certain domestic producers of standard pipe products entered an appearance in this review: Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., Wheatland Tube Company, and Laclede Steel Company, (''petitioners'' or ''domestic interested parties'').

Because the Department determined that it was not practicable to complete this review within statutory time limits, on November 19, 1997, we published in the **Federal Register** our notice of extension of time limits for this review (62 FR 61802) pursuant to section 751(a)(3)(A) of the Act. On April 7, 1998, the Department published in the **Federal Register** (63 FR 16974) the preliminary results of its administrative review of this antidumping order covering the period March 1, 1996 through February 28, 1997. The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this administrative review are certain circular welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as ''standard pipe'' or ''structural tubing,'' are hereinafter designated as ''pipe and tube.'' The merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive. This review covers sales of these products by Saha Thai/SAF during the period March 1, 1996 through February 28, 1997.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by the respondent Saha Thai from March 2–6, 1997, using standard verification procedures, including examination of relevant financial records and analysis of original documentation used by Saha Thai to prepare responses to requests for information from the Department. We also verified sales and level of trade issues at one of Saha Thai's affiliated home market resellers. Our verification results are outlined in the public version of the verification report (Memorandum to Roland L. MacDonald from John B. Totaro and Dorothy A. Woster, March 19, 1998 (''Saha Thai Verification Report'').

Analysis of Comments Received

Saha Thai, SAF, Ferro Union, and ASOMA (collectively ''Saha Thai'') and the petitioners submitted case briefs on May 22, 1998, and rebuttal briefs on June 1, 1998.

Comment 1

Saha Thai argues that the Department correctly found that Saha Thai is jointly controlled by more than one person, but incorrectly found that Somchai Lamatipanont individually controls Saha Thai. Saha Thai states that in view of Mr. Lamatipanont's limited role in Saha Thai, there is no basis upon which to find that he is either ''legally or operationally in a position to exercise restraint or direction'' over Saha Thai. Citing to a commentator on Securities and Exchange Commission rules, Saha Thai advocates a definition of control based on identifying who ''calls the day-to-day shots'' in the company. A.A. Sommer, Jr., ''Who's 'In Control'—SEC,'' 21 Bus. Law 559, 582 (1966). Saha Thai argues that the Department's discussions with Saha Thai's officers at verification showed that Saha Thai, a closely held corporation, operates through a consensus of its owners and operators. Saha Thai claims that the company is controlled ''jointly'' by a control group consisting of either the entire board acting together or a majority of the board; thus, no single individual, particularly Somchai Lamatipanont, can be said to control Saha Thai. Saha Thai asserts that only the board can exercise restraint or direction over the company.

Petitioners respond that the opinions of a particular commentator on the definition of control in the context of securities law are irrelevant to the application of the antidumping statute. Petitioners note that the statute requires that a person be ''legally or operationally in a position to exercise restraint or direction'' for control to exist. Moreover, petitioners refer to the statement in the Preamble to the Final Regulations that the analysis of whether a person is in a position to exercise restraint or direction ''focuses on the relationships that have the potential to impact decisions concerning production, pricing or cost. . . . the ability to exercise 'control' rather than the actuality of control over specific decisions.'' 62 FR at 27297–98. Petitioners contrast this definition of control with that proffered by Saha Thai—whether a person ''calls the day-to-day shots''—which focuses on the actuality of control instead of the potential to impact decisions. Petitioners state that Saha Thai's definition of control promotes the idea that only a person or persons who can compel a vote of the majority of the stock or board seats can exercise control, and that this idea is contrary to the statute, the SAA, and the regulations. Petitioners conclude that all of Saha Thai's arguments regarding control were considered and rejected by the Department in the preliminary results.

Petitioners also reject Saha Thai's argument that Somchai Lamatipanont is not ''in control'' of Saha Thai. First, Petitioners state that Somchai Lamatipanont's role in the company is substantial and meets the statutory test for control. Second, petitioners argue that the fact that the board of directors may be deemed to be in control of Saha Thai does not preclude a finding that Somchai Lamatipanont, or other individuals, may also be in a position to exercise restraint and direction over Saha Thai. Petitioners state that the Department correctly recognized in the preliminary results that multiple persons of varying degrees of control may individually and jointly control a company for purposes of the statute. Petitioners claim that Saha Thai's own description of its corporate structure supports this finding. Petitioners argue that within that type of structure, the Deputy Managing Director, Somchai Lamatipanont, would have the potential to impact decisions concerning production, pricing or cost, which meets the Department's definition of control as

stated in the Preamble to the Final Regulations. Petitioners conclude that the Department correctly determined that Somchai Lamatipanont controls Saha Thai within the meaning of section 771(33).

Department's Position

We find Saha Thai's concept of ''control'' inconsistent with the statute. Section 771(33) of the Act states that ''control'' exists where one person ''is legally or operationally in a position to exercise restraint or direction'' over another person. This definition is stated in terms of the ability to restrain or direct a company's operations. As explained in the Preamble to the Proposed Regulations and reiterated in the Final Regulations, the Department need not find evidence of actual control to satisfy this statutory definition. Proposed Rule, 61 FR at 7310, 7311; Final Regulations, 62 FR at 29298.

The control test advocated by Saha Thai defines control in terms of actual direction of a company's operations. However, this argument is similar to several comments rejected by the Department in the Preamble to the Final Regulations. For example, the Preamble states:

> [i]n general we agree with the suggestion that we focus on relationships that have the potential to impact decisions concerning production, pricing or cost. This does not mean however, that proof is required that a relationship *in fact has had such an impact.* In this regard, section 771(33), which refers to a person being ''*in a position* to exercise restraint or direction,'' properly focuses the Department on the *ability* to exercise ''control'' rather than the actuality of control over specific decisions. Therefore, we will consider the full range of criteria identified in the SAA, at 838, in determining whether ''control'' exists. (emphasis added).

62 FR 27297–98. The Department declined to adopt the suggestion that the Department define ''legal or operational control'' under section 771(33)(F) of the Act as the ''enforceable ability to compel or restrain commercial actions.'' *Id.* at 27298. Thus, we agree with petitioners that the definition of control proposed by Saha Thai is inconsistent with the antidumping statute and the Department's regulations. Although this more narrow application may be appropriate for the securities laws, the definition contained in the antidumping statute is consistent with Congress' intent to expand the category of business relationships examined for purposes of the Department's antidumping analysis.

We also disagree with Saha Thai's assertion that Somchai Lamatipanont does not control Saha Thai within the meaning of section 771(33)(F). As discussed above, consistent with the statute and regulations, the Department's control analysis properly examines the ability or potential to restrain or direct a company's operations. As we stated in the preliminary results, the facts on the record establish that Somchai Lamatipanont is one of the nine members of Saha Thai's board of directors, and has held this position for at least the last ten years. July 30, 1997 QR at 2. Further, as Deputy Managing Director, Mr. Lamatipanont (1) assists the Managing Director in ensuring that decisions made are executed in accordance with the Managing Director's instructions, (2) acts for the Managing Director with respect to administrative matters when Managing Director is out of the office, and (3) is responsible for significant issues involving day-to-day operations and management decisions in consultation with the Managing Director. October 31, 1997 QR at 2. These responsibilities place Somchai Lamatipanont in a position to exercise restraint or direction over Saha Thai's operations, particularly with respect to pricing and production decisions.

Our conclusion is not altered by Saha Thai's argument that, because Saha Thai operates through a consensus of its owners and operators, no individual can be said to control Saha Thai without a majority of the remainder of the group. Neither the statute nor the legislative history expressly limits the definition of control to a single person. The definition of ''control'' is based solely on the ability to direct or restrain operations. Therefore, multiple persons or groups may be in control, individually and jointly, of a single entity, each having the ability to direct or restrain the company's activities. Based on this analysis, we confirm our preliminary finding that the Lamatipanont family, through its equity interest and a family member's position as a director and senior executive officer of Saha Thai, controls Saha Thai within the meaning of section 771(33)(F).

Comment 2

Saha Thai disputes the Department's finding under section 771(33)(F) of the Act that Saha Thai is affiliated with two Thai producers of the subject merchandise, Thai Hong Steel Pipe Import Export Co., Ltd. (''Thai Hong'') and Thai Tube Co., Ltd. (''Thai Tube''). Saha Thai argues that the Department erred in finding common control of these producers by the Lamatipanont family because, according to Saha Thai, there is no such family group who possesses the power of common control over these producers. Saha Thai argues that besides Somchai Lamatipanont, the other Lamatipanont family members own small percentages of Saha Thai stock and have no role in Saha Thai. In addition, Saha Thai notes that Somchai Lamatipanont does not own any shares in Thai Tube or Thai Hong and is not involved with either company.

Saha Thai argues that it had no commercial transactions with Thai Hong or Thai Tube and does not share officers, directors, employees, information, or facilities with these companies. Saha Thai states that the three producers never supplied each other with production materials or finished products, never provided loans or capital, and never discussed their common industry and/or markets in spite of the Lamatipanont family's involvement in each. Saha Thai adds that, based on the supplier lists obtained at verification, the reseller identified as Company B in the **Federal Register** notice of the preliminary results (owned and controlled by Somchai Lamatipanont and his son, Worawut) did not purchase pipe from either Thai Hong or Thai Tube.

Saha Thai concludes that the Saha Thai stock owned by Somchai Lamatipanont's brother, Samarn, and Samarn's family (shareholders, officers and directors in Thai Tube and Thai Hong) is the only link between Saha Thai and Thai Hong and Thai Tube, and that this connection does not amount to evidence of a family group. Saha Thai asserts that the Department based its preliminary finding of a family group on a shared last name as opposed to record evidence. Saha Thai continues that the Department's finding that a significant potential for manipulation of price and production does not exist between these companies casts doubt on the Department's conclusion that the Lamatipanont family members constitute a family control group. Saha Thai argues that the ''Somchai Lamatipanont branch'' of the family should be recognized as operating distinctly from and without involvement by the ''Samarn-Thai Hong/Thai Tube branch'' of the Lamatipanont family.

Saha Thai argues that by considering the Lamatipanonts a ''family group,'' the Department has ''collapsed'' these individuals under section 771(33)(A) of the Act. Saha Thai argues that this is incorrect because nephews and in-laws are not affiliated under the section 771(33)(A) definition of the types of family members that can be considered affiliates. Thus, according to Saha Thai, there is no affiliation under section

771(33)(A) between Somchai Lamatipanont and his nephew and in-laws involved in Thai Tube and Thai Hong. Even if the Department finds that the members of the Lamatipanont family are affiliated under section 771(33)(A), Saha Thai argues that based on the record evidence the Department should not collapse these individuals into a single family control group for purposes of the antidumping law.

Petitioners agree with the Department's preliminary determination that the Lamatipanont family constitutes a family group who controls Saha Thai, Thai Hong, and Thai Tube. To support their argument, the petitioners refer to elements of the Department's preliminary results collapsing analysis. The petitioners argue that, contrary to Saha Thai's claim, the Department did not find that there was no potential for manipulation, but that there was not a ''significant'' potential for manipulation. Petitioners emphasize that the focus of the Department's collapsing analysis is on the potential for sharing information and cooperation, not on the structure of ownership interest. Petitioners state that in the preliminary results, the Department found every element for collapsing present other than evidence of intertwined operations; petitioners note that actual evidence of intertwined operations is not required to find significant potential for manipulation. Petitioners continue that finding actual evidence of cooperation between Saha Thai and Thai Hong and Thai Tube would have been nearly impossible, and the Department was unable to verify such cooperation, because (1) Saha Thai chose not to provide relevant information, (2) Saha Thai's responses are not reliable, and (3) Thai Hong and Thai Tube refused to participate in this review.

Furthermore, petitioners argue that the record evidence does support the conclusion that a significant potential for price and production manipulation exists. Petitioners cite *Collated Roofing Nails from Taiwan*, in which the Department found that persons in ''positions of legal and operational control in their respective companies [can] create a significant potential for price or production manipulation.'' 62 FR 51427, 51436 (Oct. 1, 1997) (emphasis added). Petitioners assert that family members can be expected to act in concert when doing so is in their common interests. Petitioners add that the Department has not improperly adopted a presumption that family members necessarily act in concert because such cooperation between family members is not required to find affiliation under the statute. Because the statute defines family members as affiliated persons, it is reasonable to presume that they will cooperate with one another. Petitioners continue that the Department reasonably interpreted the statute to find that a person is affiliated with the children of his brother. Petitioners conclude that the Department correctly found that Saha Thai is affiliated with Thai Hong and Thai Tube in the preliminary results, and should find the same in the final results.

Department's Position

We disagree with Saha Thai's argument that we improperly examined the Lamatipanont family as a control group for purposes of our affiliation analysis under section 771(33)(F) of the Act. Section 351.102(b) of the Final Regulations provides that, in determining whether control exists for the purpose of finding affiliation, the Department will consider, among other things, corporate or family groupings, franchise or joint-venture agreements, debt financing, and close supplier relationships. 62 FR at 27380. The directive in the regulations that the Department consider family groupings in examining affiliation recognizes that control may be exerted through familial holdings and corporate positions. It is therefore reasonable to examine familial control in the aggregate to ensure that prices and costs used in the dumping calculation reflect market value, and are not influenced by familial relationships, and that the appropriate methodology is employed (*e.g.*, affiliated producers are collapsed where warranted). *See e.g.*, *Queen's Flowers de Colombia* v. *United States*, F.Supp. 617, 626 (CIT 1997).

The facts on the record demonstrate that several families are each involved in the ownership and management of Saha Thai. Four of these families also own and control at least one other Thai company that produces and/or sells the subject merchandise. Throughout its questionnaire responses, Saha Thai refers to ''six family groups with ownership interests in Saha Thai.'' *See, e.g.*, October 31, 1997 QR at 9. Each family owns a significant minority of Saha Thai's shares. Each of these six stockholding families holds at least one seat on Saha Thai's nine-member Board of Directors (together they hold all of the nine board seats in Saha Thai), and members of the four families with the largest equity interests also serve as the senior executive officers in Saha Thai: Chairman of the Board (Ampapankit), Managing Director (Karuchit/Kunanantakul), Deputy Managing Director (Lamatipanont), and Financial Director (Sae Haeng/Ratanasirivilai). The facts on the record demonstrate that Saha Thai's ownership and management structure is family-oriented, and that within this structure, these families are legally or operationally in a position, jointly and severally, to control Saha Thai within the meaning of section 771(33) of the Act.

The Department's analysis in this case follows current practice by evaluating all indicia of control by the family, not just stock ownership. For instance, in an analysis of affiliation based on common control by a family group, the Department explained:

> The legislative history of the URAA makes it clear that the statute does not require majority ownership for a finding of control. Even a minority shareholder interest, examined within the context of the totality of other evidence of control, can be a factor that we consider in determining whether one party is operationally in a position to control another.

Certain Cut-to-Length Carbon Steel Plate From Brazil: Final Results of Antidumping Duty Administrative Review, 62 FR 18486, 18490 (April 15, 1997). In the most recently completed segment of this proceeding, the Department noted the breadth of the term ''control'' under section 771(33) of the Act: ''the statutory definition of control encompasses both legal and operational control. Multiple persons or groups may be in control, individually and jointly, of a single entity, *i.e.*, each has the ability to direct or restrain the company's activities.'' *Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Antidumping Administrative Review*, 62 FR 53808 at 53815 (October 16, 1997).

Our finding that Saha Thai is affiliated under section 771(33)(F) of the Act with Thai Tube and Thai Hong by virtue of common control by the Lamatipanont family is based on record evidence that this family is one of the control groups within Saha Thai. Our analysis of the Lamatipanont family's control is consistent with the statute, regulations and current practice.

We disagree with Saha Thai's assertion that we should consider the Lamatipanonts as two separate branches of the same family who operate independently of each other. In its questionnaire responses and case briefs, Saha Thai does not deny that Somchai Lamatipanont, the center of one alleged branch of the family, is the brother of Samarn Lamatipanont, the center of the second alleged branch of the family. These brothers, their wives, and their children are owners, directors and managers of three producers of standard pipe: Saha Thai, Thai Hong and Thai Tube. Where members of the same

family hold interests and management positions in several companies in the same industry, it is reasonable to examine the interests of the family as a whole for purposes of determining where common control exists. *See Queen's Flowers* 981 F.Supp. at 626.

Saha Thai misconstrues our analysis by claiming that we improperly collapsed the Lamatipanont family members under section771(33)(A) of the Act. We did not rely on this provision for purposes of aggregating the interests of the Lamatipanont family members. Rather, we made reference to this subsection merely as further support for considering familial holdings in our affiliation analysis, *i.e.,* the fact that family members are affiliated, confirms the reasonableness of examining control by family groups. We, therefore, find it reasonable to examine the interests of the Lamatipanont family as a whole in steel pipe businesses.

Moreover, in determining the existence of a ''corporate or family grouping'' for purposes of affiliation, the Department is not required to find, as Saha Thai suggests, the existence of a ''control group acting in concert.'' Drawing such a bright line test ignores the focus of the statute and the regulations on the ability of a person to exert restraint or direction over a company in determining ''control'' for purposes of affiliation. The Department is equally concerned with a control group which has the potential to act in concert or act out of common interest.

Finally, Saha Thai's arguments that it had no commercial transactions and does not share officers, directors, employees, information or facilities with Thai Hong or Thai Tube to support its argument that the Lamatipanont family does not control these producers is unpersuasive. These factors are relevant to a collapsing analysis but are not determinative of control within the meaning of section 771(33) of the Act. (See *Department's Position* in response to Comment 3.) For the purpose of examining the existence of common control, we examined indicia of control, such as the ownership interests, board of directors seats and management positions held by members of the Lamatipanont family in Saha Thai, Thai Hong, and Thai Tube. Analysis of these facts led us to conclude that these three producers of the subject merchandise are affiliated because they are under the common control of the Lamatipanont family within the meaning of section 771(33)(F) of the Act. Our conclusion is unchanged for the final results.

Comment 3

Petitioners argue that the Department incorrectly found in the preliminary results that Saha Thai and Thai Tube and Thai Hong should not be collapsed because there is no evidence of intertwined operations. Petitioners argue that while evidence of actual price and production manipulation is not present on the record, the Department in its regulations explicitly rejected the need for a showing of actual manipulation in favor of finding a significant potential for manipulation. Petitioners also argue that there is significant potential for manipulation of price and production where affiliation is based on control under section 771(33) of the Act. Petitioners contend that whenever a person or group of people are legally or operationally in a position to exercise restraint or direction over two entities, there is a significant potential for manipulation of price and production. Petitioners cite *Certain Welded Carbon Standard Steel Pipes and Tubes From India; Final Results of New Shippers Antidumping Duty Administrative Review,* 62 FR 51427, 51436 (Sept. 10, 1997), as a case where the Department found that it was ''immaterial'' that two collapsed entities were operated as separate entities, and that there may be overlap between the evidence used to find affiliation based on control and the evidence used to determine the appropriateness of collapsing. Petitioners then cite *Collated Roofing Nails From Taiwan; Final Determination of Sales at Less Than Fair Value,* 62 FR 51427, 51436 (Oct. 1, 1997), as support for the proposition that significant potential for manipulation of price or production can be created by a person or a group of persons in positions of legal and operational control in their respective companies.

Petitioners argue that the Department's preliminary affiliation analysis regarding the Lamatipanont family's ownership, management and access to marketing, sales and production data support the existence of a significant potential for price and production manipulation. Petitioners note that the Department found that Saha Thai's competition policy on its own does not rebut the potential for manipulation of prices and production. Petitioners note that the focus of the Department's regulations on this issue is the potential for manipulation, and argue that requiring a showing of actual intertwined operations undercuts this focus of the regulations.

Petitioners also argue that Saha Thai has frustrated the Department's attempts to gain information on Thai Tube and Thai Hong, and that the record contains numerous instances where Saha Thai refused to provide basic information. Petitioners continue that the Department should hold Saha Thai responsible if the record contains inconclusive evidence of intertwined operations between Saha Thai and Thai Tube and Thai Hong. Petitioners conclude that the Department should collapse these three companies for the final results.

Saha Thai responds that there is no basis on which Thai Tube and Thai Hong can be collapsed with Saha Thai, particularly because Saha Thai had no commercial or other transactions with these companies, and in fact had a twelve-year-old company policy prohibiting such transactions. Saha Thai states that petitioners' arguments that these companies should be collapsed are irrelevant and ludicrous. Saha Thai concludes that the Department should affirm its decision not to collapse Saha Thai and Thai Tube.

Department's Position

A finding of affiliation has been and continues to be a necessary, but not determinative, criterion in deciding whether to ''collapse'' two or more companies, *i.e.,* treat them as a single entity for margin calculation purposes. For example, the Department may find two companies affiliated on the basis of an equity interest and then consider the *level* of that interest in deciding whether to collapse the affiliated parties. One producer's equity interest of ten percent of another would result in treating two companies as affiliated, but absent other factors may be insufficient to warrant collapsing them. Similarly, a finding of control results in treating companies as affiliated. However, it is appropriate to consider the level of control in deciding whether to collapse those companies. The existence of some degree of control alone is not necessarily determinative of the collapsing question. In short, affiliation alone is not a sufficient basis to collapse. See Preamble to the Final Regulations, 62 FR at 27345.

In the preliminary results, we found Saha Thai affiliated with Thai Tube and Thai Hong under section 771(33)(F) of the Act by virtue of common control by the Lamatipanont family. We then applied our collapsing analysis, using factors set forth in the Final Regulations at § 351.401(f), to determine whether these two producers should be collapsed with Saha Thai for purposes of calculating dumping margins. Although each producer is affiliated with Saha Thai and each company produces subject merchandise, we

concluded that the record evidence did not support a finding of significant potential for manipulation of pricing or production. Therefore, we did not collapse Saha Thai with either Thai Tube or Thai Hong. *See Memo to File from John Totaro,* March 30, 1998. We continue to find that collapsing Saha Thai with these producers is inappropriate in this review.

Although we agree with the petitioners' assertion that evidence of actual manipulation is not a prerequisite to finding a significant potential for manipulation, the record evidence must demonstrate a ''significant potential'' for such manipulation to justify treating affiliated producers as a single entity. We also agree that each factor set forth as a relevant indicator to determine whether a significant potential for manipulation exists need not be met in each case. Rather, as explained in the Preamble to the Final Regulations, this is a non-exhaustive list of factors which the Department considers in determining whether to collapse affiliated producers. *Id.* In practice, where factors such as substantial transactions, shared distributors, or interlocking boards or management indicate a significant potential for manipulation, the Department has treated separate entities as one. *See Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42833, 42853 (Aug. 19, 1996); *Cut to Length Carbon Steel Plate from Brazil; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 47436, 47437 (Sept. 9, 1997) and *Certain Cut-to-Length Carbon Steel Plate from Brazil; Final Results of Antidumping Duty Administrative Review,* 62 FR 12744, 12749 (March 16, 1998); *Certain Welded Carbon Standard Steel Pipes and Tubes from India; Final Results of New Shippers Antidumping Duty Administrative Review,* 62 FR 47632, 47638–39 (Sept. 10, 1997).

In this instance, we found the factors indicating a potential for manipulation insufficient to collapse Saha Thai and Thai Tube and Thai Hong. While the Lamatipanont family exercises some control over each of these entities, it is only one of several groups that jointly and severally control Saha Thai. There is little overlap between the boards and management of Saha Thai and the other two producers. While the Lamatipanont family holds all the board seats and high management positions in Thai Tube and Thai Hong, another member of the family holds only one of nine board seats and the Deputy Managing Director position in Saha Thai. Moreover, there are no commercial transactions or other evidence of intertwined operations between Saha Thai and either Thai Hong or Thai Tube. Petitioners claim that there is some evidence on the record of intertwined operations, but we cannot conclude from the evidence to which petitioners refer that Saha Thai's operations are intertwined with Thai Hong or Thai Tube. (Due to the proprietary nature of this information, details of our analysis are contained in the proprietary version of the Memorandum to File from John Totaro, dated October 5, 1998.) Thus, the facts presented in this review are similar to those in Chilean salmon, where the Department did not collapse two companies because it found no evidence to suggest a significant possibility of price or production manipulation. *See Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile,* 63 FR 31411, 31421 (June 9, 1998).

We do not consider our finding of the Lamatipanont family's ownership and control, by itself, as a sufficient basis to collapse these affiliates. As discussed above, the Lamatipanont family is a significant but minority owner of Saha Thai, and multiple entities are in control of Saha Thai. In *Standard Pipes from India,* Commerce recognized that there may be overlap in the evidence establishing affiliation by control and our collapsing analysis, but the evidence relied on in our collapsing analysis goes beyond that which is necessary to find common control. For example, in *Standard Pipes from India,* the two affiliated producers shared four members of their boards of directors out of a total of seven directors for one company and nine directors for the other. 62 FR at 51438. In addition, the same individuals held the top management positions in both producers. *Id.* Similarly, in *Collated Roofing Nails from Taiwan,* the family members who owned and controlled the affiliated producers also had significant ties to both companies. The chairman of one producer was the past general manager and current advisor to the second producer, where his son was the current general manager. Each family member had substantial responsibility for the sales and production decisions of their respective companies, which facilitated the sharing of employees and the transferring of sales between the two. *See Collated Roofing Nails from Taiwan,* 62 FR at 51436.

In the present case, the level of control and the absence of evidence of intertwined operations leads us to conclude the collapsing is not warranted. This determination does not reflect a heightened evidentiary standard, as petitioners suggest. Rather, it is consistent with the Department's practice of not collapsing producers solely on the basis of affiliation. *See* Preamble to the Final Regulations, 62 FR at 27345.

Saha Thai provided sufficient information for the Department to make a collapsing information. Therefore, despite that fact that Thai Tube and Thai Hong refused to provide information, the use of facts available was unnecessary. We note, however, that we will continue to examine the appropriateness of collapsing these affiliated producers in future reviews. Therefore, continued lack of participation from these companies may result in the application of facts available.

Comment 4

Saha Thai argues that the Department failed to undertake the requisite statutory and regulatory analysis of the Siam Steel Group companies in reaching its conclusion that those companies are affiliated on the basis of common control by the Karuchit/Kunanantakul family. Saha Thai argues that because Saha Thai is controlled by a group other than the Karuchit/Kunanantakul family, Saha Thai cannot be affiliated with Siam Matsushita [1] or any other Siam Steel Group company by means of common control under section 771(33)(F) by the Karuchit/Kunanantakul family. Saha Thai asserts that the Karuchit/Kunanantakul family does not control Saha Thai and that major company decisions require board approval. Further, Saha Thai argues that the Karuchit/Kunanantakul family does not control Siam Matsushita because (1) it held only 39% of Siam Matsushita's shares, (2) Karuchit/Kunanantakul family members held only ceremonial titles in the company, (3) the operational and management roles in Siam Matsushita are held by Japanese individuals, and (4) a majority of the board members are Japanese individuals. Saha Thai concludes that Japanese investors control Siam Matsushita, while the Karuchit/Kunanantakul family is merely the

[1] In its case and rebuttal briefs, Saha Thai referred to Siam Matsushita Steel Co., Ltd. as ''Company E,'' the name used by the Department to refer to this company in the preliminary results because Saha Thai requested for business proprietary treatment of this company's name. However, Saha Thai has referred to this company on the public record of this review, for example, at page 2 and Exhibit A of its December 31, 1997 questionnaire response (public version), Exhibit 2 of its October 31, 1997 questionnaire response (public version). Therefore, the company's identity is no longer proprietary.

company's local conduit into the Thai market.

Saha Thai contends that the Department's conclusions in the preliminary results regarding the influence of Siam Steel International on the manufacturing policies and product selection of the Siam Steel Group companies were not supported by the record. Saha Thai claims that the reference to the Siam Steel Group name is for public relations purposes only and there is no legal entity known as the Siam Steel Group. Saha Thai contends that the Karuchit/Kunanantakul family holds only minority interests in the Siam Steel Group companies and exerts no managerial control in the series of joint ventures that comprise these entities. Saha Thai asserts that the Karuchit/Kunanantakul family does not have the ability to direct the production decisions of the Siam Steel Group members because that control rests with Japanese investors.

Second, Saha Thai argues that the Department correctly decided to not collapse Saha Thai and Siam Matsushita for the preliminary results because of the substantial retooling needed to shift production from Saha Thai to Siam Matsushita. In addition, Saha Thai argues that the record does not contain evidence of any potential for the manipulation of price or production between these companies. Saha Thai references the company policy adopted twelve years ago that prohibits certain kinds of cooperation, and its statement in its October 31, 1997, questionnaire response that none of the operations of Saha Thai and Siam Matsushita were intertwined. Saha Thai asserts that neither company was performing any part of the other's production processes, nor were they sharing designs. Moreover, except for Siam Matsushita's extremely small-quantity purchases from Saha Thai, Saha Thai claims there were no commercial interactions between Saha Thai and Siam Matsushita.

Finally, Saha Thai states that it provided information concerning Saha Thai's relationship to and interactions with many other companies in response to the Department's questions. Saha Thai claims that it made overtures to the Department concerning the need to include meetings with Siam Matsushita or visits to the company as part of its verification, but that the Department did not request any additional information. Saha Thai urges the Department to affirm its preliminary results decision to not collapse Saha Thai and Siam Matsushita.

Petitioners agree with the Department's conclusion in the preliminary results that the facts on the record establish that Saha Thai is affiliated within the meaning of section 771(33)(F) with Siam Matsushita. However, petitioners argue that the Department should collapse Saha Thai and Siam Matsushita for the final results. Petitioners disagree with the Department's preliminary analysis, in which the Department concluded that the substantial retooling criterion of the collapsing analysis is not satisfied.

Petitioners argue that the record does not contain sufficient information on Siam Matsushita's PVC-lined pipe production process to determine whether it produces this pipe at full capacity or whether it has excess capacity to devote to the production of the subject merchandise. Also, petitioners contend that the record does not contain information on the capacity of Siam Matsushita's pipe mill relative to Saha Thai's, or its galvanizing facilities and PVC-coating equipment. Petitioners argue that, absent this record evidence, the Department's conclusion that Siam Matsushita would have to significantly alter its manufacturing process is flawed.

Petitioners also disagree with the Department's conclusion that allowing a portion of production facilities to stand idle constitutes a substantial retooling of Siam Matsushita's facility. Petitioners contend that retooling requires the addition of new equipment or modification of existing equipment, not merely the lack of use of existing equipment. Petitioners contend that, unlike the circumstances in *Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496 (July 30, 1997), no infrastructure changes would be necessary for Siam Matsushita to produce the subject merchandise because Siam Matsushita produces standard pipe as an intermediate product. Further, petitioners argue that the record establishes that Siam Matsushita has break points in its process after pipe production for galvanizing and PVC coating that allow it to use portions of its facilities without engaging other portions of its facilities. Petitioners conclude that the record evidence supports the fact that Siam Matsushita could produce standard pipe identical to that produced by Saha Thai without substantial retooling of its production facilities.

Furthermore, petitioners note that the Department's preliminary analysis did not address the third collapsing criterion contained in section 351.401(f)(1) of the Final Regulations, *i.e.*, significant potential for price or production manipulation. However, petitioners argue that the facts which support the Department's preliminary finding that Saha Thai and Siam Matsushita are affiliated by means of common control by the Karuchit/Kunanantakul family and membership in the Siam Steel Group also support this collapsing factor. Petitioners argue that family ownership and control under section 771(33) necessarily constitutes a significant potential for manipulation, *citing Collated Roofing Nails from Taiwan*, 62 FR at 51436. Petitioners also note that the Department need not find that this factor exists, but must find that, based on the totality of circumstances, the two companies are sufficiently related to warrant treatment as a single entity, *citing Certain Welded Carbon Standard Steel Pipes and Tubes from India*, 62 FR at 47638.

Petitioners claim the Department's preliminary findings regarding the Siam Steel Group indicate at least some degree of common involvement by the group in pricing decisions of the two companies. However, petitioners state that additional information about the intertwined nature of Saha Thai's and Siam Matsushita's operations is not available because Saha Thai did not make such information available. Petitioners claim these are essentially the same circumstances that led the Department to apply adverse facts available to Saha Thai in the last review.

Department's Position

We disagree with Saha Thai's assertions that it is not affiliated with Siam Matsushita under the Act. Section 351.102(b) of the Final Regulations provides that, in determining whether control exists for the purpose of finding affiliation, the Department will consider, among other things, corporate or family groupings, franchise or joint-venture agreements, debt financing, and close supplier relationships. The facts on the record demonstrate that the Siam Steel Group is a grouping of Thai entities involved in the steel industry which is owned and managed by the Karuchit/Kunanantakul family. Although these companies may operate independently of each other, they are nonetheless subject to direct or indirect control, within the meaning of section 771(33) of the Act, by the Karuchit/Kunanantakul family.

The record indicates that one of the Siam Steel Group companies, Siam Steel Group International Co., Ltd., (''SSGI''), is the primary organizing body of the Siam Steel Group. SSGI is 98.88 percent owned by members of the Karuchit/Kunanantakul family. October

31, 1997 QR at Exhibit 5. The Siam Steel Group brochure describes SSGI as follows:

> Siam Steel Group International Co., Ltd. was established with an intention to promote and support the operation of affiliated companies in Siam Steel Group together with help in company's expansion and development business of the group to proceed more efficiently. . . .
>
> Apart from a strong purpose to develop technology and local industry in order to compete with other countries, Siam Steel Group have stable policy to continuously help preserving the environment and conserving the nature directly by selection of products that do not harm the nature and strictly control the manufacturing process conformable to technical know-how basis.

June 2, 1997 QR at Exhibit 6. Thus, the Siam Steel Group holds itself out to the public as an organization of affiliated companies, whose expansion and development of business is promoted and supported by SSGI, and who follow, to one degree or another, common policies on manufacturing methods and selection of products to be produced. Further evidence of SSGI's role in the Siam Steel Group companies is the fact that SSGI funded the Siam Steel Group brochure. December 22, 1997 QR at 6. From this record evidence, we conclude that the Siam Steel Group is the type of corporate grouping envisioned by the SAA and the Department's regulations.

The Karuchit/Kunanantakul family, together with Siam Steel International Public Company Ltd.[2], own between 8.17 percent and 100 percent of each of the 26 Siam Steel Group companies, averaging 57.97 percent ownership of each company. The members of the Karuchit/Kunanantakul family are in various positions of legal and/or operational control in each member company through ownership and or management in each company, and through ownership and management of SSGI and Siam Steel International Public Company Ltd.

With respect to Saha Thai in particular, the Karuchit/Kunanantakul family directly or indirectly owns a significant percentage of Saha Thai's stock. This family controls three of the nine seats on Saha Thai's Board of Directors, as well as the Managing Director's position. Saha Thai notes that ''[p]ricing decisions (either in the establishment of a price list or changes to it) are not considered major decisions requiring board approval.'' December 22, 1997 QR at 1. As stated above, pricing decisions are made by the Managing Director, Somchai Karuchit. The significant minority equity interest, seats on the Board of Directors, and the Managing Director's position combine to place the Karuchit/Kunanantakul family in a position of legal and/or operational control of Saha Thai.

Furthermore, the record evidence demonstrates that, of the seven directors of Siam Matsushita, three are Karuchit/Kunanantakul family members. October 31, 1997 QR at Exhibit 2. In addition, the record demonstrates that Wanchai Kunanantakul is the President of Siam Matsushita, Anantachai Kunanantakul is the Personnel and General Affairs Director of Siam Matsushita, and another Karuchit/Kunanantakul family member is the Chairman of Siam Matsushita. *Id.* Saha Thai Case Brief at 29; October 31, 1997 QR at Exhibit 5; *Memorandum to the File from John Totaro,* August 3, 1998.

The record does not support Saha Thai's claim that the titles held by these Karuchit/Kunanantakul family members are merely ceremonial. There is evidence on the record that Siam Matsushita's President, Wanchai Kunanantakul, is one of only two individuals, along with Takashi Ozasa, Siam Matsushita's Vice President, with the power to bind the company with his signature. October 31, 1997 QR at Exhibit 5 and Exhibit 2. Anantachai Kunanantakul's position as Personnel and General Affairs Director of Siam Matsushita suggests substantial involvement in the operation of the company. *Id.* Moreover, given the Chairman's responsibility in Saha Thai, we can infer that the Karuchit/Kunanantakul family member's position as Chairman in Siam Matsushita is equally substantive in nature. Saha Thai has offered no evidence to demonstrate otherwise. Thus, the record evidence supports our determination that the Karuchit/Kunanantakul family controls the members of the Siam Steel Group, particularly Saha Thai and Siam Matsushita. The fact that Japanese investors also have controlling interests in certain Siam Steel Group companies does not detract from this finding because, as discussed above, multiple persons or groups may individually and jointly control the same companies under section 771(33) of the Act. On this basis, we continue to find that Saha Thai and Siam Matsushita are affiliated under section 771(33)(F) of the Act.

However, we do not find that the record evidence supports treating these affiliated companies as a single entity under our collapsing analysis. In the preliminary results, we stated that the record evidence indicates that shifting production to subject merchandise would require extensive and expensive infrastructure changes in Siam Matsushita.

The record establishes that Saha Thai's and Siam Matsushita's production facilities are devoted to manufacturing very different products: Saha Thai produces standard pipe and Siam Matsushita produces PVC-lined pipe. The record demonstrates that Siam Matsushita produces standard pipe as an intermediate product, but also that Siam Matsushita's production process requires substantially more processing to produce its final product, PVC-lined steel pipe. It is therefore reasonable to infer that shifting production to standard pipe would require Siam Matsushita to significantly alter its production process and incur additional costs in shifting production. This determination is consistent with prior cases where the Department did not collapse affiliated producers who produced similar but not comparable products which required different processes and equipment. *See Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 42496, 42497 (Aug. 7, 1997); *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 42511, 42512 (Aug. 16, 1995) and *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 13815 (March 28, 1996).

In reaching this conclusion, we have not adopted the petitioner's view of ''substantial retooling,'' which advocates a finding of substantial retooling only where new equipment is added to the existing production facilities. This concept does not reflect commercial reality because a company may substantially revise its production facilities without adding new equipment. For example, we cannot conclude from the facts on the record that it would not involve significant time and expense for Siam Matsushita to restructure its continuous production process to transform what is now an intermediate product into a finished product. Thus, we do not consider Siam Matsushita's capacity to produce standard pipe as an intermediate product as decisive on the issue of whether substantial retooling would be necessary to shift production to the lower-grade standard pipe produced by Saha Thai.

[2] Siam Steel International Public Company, Ltd. is a Siam Steel Group member, furniture manufacturer, Saha Thai shareholder and Saha Thai customer. The Karuchit/Kunanantakul family owns a controlling (65.33 percent) interest in this company.

Therefore, based on our analysis of the record evidence, we do not find that the facts support collapsing Saha Thai and Siam Matsushita in this review. Because we were able to reach this determination based on the information provided by Saha Thai, application of the facts available rule is unwarranted. We note, however, that we will continue to examine any shift in production between these two affiliates in any subsequent reviews.

Comment 5

Saha Thai argues that it is not affiliated under section 771(33)(F) with the three resellers, because none of the three Saha Thai directors who, with their families, control the resellers also control Saha Thai.

Petitioners reject this argument. Petitioners assert that Saha Thai's interpretation of control is inconsistent with sections 771(33)(B) and 771(33)(E) of the statute and the Department's statements in the Preamble to the Final Regulations that an enforceable ability to compel or restrain certain actions is not a necessary element for finding control under section 771(33) of the Act. Petitioners conclude that the Department should continue to find Saha Thai affiliated with Resellers A, B, and C for the final results.

Department's Position

We disagree with Saha Thai's assertions that it is not affiliated with these resellers identified in the preliminary results. As discussed above in Comment 1, Saha Thai's argument is premised upon an interpretation of ''control'' that is inconsistent with the statute and the regulations. In the preliminary results, we found that Saha Thai was affiliated under section 771(33)(F) of the Act with three home market resellers of the subject merchandise, referred to in the notice of preliminary results as Company A, Company B and Company C. Each of these resellers is entirely owned by one of the six families that jointly and severally control Saha Thai. Each of these families owns a substantial minority interest in Saha Thai, has at least one family member on Saha Thai's board of directors, and has a family member who is an executive officer of Saha Thai. As we explained above, evidence of actual control is not a prerequisite to finding ''control'' within the meaning of section 771(33) of the Act, which defines control in terms of the *ability* of one person to restrain or direct another person. The statutory definition of control encompasses both legal and operational control, and multiple persons or groups may be in control, individually and jointly, of a single entity, each having the ability to direct or restrain the company's activities. Furthermore, among several individuals in a position to control an entity, one individual may possess a greater degree of control than the others. For example, the Managing Director of Saha Thai may have the greatest authority among Saha Thai's executives. However, the Managing Director's superior position would not eliminate the ability of the other officers—the Financial Director, the Deputy Managing Director and the Chairman of the Board—to direct or restrain the company's activities.

We, therefore, conclude that the Sae Haeng/Ratanasirivilai family controls both Saha Thai and Company A, the Lamatipanont family controls both Saha Thai and Company B, and the Ampapankit family controls both Saha Thai and Company C. Our position on this issue remains unchanged for the final results.

Comment 6

Petitioners argue that the Department has no choice but to apply the facts available under 19 U.S.C. §§ 1677e and 1677m (section 776(a) and (b) of the Act) because the record contains neither home market and U.S. sales data nor information on cost of production for Siam Matsushita, Thai Hong, and Thai Tube. Petitioners argue that this information is necessary to perform the dumping analysis. Petitioners state that the record is now so incomplete that it cannot serve as the basis for the final results, and neither Saha Thai nor its affiliates acted to the best of their ability to provide information requested by the Department. Petitioners argue that an adverse inference under 19 U.S.C. 1677e(b) (section 776 (b) of the Act) is appropriate given the outright refusal of Thai Tube and Thai Hong to cooperate. Furthermore, argue petitioners, the record is replete with instances where either Saha Thai did not provide information that was requested or the Department found at verification that Saha Thai had not completely or correctly answered the questionnaires. Petitioners argue that the evidence on the record of this review should be viewed in light of Saha Thai's ''dissembling and prevarication'' in the original investigation and the most recently completed review. In this review, petitioners argue that Saha Thai's submissions, particularly concerning the affiliation and collapsing issues, contains enough unanswered questions, inconsistencies, and proven errors to render the entire response unreliable for the final results.

Petitioners identify two issues in particular that demonstrate Saha Thai's lack of cooperation in this review. First, petitioners cite Saha Thai's alleged inability to produce documents at verification related to its corporate governance, including its memorandum of association, minutes of board meetings, or a record of a company policy decided at a board meeting. Petitioners assert that Saha Thai cannot reasonably claim that such documents do not exist. Second, petitioners note Saha Thai's stated inability to substantiate its claim that major company decisions are made by a 60% vote of the board. Petitioners identify other instances where Saha Thai provided inadequate responses and conclude that Saha Thai has provided less than full disclosure in this case. Petitioners argue that to accept Saha Thai's responses as an adequate basis for the final results would allow Saha Thai to ''control the amount of antidumping duties by selectively providing [the Department] information,'' *citing Olympic Adhesives Inc.,* v. *United States,* 899 F.2d 1565, 1572 (Fed. Cir. 1990). Petitioners contend that the circumstances in this case require the use of adverse facts available, and recommend the 37.55% rate applied to Thai Union in the last review.

Saha Thai responds that none of the alleged inconsistencies identified by petitioners warrants serious consideration by the Department as justification for total adverse facts available. Specifically, Saha Thai addresses petitioners' focus on Saha Thai's lack of ability to provide its memorandum of association and board of directors meetings. Saha Thai argues that the memorandum of association could not be located, and that board meeting minutes were not maintained except in instances where important company policies were established. Saha Thai argues that it has fully cooperated with the Department and provided all requested information. With respect to the requested corporate governance documents, Saha Thai notes that it explained that such documentation does not exist, and therefore, it should not be penalized for its informal governance structure. Saha Thai argues that in circumstances where it is unable to provide information or is never requested to provide information, the application of facts available is inappropriate, *citing Borden, Inc.* v. *United States; Olympic Adhesives; Daewoo Elec. Co.*

Department's Position

Section 776(a) of the Act authorizes the resort to facts available only where necessary information is not available on the record or an interested party withholds information, fails to comply with the Department's reporting requirements, significantly impedes the proceeding, or submits unverifiable information. We have examined Saha Thai's submissions in light of these factors and determine that resort to facts available is inappropriate in this review. Saha Thai was unable to produce certain corporate governance documents because such documents do not exist. Further, the lack of this information did not hinder our ability to reach the necessary determinations concerning its affiliations with other entities.

Further, as noted above, the information submitted by Saha Thai was sufficient to make a determination that Saha Thai, Thai Tube and Thai Hong should not be collapsed. Therefore, responses from Thai Hong and Thai Tube were not necessary for calculating a dumping margin in this review. This consideration applies equally to additional information from Siam Matsushita. We note, however, as discussed in the relevant collapsing analyses, that we will continue to examine these issues in future reviews and the failure of these affiliates to respond may lead to application of the facts available.

In short, the record contains information necessary to complete the review and Saha Thai: (1) Has not withheld information that has been requested by the Department, (2) has submitted responses to the Department's requests timely and in the form requested, (3) did not significantly impede the review, and (4) provided information that was largely verifiable.

Comment 7

Petitioners claim that Saha Thai's questionnaire responses and other data indicate that the contract date should be used as the date of U.S. sales. Petitioners claim that Saha Thai did not provide any of the requested factual information about changes in quantity after the contract date. Instead, petitioners assert that Saha Thai insisted upon using invoice date as the date of sale, claiming that the Department requires invoice date in all or most instances, that the company records sales based on invoice date, and that a change in date of sale methodology from review to review would result in either the double-reporting or omission of certain sales.

Second, petitioners assert that the contract establishes the final agreement of the parties to the sale. Petitioners cite the 1995–1996 review of *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,* 62 FR 64559 (Dec. 8, 1997) (*Pipe from Korea*), where based on an understanding of the U.S. sales process, in which price and quantity are established at contract date, the Department instructed the respondent to report contract date as the date of sale. Petitioners contend that the Final Regulations allow flexibility in using a date other than the invoice date as date of sale; the appropriate date of sale occurs when the material terms of sale are set. Petitioners assert that Saha Thai has offered both the wrong factual and legal arguments for its choice in date of sale.

According to the petitioners, as a consequence of an incorrect date of sale, (1) a different set of sales will be evaluated, (2) in a country subject to currency devaluation or inflation, the sale's value may be distorted, and (3) incorrect dates lead to incorrect matching, all of which ultimately distorts the antidumping duty margin. Thus, petitioners argue that because Saha Thai did not provide the contract dates as requested, the Department should find in its final results that Saha Thai has significantly impeded the investigation and use the facts available to determine Saha Thai's dumping margin. If the Department does not use facts available, petitioners argue that the U.S. date of sale should be corrected on the basis of non-adverse facts available, *i.e.,* based on the difference between reported contract and invoice dates provided in Saha Thai's questionnaire responses. Petitioners propose an additional method, calculating the interval between the letter of credit date and the invoice date to derive a weighted-average interval for the number of days between contract and invoice.

Saha Thai responds that the Department correctly used invoice date as the date of sale. Saha Thai states that the Department's policy clearly called for the use of invoice date as date of sale, since the invoice date is the date on which the final quantity and price were established. Saha Thai defends its reporting methodology, stating that upon issuance of the questionnaire, Saha Thai contacted the official in charge. Following the methodology set forth in the Final Regulations, Saha Thai used invoice date as the date of sale. Saha Thai notes that the Department's regulations, 351.401(i), express a preference for the use of invoice date as the sale date based on commercial reality. Saha Thai contends that there is no date which better reflects the final terms of sale than the invoice date, the date which, as verified, is recorded in Saha Thai's records maintained in the ordinary course of business. Saha Thai states that only by reference to the invoice can one see the quantities which were the subject of the sale.

Saha Thai distinguishes this review from *Pipe from Korea,* where the exporter's U.S. prices and quantities were seldom revised prior to invoicing. Saha Thai further notes that the decision in the Korean case did not depend on the existence of ''tolerance'' levels in the contracts. Saha Thai also cites *Certain Stainless Steel Wire Rod from India,* 62 FR 38976, 38979 (July 21, 1997), where the Department used invoice date due to changes in quantity between the purchase order date and shipment dates. Finally, Saha Thai argues that the Department uses a date other than invoice date only when there are compelling reasons to deviate from this practice, citing *Cold Rolled and Corrosion Resistant-Carbon Steel Flat Products from Korea,* 63 FR 13170, 13194 (March 18, 1998). Saha Thai asserts that there is no compelling reason in this review to deviate from the Department's standard practice of using invoice date as date of sale.

Moreover, Saha Thai claims that because it accurately reported invoice date as the date of sale, application of facts available is entirely unwarranted. Saha Thai notes that petitioners did not take issue with Saha Thai's assertion that quantity was subject to change from contract to invoice date until the end of this proceeding. Saha Thai also claims that it never once refused to provide information requested by the Department. Saha Thai notes that the Department did not make an absolute and specific demand that Saha Thai report its contract dates. Saha Thai further states that petitioners never suggested that Saha Thai revise its sales listing. Saha Thai claims that moving the sale date this late in the proceeding unfairly penalizes Saha Thai by increasing the possibility that sales will be matched to constructed value. Saha Thai claims that it was fully cooperative with the Department and went to great lengths to provide the information requested, and thus did not impede the Department's investigation.

Department's Position

The Department's current practice, as codified in the Final Regulations at section 351.401(i), is to use invoice date as the date of sale unless the record evidence demonstrates that the material terms of sale, *i.e.,* price and quantity, are

established on a different date. See 19 CFR 351.401(i), 62 FR at 27411; *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 63 FR 32833, 32835–36 (June 16, 1998). In this review, Saha Thai reported invoice date as the date of sale in response to the Department's initial questionnaire. June 2, 1997 QR at 3. To ascertain whether Saha Thai accurately reported the date of sale, we requested additional information concerning whether prices and quantities were fixed on a different date. Saha Thai reported that it generally enters into short-term contracts that establish price but quantities often change and are not finally established in any written document prior to the issuance of the invoice at the time shipment is arranged. July 30, 1997 QR at 18. Saha Thai also stated that the invoice date is recorded in its records kept in the ordinary course of business, whereas dates of contract and related dates are not so maintained. *Id.* at 19.

The Department verified that Saha Thai records sales in its financial records by date of invoice. Verification Report at 17. We also discussed Saha Thai's export sales process with the company's export sales manager. As described in the Verification Report, Saha Thai negotiates price and quantity, a contract is signed and a letter of credit is arranged. At that point, a production order is issued to the mill and delivery department, and the sales invoice is issued just prior to shipping. *Id.* Based on verification and other information on the record, the Department was satisfied that invoice date was the appropriate date of sale for Saha Thai's U.S. sales, and we used this date in the preliminary results.

Petitioners' claim that the contract date fixes prices and quantities is not supported by the record evidence. We examined the sample contract and invoices supplied by Saha Thai, and this information demonstrates that quantities were not fixed in the contract. (Due to the proprietary nature of this information, details of our analysis are contained in the proprietary version of the Memorandum to File from John Totaro, dated October 5, 1998). While we agree with petitioners that changes consistent with the tolerance level established in the contract may establish a binding agreement on quantity at the contract date, our analysis of the sample contract and corresponding invoices reveals that changes frequently were made beyond the agreed upon tolerance levels. Where such changes occur frequently after the contract date, we have relied upon a later date. *See Certain Internal-Combustion Industrial Forklift Trucks from Japan; Final Results of Antidumping Duty Administrative Review,* 62 FR 34216, 34227 (June 25, 1997); *Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Administrative Review,* 62 FR 48592, 48593 (Sept. 16, 1997). Consistent with this practice, we find that the record evidence in this case supports using invoice date as the date of sale.

The facts in *Pipe from Korea* are distinguishable from those presented in this review. In that case, the Department was satisfied that invoice date was inappropriate because ''the material terms of sale in the U.S. are set on the contract date and any subsequent changes are usually immaterial in nature or, if material, rarely occur.'' *Pipe from Korea,* 63 FR at 32836. However, as discussed above, we have determined that the record evidence in this case supports Saha Thai's assertions that its contracts do not fix quantity, and that quantity is not established until invoice date. Therefore, given that quantity can and regularly does change between contract date and invoice date, we find that the invoice date better reflects the date on which the essential terms of the sale are established. We also find that Saha Thai accurately reported the appropriate date of sale; therefore, application of facts available is unwarranted.

Comment 8

Petitioners argue that the Department should reduce Saha Thai's claimed duty drawback adjustment using the actual/ theoretical weight conversion. Petitioners state that Saha Thai purchases hot-rolled sheet in coils on an actual weight basis, and that customs duties on its purchases are applied on the same basis. However, the sales of subject merchandise on which duty drawback is granted are made on a theoretical weight basis. Thus, claim petitioners, the drawback received per unit of pipe exported exceeds the duties paid on the coil included in that unit of pipe by the ratio of one minus the actual/ theoretical weight conversion factor. Petitioners cite *Certain Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Administrative Review,* 62 FR 55574, 55577 (Oct. 27, 1997) in support of their argument.

Petitioners argue that as in the first administrative review on standard pipe from Korea, the adjustment for duty drawback for Saha Thai should be reduced by multiplying the drawback amount by the actual/theoretical conversion factor whenever the conversion factor is less than one. Petitioners claim that this will limit the drawback to the duties paid on material actually incorporated into the exported product as required by the statute and precedent.

Saha Thai responds that petitioners' interpretation is incorrect and based on a misrepresentation of the Department's determination in *Certain Welded Non-Alloy Steel pipe from the Republic of Korea.* Saha Thai claims that there is a direct correlation, transaction-by-transaction, between the drawback received and the duties actually paid on the inputs of the exported product. Saha Thai claims that petitioners' reference to the *Korean Pipe* case is erroneous, because in the Korean case respondents received drawback under a fixed rate refund, whereas Saha Thai based drawback on a transaction-by-transaction calculation of duties actually paid on the inputs exported in the finished product. Saha Thai further states that the Department verified that Saha Thai paid the duties for which it received drawback and, with slight modification to certain clerical errors, accurately quantified drawback in its response.

Department's Position

The information on the record indicates that Saha Thai accurately calculated duty drawback based on the amount of duties actually paid and received by Saha Thai. The Department in *Certain Welded Non-Alloy Steel Pipe from the Republic of Korea* examined two different types of duty drawback calculations,

> ''fixed-rate'' duty drawback provision and . . . ''individual-transaction'' duty-drawback provision. We found that, when respondents received duty drawback under the individual-transaction duty drawback provision, companies received duty drawback based on the duties actually paid on the input of the exported product. . . . We also found that companies receiving duty drawback under the fixed-rate provision paid duties on the basis of the actual weight of inputs imported but received drawback on the basis of the theoretical weight of merchandise exported to the United States. Because theoretical weight is generally greater than actual weight, fixed-rate drawback calculated on a theoretical-weight basis is greater than that calculated on an actual-weight basis. Therefore we conclude that the reported duty drawback of respondents who received the drawback under the fixed-rate provision exceeds the duties actually paid.

62 FR 55574 at 55577 (Oct. 27, 1997).

In the instant review, Saha Thai's duty drawback calculation does not resemble the ''fixed-rate'' methodology alluded to by petitioners in the *Korean*

Pipe case, wherein the duty paid on imported coil differed from the duty drawback received on exports incorporating that coil due to quantities calculated on actual versus theoretical weight. We examined the record of this review and have determined that Saha Thai has correctly calculated its duty drawback adjustment because the duty drawback Saha Thai received from Thai customs authorities was equal to, and not in excess of, the amount of duty paid. In its July 30, 1997 supplemental questionnaire response at Exhibit 11–2, Saha Thai submitted the documentation generated by Thai customs which lists Saha Thai's ''Duty Drawback classified by Export Entry,'' indicating the amount of duty drawback paid to Saha Thai for a group of export sales, as well as the ''Duty Drawback Classified by Import Entry,'' indicating the actual duties Saha Thai paid on imports of coil. These documents show that the amount of duties paid by Saha Thai on imported coil equals the amount of duty drawback received by Saha Thai from Thai customs on exports of pipe. Saha Thai allocated this drawback amount over the total quantity of export sales. Thus, we find, based on the facts on the record, that Saha Thai has not overstated its duty drawback claims.

In addition, the Department verified Saha Thai's duty drawback calculation (see Saha Thai Verification Report at 28, and exhibit C6). With the exception of several minor clerical errors noted at verification, the Department was satisfied with Saha Thai's calculations. Therefore for purposes of these final results, the Department will continue to adjust U.S. price by the amount of duty drawback calculated by Saha Thai.

Comment 9

Petitioners claim that the Department made a ministerial error in the preliminary results margin calculation by limiting the price-to-price analysis to sales with entries during the POR. Petitioners argue that while antidumping duties are assessed against entries that were made during the POR, the Department bases margin calculations on sales during the POR, citing *Silicon Metal from Brazil*, 61 FR 46763, 46765 (Sept. 5, 1996).

Saha Thai responds that date filters should be tied to entry date in accordance with standard Department practice. Saha Thai argues that the cases cited by petitioners involve situations where sales in addition to those entered during the POR are included in the database because respondents were unable to tie sales to entries. Saha Thai points out that it was able to tie all sales to entry dates, and reported only sales entered during the POR, as instructed by the Department.

Department's Position

We agree with Saha Thai that the Department correctly calculated the dumping margin using all sales of merchandise entered during the POR. The Department's standard questionnaire instructed Saha Thai to report U.S. sales based on entry date during the POR, and we verified that Saha Thai accurately reported all sales with entry dates during the POR. *See* Saha Thai Verification Report at 21. As the Department stated in a recent case, the Department's preference is to base an administrative review on entries during the period of review. *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Administrative Review*, 63 FR 32833, 32836 (June 16, 1998). *See also Ferrosilicon from Brazil; Final Results of Antidumping Administrative Review*, 62 FR 43504, 43510 (Aug. 14, 1997). As the Department stated in *Korean Pipe*, section 751(a)(2)(A) of the Act states that a dumping calculation should be performed for each entry during the POR. Although the Department's regulations at section 351.213(e) provide some flexibility in this issue, the Department's preference is to review sales based on entry dates unless there are compelling circumstances that warrant a different approach to determining the universe of sales to be examined during a particular review. *See Korean Pipe*, 63 FR at 32836. There is no record evidence of such compelling circumstances in this review. Therefore, we have continued to use sales with entries during the period of review, as reported by Saha Thai, for purposes of these final results.

Comment 10

Saha Thai argues that if the Department continues to include reseller sales in the database, the Department should use the actual reseller sales quantities to calculate normal value. Saha Thai states that the resellers do not identify pipes held in inventory by producer, and thus do not identify the producer of the pipes they sell. The resellers' sales files include all sales of those products sold by Saha Thai to each reseller. In addition, the resellers' monthly average price for each product represents the monthly average price for all producers, including Saha Thai. Saha Thai claims that the replacement of the actual quantities of sales in each month made by each reseller with the Department's calculated simple monthly average of quantities sold by Saha Thai to the resellers has distorted the results of the antidumping calculations. Saha Thai claims that this methodology created the two highest dumping amounts for all U.S. transactions. Saha Thai further claims that the use of actual reseller sales quantities creates no distortion, as the resellers sold the pipe at the same price, regardless of manufacturer.

Petitioners argue that the Department appropriately used average sales quantities sold by Saha Thai to the resellers. Petitioners suggest that the Department's choice to use non-adverse facts available was not arbitrary, as claimed by Saha Thai, but rather the only accurate tabulation of Saha Thai's pipe sales quantities that the Department could verify. Petitioners further state that the average sales quantities chosen by the Department were more, not less, probative of actual conditions, because the Department verified actual sales quantities of Saha Thai pipe. Petitioners note that the Department is accorded ''considerable deference'' in determining what constitutes the appropriate facts available, referring to *Allied-Signal Aerospace Co.* v. *United States*, 996 F 2d 1185 at 1190 (Fed. Cir. 1993).

Department's Position

Because the resellers' sales data did not identify sales by producer, we were unable to segregate the resellers' sales of Saha Thai pipe. As a substitute, we determined a simple average by model of the monthly quantities sold by Saha Thai to the resellers. These simple average quantities were then used to weight average the reseller home market normal value for all reseller sales with the Saha Thai home market sales in order to calculate the normal value. *See Memorandum to File from Dorothy Woster*, March 31, 1998 (preliminary results analysis memorandum).

Saha Thai proposes including the actual quantities of subject pipe sold by the resellers to calculate the margin, but these sales include pipe manufactured by other manufacturers. Using the resellers' complete sales databases would be contrary to the statutory directive that the Department calculate normal value based on sales of foreign like product. *See*, section 773(B)(i) of the Act. The foreign like product is merchandise manufactured by the same person that produced the subject merchandise sold to the United States. *See* section 771(16) of the Act. The statute indicates that, for the purposes of our antidumping analysis, sales of merchandise produced by manufacturers other than the manufacturer of the merchandise sold to the United States are not appropriate

bases for the calculation of normal value.

Therefore, in other cases where a reseller's sales database contains sales of merchandise produced by other manufacturers, the Department used a weighting methodology that permits us to use the sales listing while neutralizing the effect of sales of other producers' merchandise. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden: Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 18502, 18503 (Sept. 19, 1995), and *Certain Cut-to-Length Carbon Steel Plate from Sweden: Final Results of Antidumping Duty Administrative Review*, 61 FR 15772 (April 9, 1996); *Stainless Steel Bar from Spain; Final Determination of Sales at Less than Fair Value*, 59 FR 66931, 66936 (Dec. 28, 1994).

Under the circumstances presented in this review, using a weight averaging methodology based on the facts on the record (Saha Thai's verified sales quantities to the resellers, *see* Saha Thai Verification Report at 15 and 16) is a reasonable approach that addresses the intent of the statute that normal value be based on sales of subject merchandise manufactured by the producer of subject merchandise sold to the United States. Therefore, for purposes of these final results, we have continued to use the simple average by model of the monthly quantities sold by Saha Thai to the resellers.

Comment 11

Petitioners argue that interest costs on coil inputs should be treated as a cost of manufacturing, as opposed to G&A costs, in accordance with Saha Thai's internal cost accounting procedures and generally accepted accounting principles in Thailand. Petitioners note that Saha Thai's practice of deducting these interest costs from the cost of coil and transferring them to G&A is consistent with the Department's treatment of these costs in the original investigation and previous reviews. However, petitioners claim that in accordance with an amendment to the statute at section 773(f)(1)(A) of the Act, these interest costs must be treated in the same manner as Saha Thai treats them internally. Petitioners argue that there is a presumption that the Department shall use the respondent's normal cost allocations based on how they are kept in its records, unless they are determined to be unreasonable and distortive of the dumping margin. Moreover, argue petitioners, these interest costs are directly attributable to the acquisition of hot-rolled coil inventories. For these reasons, petitioners contend that interest costs on coil inputs should be treated as a cost of manufacturing.

Saha Thai responds that interest costs on coil inputs should be treated as they always have in this proceeding and according to standard Department practice. Saha Thai claims that the Department treats finance expenses as fungible business expenses, citing *Silicon Metal from Brazil*, 61 FR 46,763, 46,773 (Sept. 5, 1996) and *Tapered Roller Bearings from China*, 62 FR 6189, 6201 (Feb. 11, 1997). Saha Thai contends that such expenses were treated as a general expense of operating the company in previous reviews, and that nothing in the revisions to the antidumping law requires a change. Saha Thai stated that for purposes of the cost questionnaire response it transferred the coil finance costs from the purchases account to its reported selling, general (including financing expense) and administrative expense calculations.

Department's Position

We disagree with petitioners that interest costs on coil inputs should be treated as a cost of manufacturing, as opposed to G&A costs. As we explained in less than fair value determination, the Department considers ''the financing expense of assets, long-term or short-term, to be fungible and, therefore, a general expense of operating the company.'' *Circular Welded Carbon Steel Pipes and Tubes from Thailand; Final Determination of Sales at Less than Fair Value*, 51 FR 3384, 3386 (Jan. 27, 1986). *See also Titanium Sponge from Japan; Final Results of Antidumping Administrative Review*, 55 FR 42227 (Oct. 18, 1990). In its July 30, 1997 supplemental questionnaire response at 27, Saha Thai stated that, ''the finance charge is based upon payment terms.'' Saha Thai provided further detail in its October 31, 1997, second supplemental questionnaire response: ''[t]he expense clearly is an interest cost directly associated with Saha Thai's extended accounts payable on purchases of coil. If Saha Thai did not receive financing from its coil suppliers, it would have to borrow from banks to pay them at an earlier date.'' Thus, by incurring these interest costs, Saha Thai made a deliberate decision to delay payment of its payables (in effect borrowing money from its suppliers). Section 773(f)(1)(A) states that costs shall normally be calculated based on the records of the respondent where those records are prepared in accordance with home country GAAP and reasonably reflect the cost of producing the merchandise. While Saha Thai records these types of expenses as cost of manufacturing in its normal books and records which are prepared in accordance with GAAP of Thailand, our longstanding practice has been to treat these types of interest costs as general expenses and we find no basis to alter this approach in these final results. Therefore, the Department will continue to classify these interest costs on coil inputs as a financing expense, and continue to include these costs in our calculation as reported by Saha Thai.

Final Results of the Review

As a result of this review, we have determined that the following weighted-average dumping margin exists for the period March 1, 1996, through February 28, 1997:

Manufacturer/Exporter	Period	Margin (percent)
Saha Thai ..	3/1/96–2/28/97	1.92

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service. For assessment purposes, we have calculated importer-specific duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total entered value of sales examined during the POR. As a result of this review, we have determined that the importer-specific duty assessments rates are necessary.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of review for all shipments of certain welded carbon steel pipes and tubes from Thailand, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be the rate stated above; (2) for previously 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 these reviews, or the original LTFV investigations, 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 these reviews, the cash

deposit rate for this case will continue to be 15.67 percent, the ''All Others'' rate made effective by the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: October 5, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–27876 Filed 10–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On August 26, 1998 the binational panel issued its decision in the review of the final injury determination made by the Canadian International Trade Tribunal, in the material injury investigation respecting Concrete Panels, Reinforced with Fiberglass Mesh, Originating in or Exported from the United States of America, NAFTA Secretariat File Number CDA–97–1904–01. The panel affirmed the final determination in all respects. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

BACKGROUND: On July 21, 1997 Custom Building Products, Inc. filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final injury determination made by the Canadian International Trade Tribunal, in the material injury investigation respecting Concrete Panels, Reinforced with Fiberglass Mesh, Originating in or Exported from the United States of America. This determination was published in the *Canada Gazette, Part I, Vol. 13, No. 28, page 1957–58* on July 12, 1997. The NAFTA Secretariat assigned Case Number CDA–97–1904–01 to this request. The panel reviewed the complaints, briefs and other documents and heard oral argument in this matter.

PANEL DECISION: The panel affirmed the final determination of the CITT on all five issues raised by the complainants in their briefs.

Dated: August 28, 1998.

James R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 98–27842 Filed 10–15–98; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision (ROD) on the Final Environmental Impact Statement (FEIS) for the Disposal and Reuse of the Evans Subpost, Fort Monmouth, New Jersey

AGENCY: Department of the Army, DoD.

ACTION: Record of Decision.

SUMMARY: The Department of the Army is announcing the Record of Decision (ROD) on the Final Environmental Impact Statement (FEIS) for the disposal and reuse of the Evans Subpost, in accordance with the Defense Base Closure and Realignment Act of 1990, Pub. L. 101–510, as amended.

ADDRESSES: A copy of the ROD may be obtained by writing to Mrs. Shirley Vance, U.S. Army Materiel Command, ATTN: AMCSO, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Vance, U.S. Army Materiel Command, at (703) 617–8172.

SUPPLEMENTARY INFORMATION: Under the Act, the Secretary of the Army has been delegated the authority to dispose of excess real property and facilities located at a military installation being closed and realigned. The Army is required to comply with the National Environmental Policy Act during the process of property disposal and must prepare appropriate analyses of the impacts of disposal and, indirectly, of reuse of the property on the environment. The ROD and the FEIS satisfy requirements of the law to examine the environmental impacts of disposal and reuse of the Evans Subpost, Ft. Monmouth.

The Army has three alternatives to consider: encumbered disposal, unencumbered disposal, and no action (caretaker status). An encumbrance is any Army imposed or legal constraint on the future use or development of the property. Unencumbered disposal would involve transfer or conveyance of the property to be disposed of with fewer Army imposed restrictions on future use. The no action or caretaker status alternative would result in the Army retaining the property indefinitely.

In the ROD, the Army concludes that the FEIS adequately addresses the

impacts of property disposal and documents its decision to transfer the property with encumbrances. The ROD concludes that the 215-acre property will be conveyed subject to notices and restrictions (identified in the FEIS) relating to remediation and radiological decommissioning activities, natural resources, cultural resources, and the protection of human health and the environment. Additionally, mitigation measures for reuse activities are identified in the FEIS, which future owners may employ to avoid, reduce, or compensate for adverse impacts that might occur as a result of disposal.

Copies of the Final EIS may be obtained by writing to Dr. Susan Rees, U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–EC, 109 St. Joseph Street, Mobile, Alabama 36628–0001, or by telephone at (334) 694–4141 or telefax at (334) 690–2721.

Dated: October 9, 1998.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 98–27787 Filed 10–15–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–715–000]

Arizona Public Service Company; Notice of Filing

October 9, 1998.

Take notice that on September 11, 1997, Arizona Public Service Company tendered for filing an amendment in the above-referenced docket.

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 October 20, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27776 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–35–000]

Boston Edison Company; Notice of Filing

October 9, 1998.

Take notice that on October 2, 1998, Boston Edison Company (Boston Edison), tendered for filing a wholesale restructuring filing which includes fuel adjustment clause and stranded cost revisions to the wholesale contracts with Town of Braintree Electric Light Department under Rate Schedule FERC No. 179, Concord Municipal Light Department under Rate Schedule FERC No. 169, Reading Municipal Light Department under Rate Schedule FERC No. 168, and Town of Wellesley Municipal Light Department under Rate Schedule FERC No. 167.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before October 22, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27775 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–113–004]

Colorado Interstate Gas Company; Notice of Tariff Compliance Filing

October 9, 1998.

Take notice that on October 6, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the Tariff sheets listed in Appendix A to the filing, to be effective October 1, 1998.

CIG states that the purpose of this filing is to comply with the order that issued on September 29, 1998 in Docket No. RP98–113–003 (Order). CIG states these tariff sheets reflect the requirements of the Order and approved settlement relating to gas quality controls associated with volumes which are delivered on CIG's so called Valley Line.

CIG further states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27769 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–426–001]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 9, 1998.

Take notice that on October 6, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second

Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of November 2, 1998:

Substitute Third Revised Sheet No. 265
Substitute Fourth Revised Sheet No. 266
Substitute Second Revised Sheet No. 267

Columbia states that on September 30, 1998, they filed with the Commission tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, submitted pursuant to the Commission's Order issued July 15, 1998 in Docket No. RM96–1–008 (Order 587–H), Standards for Business Practices of Interstate Natural Gas Pipelines. By Letter Order issued October 2, 1998, Columbia was directed to correct formatting errors that were encountered on the electronic diskette that was submitted with the September 30, 1998 filing, and to furnish the Commission with a revised diskette. In order to correct these formatting errors, Columbia has had to re-paginate the tariff sheets. The above referenced sheets correct these formatting errors as directed by the Commission.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27770 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–79–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 9, 1998.

Take notice that on October 7, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective November 2, 1998:

Fourth Revised Sheet No. 216
Fourth Revised Sheet No. 217
Third Revised Sheet No. 218
Fourth Revised Sheet No. 219
First Revised Sheet No. 219A
Original Sheet No. 219B
Third Revised Sheet No. 269

Equitrans states that the purpose of this filing is to comply with the Commission's Order No. 587–H issued on July 15, 1998, the Docket No. RM96–1–008 adopting new and revised standards promulgated by the Gas Industry Standards Board (GISB). These standards require interstate natural gas pipelines to follow certain new and revised business practice procedures for intra-day nominations. The Commission directed pipelines to make a filing to implement the standards relating to intra-day nominations to be effective by November 2, 1998. Equitrans is making this filing in compliance with the Commission's Order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

FR Doc. 98–27771 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–25–001]

Mississippi River Transmission Corporation; Notice of Tariff Filing

October 9, 1998.

Take notice that on October 6, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to be effective November 1, 1998.

Substitute Thirty Second Revised Sheet No. 6

MRT states that due to typographical error on MRTs filed rate sheet in Docket No. RP98–423, filed September 30, 1998,and the subsequent use of such tariff sheet in above proceeding, Docket No. TM99–1–25–000, filed on October 1, 1998, (MRT's Fuel Adjustment Filing), MRT is making the filing to correct and supplement the October 1st filing.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27772 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–554–001]

Northwest Pipeline Corporation; Notice of Amended Application

October 9, 1998.

Take notice that on October 2, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP98–554–001 an amendment to its application filed May 15, 1998, pursuant to Section 7(c) of the Natural Gas Act for authorization to revise the facility requirements and update the associated costs and rates for its proposed Columbia River Gorge Expansion Project, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Northwest proposes not install the new compressor cylinder unloader pockets at the Washougal Compressor Station, as originally

proposed, and to revise the original cost estimate from $17,029,000 to an approximate estimate of $18,567,000. All other segments of the original proposal would not change.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 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 Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27773 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–807–000]

Panhandle Eastern Pipe Line Company; Notice of Application

October 9, 1998.

Take notice that on September 29, 1998, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP98–807–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its undivided 32.387% interest in certain compressor facilities located in Alfalfa and Major Counties, Oklahoma by assignment to Western Gas Resources (Western), all as more fully set forth in the application on file with the Commission and open to public inspection.

Panhandle states that the facilities are currently operated by Western and that the requested abandonment will have no adverse affect on service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 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 Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that 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 Panhandle Eastern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27763 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2233–000]

Portland General Electric Company, Portland, OR; Smurfit Newsprint Corporation, Oregon City, OR; Notice of Portland General Electric Company and Smurfit Newsprint Corporation's Request To Use Alternative Procedures in Filing a License Application

October 9, 1998.

By letter dated September 1, 1998, Portland General Electric Company (PGE) of Portland, Oregon, and Smurfit Newsprint Corporation of Oregon City, Oregon, co-licensee, have asked to use an alternative procedure in filing an application for a new license for their Willamette Falls Project No. 2233.[1] PGE, acting on behalf of itself and Smurfit, has demonstrated that they have made a reasonable effort to contact the resource agencies, Indian tribes, non-governmental organizations (NGOs), and others who may be affected by their proposal, and has submitted a communication protocol governing how participants in the proposed process may communicate with each other. PGE has also submitted evidence of support for their proposal, and it appears that a consensus exists that the use of an alternative procedure is appropriate in this case.

The purpose of this notice is to invite any additional comments on PGE's request to use the alternative procedure, as required under the final rule for Regulations for the Licensing of Hydroelectric Projects.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedure being requested here combines the prefiling

[1] The project consists of an 8-foot-high dam along the crest of Williamette Falls on the Willamette River. PG&E operates the 16-megawatt T.W. Sullivan powerhouse, located on the west side of the falls. Co-licensee, Smurfit Newsprint Corporation, operates a 1.5-megawatt powerhouse on the east side of the falls. The project is not located on any Federal land.

[2] 81 FERC 61,103 (1997).

consultation process with the environmental review process, allowing the applicant to file an Applicant-Prepared Environmental Assessment (APEA) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedure is intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants. The alternative procedure can be tailored to the particular project under consideration.

APEA Process and the Williamette Falls Project Schedule

PGE has begun working collaboratively with the various interested entities to identify issues that will need to be addressed and studies that will need to be conducted in relicensing the project. An initial information package will be disseminated to all interested parties in December 1998. Site visits of the project will be conducted in March 1999. Identification of issues and issuance of Scoping Document 1 will occur in December 1999. A Public Scoping Meeting will be held January 2000. Notice of the scoping meeting will be published at least 30 days prior to the meeting.

Studies will be conducted beginning April 1999, and continue through 2001. Opportunities for requesting additional studies will be noticed at least 30 days prior to any study request deadline. A draft license application with preliminary APEA would be distributed for comment in December 2001. The final license application and APEA must be filed with the Commission on or before December 31, 2002, two years before the expiration date on the existing license. A more detailed schedule and project description was distributed by PGE on September 1, 1998, to all parties expressing interest in the proceeding. Copies of the schedule and project description may be obtained from Portland General Electric, Hydro Licensing and Water Rights Office, 121 S.W. Salmon Street, Portland, OR 97204.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on PGE's proposal to use the alternative procedures to file an application for the Williamette Falls Hydroelectric Project.

Filing Requirements

Any comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedure,'' and include the project name and number (Williamette Falls Hydroelectric Project No. 2233). For further information, please contact John Blair at (202) 219–2845.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27768 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–8–000]

Raton Gas Transmission Company; Notice of Application

October 9, 1998.

Take notice that on October 7, 1998, Raton Gas Transmission Company (Raton), 835 Stacy Road, Fairfax, Texas 75069, filed an application pursuant to Section 7(c) of the Natural Gas Act for authorization to change the shippers receiving its transportation services and implement modifying the transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Raton states that currently it provides transportation service under Section 7(c) of the Natural Gas Act for two shippers, Raton Natural Gas Company (Raton Natural), a local distribution company, and Natural Gas Processing Company (NGP), a successor to Associated Natural Gas, Inc., Pan Energy Field Services and Duke Energy Field Services, which in turn served the municipal systems of City of Las Vegas, New Mexico, Town of Springer, New Mexico and Village of Maxwell, New Mexico. It is indicated that NGP intends to file an application with the New Mexico Public Utility Commission to become an open-access transporter and thereby become a Hinshaw pipeline under Section 1(c) of the Natural Gas Act. Raton indicates that, as a result of this action by NGP, the shippers over Raton's system may be the LDC's serving Las Vegas, Springer, Maxwell, or NGP, acting on behalf of those LDC's, and Raton Natural Gas Company, or any agent or successor.

Raton indicates that currently it is eligible to receive no-notice service from its upstream supplier, Colorado Interstate Gas Company (CIG). Raton also states that it requested CIG to offer its no-notice service directly to the four LDC's, but, under CIG's tariff, off-system customers are not eligible to receive no-notice service from CIG. It is stated that only Raton, as a small connected customer, is eligible to contract for CIG no-notice service.

Therefore, Raton states that, to achieve the Commission's policy objective that some form of no-notice service should be made available to all small LDC's, it entered into a package of service agreements with CIG to meet the total needs of the four LDC's: (1) TF–1, a sculptured firm transportation service providing flowing volumes of gas at winter level, shoulder month level, and summer demand level, (2) NNT–1 service which allows the customer to withdraw gas from storage during the winter period at widely varying volumes without incurring penalties, and (3) a supplemental TF–1 service allowing customers to secure volumes of gas during the spring-summer-fall period for transportation to storage in CIG's storage fields at a discounted transportation rate. It is also stated that its service agreements within CIG extend to April 30, 2000, and the volumes required to provide NOT service for the period from October 1, 1998, through April 30, 1999, have already been purchased and placed into storage.

Raton indicates that it considered filing for a Part 284 blanket certificate to implement the required changes in service but, in its view, the administrative burden and expense precluded it from seeking such a blanket certificate.

Raton now proposes to allocate its tariff charges, including a pass-through of the CIG charges to, the four LDC's. It is also indicated that, prior to April 30, 2000, if any or all of the LDC's elect to terminate some or all of the CIG package of no-notice services, they may authorize Raton to release that share of the reserved NNT service. It is also indicated that, by electing to terminate their share of the NNT service, the LDC, or its designated agent, agrees to accept the corresponding share of TF capacity from Raton. Also, it is stated that, for periods after April 30, 2000, the LDC's must notify Raton of the quantities and types of transportation services that they

will require, identifying their shipping agents, if necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the issuance of certificate authorization and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Raton to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27765 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–4–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

October 9, 1998.

Take notice that on October 2, 1998, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–4–000 a request pursuant to Sections 157.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization to replace the meter setting and appurtenant facilities serving Kansas Gas Service Company, a division of ONEOK, Inc. (Kansas Gas) at the Ritchie Asphalt town border, located in Sedgwick County, Kansas, under Williams' blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7(c) 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.

Williams proposes to abandon by reclaim a single run meter setting and appurtenant facilities at the Ritchie Asphalt town border and replace them with a dual 4-inch meter setting and appurtenant facilities at the same location in the Southeast Quarter of Section 29, Township 26 South, Range 2 East, Sedgwick County, Kansas. Williams states that the setting was originally installed as an additional town border delivery to Kansas Gas in 1983.

Williams declares that the existing meter setting is operating at the high end of its capacity causing it to fail frequently and causing increased system loss. Williams asserts that replacing the meter setting will enable them to provide efficient, reliable service in this area, which is also forecast for continued growth. Williams states that the project cost is estimated to be approximately $65,000, which will be paid by Williams.

Williams states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27764 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–1–000, et al.]

Bear Swamp Generating Trust No. 1, et al.; Electric Rate and Corporate Regulation Filings

October 5, 1998.

Take notice that the following filings have been made with the Commission:

1. Bear Swamp Generating Trust No. 1

[Docket No. EG99–1–000]

Take notice that on October 1, 1998, Bear Swamp Generating Trust No. 1 (Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant is a business trust created pursuant to Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code § 3801 *et seq.*, which has been formed to purchase an undivided interest in the Bear Swamp Facility, an approximately 597 megawatt (MW) fully automated pumped storage electric power generating facility on the Deerfield River in the towns of Rowe and Florida, Massachusetts.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Bear Swamp Generating Trust No. 2

[Docket No. EG99–2–000]

Take notice that on October 1, 1998, Bear Swamp Generating Trust No. 2 (Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant is a business trust created pursuant to Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code § 3801 *et seq.*, which has been formed to purchase an undivided interest in the Bear Swamp Facility, an approximately 597 megawatt (MW) fully automated pumped storage electric power generating facility on the Deerfield River in the towns of Rowe and Florida, Massachusetts.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Bear Swamp Generating Trust No. 3

[Docket No. EG99–3–000]

Take notice that on October 1, 1998, Bear Swamp Generating Trust No. 3 (Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant is a business trust created pursuant to Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code § 3801 *et seq.*, which has been formed to purchase an undivided interest in the Bear Swamp Facility, an approximately 597 megawatt (MW) fully automated pumped storage electric power generating facility on the Deerfield River in the towns of Rowe and Florida, Massachusetts.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Bear Swamp III LLC

[Docket No. EG99–4–000]

Take notice that on October 1, 1998, Bear Swamp III LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission'S Regulations.

The Applicant is the beneficial owner of Bear Swamp Generating Trust No. 3, a Delaware business trust created to purchase an undivided interest in the Bear Swamp Facility, an approximately 597 megawatt (MW) fully automated pumped storage electric power generating facility on the Deerfield River in the towns of Rowe and Florida, Massachusetts.

Comment date: October 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER98–4690–000]

Take notice that on September 30, 1998, New England Power Company (NEP), tendered for filing an Amendment to its FERC Rate Schedule No. 382, NEP's Unit Power Contract with UNITIL Power Corporation.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER98–4691–000]

Take notice that on September 30, 1998, New England Power Company (NEP), tendered for filing a Service Agreement with TransCanada Power Marketing, Ltd., for service under NEP's FERC Electric Tariff, Original Volume No. 10.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. The Washington Water Power Company

[Docket No. ER98–4692–000]

Take notice that on September 30, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission executed Service Agreement for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Clearwater Power Company.

WWP requests the Service Agreement be given the respective effective date of September 2, 1998.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Water Power Company

[Docket No. ER98–4693–000]

Take notice that on September 30, 1998, Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an unexecuted Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9, with NorAm Energy Services, Inc.

WWP requests waiver of the prior notice requirements and that the unexecuted Service Agreement be accepted for filing effective August 30, 1998.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER98–4694–000]

Take notice that on September 30, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a revised unexecuted Service Agreement under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12 with the Participants of the California Power Exchange.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER98–4695–000]

Take notice that on September 30, 1998, Southern California Edison Company (Edison), tendered for filing the Edison-Anaheim Extended Interim Scheduling Coordinator Agreement (Agreement) between Edison and the City of Anaheim (Anaheim), California. The Agreement allows Edison to serve as Anaheim's Scheduling Coordinator for a maximum three month period beginning October 1, 1998, until Anaheim is able to begin acting as its own Scheduling Coordinator.

Edison is requesting that the Agreement become effective as of October 1, 1998.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER98–4696–000]

Take notice that on September 30, 1998, Southern California Edison Company (Edison), tendered for filing the Edison-Azusa Extended Interim Scheduling Coordinator Agreement (Agreement) between Edison and the City of Azusa (Azusa), California. The Agreement allows Edison to serve as Azusa's Scheduling Coordinator for a maximum three month period beginning October 1, 1998, until Azusa is able to begin acting as its own Scheduling Coordinator.

Edison is requesting that the Agreement become effective as of October 1, 1998.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER98–4697–000]

Take notice that on September 30, 1998, Southern California Edison Company (Edison), tendered for filing the Edison-Banning Extended Interim Scheduling Coordinator Agreement (Agreement) between Edison and the City of Banning (Banning), California. The Agreement allows Edison to serve as Banning's Scheduling Coordinator for a maximum three month period beginning October 1, 1998, until

Banning is able to begin acting as its own Scheduling Coordinator.

Edison is requesting that the Agreement become effective as of October 1, 1998.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Pool

[Docket No. ER98–4698–000]

Take notice that on September 30, 1998, the New England Power Pool (NEPOOL or Pool), Executive Committee filed a request for termination of membership in NEPOOL, with an effective date of September 1, 1998, of Princeton Municipal Light Department (Princeton). Such termination is pursuant to the terms of the NEPOOL Agreement dated September 1, 1971, as amended, and previously signed by Princeton. The New England Power Pool Agreement, as amended (the NEPOOL Agreement), has been designated NEPOOL FPC No. 2.

The Executive Committee states that termination of Princeton with an effective date of September 1, 1998, would relieve this entity, at Princeton's request, of the obligations and responsibilities of Pool membership and would not change the NEPOOL Agreement in any manner, other than to remove Princeton from membership in the Pool.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Rochester Gas and Electric Corporation

[Docket No. ER98–4701–000]

Take notice that on September 30, 1998, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) Second Revised Sheet No. 64 to its Open Access Transmission Tariff, FERC Tariff Original Volume No. 2 (OAT). This filing is intended to reduce the gross receipts tax charged under the OAT in order to comply with New York State law.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of October 1, 1998.

A copy of this filing has been served on all parties to Docket No. OA96–141. In addition, the revised tariff sheet is available on RG&E's website and OASIS.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. American Energy Trading, Inc.

[Docket No. ER98–4702–000]

Take notice that on September 30, 1998, American Energy Trading, Inc., tendered for filing notice of succession relating to a change in the name from American Energy Solutions, Inc., to American Energy Trading, Inc. American Energy Trading, Inc., hereby adopts, ratifies and make its own in every respect all applicable rate schedules and supplements in Rate Schedule No. 1, heretofore filed with the Federal Energy Regulatory Commission by American Energy Solutions, Inc., effective August 31, 1998.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER98–4703–000]

Take notice that on September 30, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing each of the Service Agreements between Virginia Electric and Power Company and Northern/AES Energy, LLC and CSW Energy Services, Inc., under the FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000. Under the tendered Service Agreements, Virginia Power will provide services to Northern/AES Energy, LLC and CSW Energy Services, Inc., under the rates, terms and conditions of the applicable Service Schedules included in the Tariff.

Copies of the filing were served upon Northern/AES Energy, LLC, CSW Energy Services, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Public Service Company

[Docket No. ER98–4704–000]

Take notice that on September 30, 1998, Central Illinois Public Service Company (CIPS), tendered for filing revisions to its Rate Schedule for Full Requirements Service to Mt. Carmel Public Utility Company (Mt. Carmel). Under the revision, proposed to be effective August 1, 1998, CIPS will lower the demand charge for service to Mt. Carmel and offer a further discount under specified conditions to permit Mt. Carmel to retain large industrial loads.

CIPS requests an effective date of August 1, 1998 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served upon Mt. Carmel Public Utility Company and the Illinois Commerce Commission.

Comment date: October 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–27774 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1994–004]

Heber Light & Power Company, Utah; Notice of Availability of Draft Environmental Assessment

October 9, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Snake Creek Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA). The U.S.D.A. Forest Service cooperated with the Commission by reviewing and commenting on drafts of the DEA. The project is located on Snake Creek and partially within the Uinta National Forest, in Wasatch County, Utah. The DEA contains the staff's analysis of the

potential environment impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact Nicholas Jayjack, Environmental Coordinator, at (202) 219–2825.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27767 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–538–000]

Midwestern Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed GPC Sales Tap Project and Request for Comments on Environmental Issues

October 9, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Midwestern Gas Transmission Company's (Midwestern) proposal to construct 2.84 miles of 8-inch-diameter pipeline in Knox and Daviess Counties, Indiana; one hot tap in Knox County; and one meter station in Daviess County. The EA will also address the issues raised by other parties in the original prior notice filing.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Midwestern wants to expand the capacity of its facilities in Indiana to transport an additional 10,000 dekatherms per day of natural gas to Grain Processing Corporation (GPC). Midwestern seeks authority to construct and operate:

- One 8-inch hot tap on its existing, 30-inch-diameter 2100 Line in Knox County, Indiana;
- 2.84 miles of 8-inch-diameter pipeline (lateral) extending from the hot tap in Knox County to the GPC Plant in Daviess County, Indiana; and
- One meter station with dual 6-inch orifice meter runs and electronic gas measurement equipment on a site provided by GPC, Daviess County, Indiana.

The general location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the proposed facilities would require 36.94 acres of land. Midwestern proposes to use 100 feet for its construction right-of-way for the pipeline. The construction work area would be reduced to a 50-foot permanent right-of-way corridor through wetlands areas. Midwestern has not proposed a permanent right-of-way width for non-wetland areas.

Following construction, 0.25 acre would be maintained as new aboveground facilities. The meter station would require 0.23 acres. The hot tap facilities would require 900 square feet and would be surrounded by a 3-inch pipe cattle fence.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Air quality and noise.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section on page 4 of this notice.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on: (a) a preliminary review of the proposed facilities; (b) the environmental information provided by Midwestern; and (c) concerns raised by other commentors. This preliminary list

[1] Midwestern filed a prior notice under Section 157.211 of the Commission's regulations. It converted to a Section 7 filing due to protests filed during the comment period.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

of issues may be changed based on your comments and our analysis.

- One federally listed endangered species, the Indian Bat may occur in the proposed project area.
- Two streams and six wetlands would be crossed by the pipeline.
- A total of 7.3 acres of forested wetlands, including about 6.4 acres of bottomland forest, would be cleared for the new right-of-way.
- An alternative pipeline route has been identified by Southern Indiana Gas & Electric Company.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1
- Reference Docket No. CP98–528–000; and
- Mail your comments so that they will be received in Washington, DC on or before November 9, 1998.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file later interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27762 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–52–000]

North American Electric Reliability Council; Notice of Presentation

October 9, 1998.

Take notice that representatives of the North American Electric Reliability Council (NERC) will make a presentation to the Commission Staff. The presentation will cover the latest developments in the Security Coordinator Procedures, including developments in the Transmission Loading Relief procedures and the Capacity Deficiency Alert Procedure. The purpose of the presentation is not to discuss issues currently pending before the Commission, but to update the Staff on NERC's ongoing efforts with respect to refining these procedures.

The presentation will be made on October 29, 1998 at 10 a.m. at the Commission's offices at 888 First St., N.E., Washington, D.C. 20426. The public is invited to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27766 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5496–2]

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 October 05, 1998 Through October 09, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980403, FINAL EIS, FHW, MN, MN TH–100 Reconstruction, between Glenwood Avenue in the City of Golden Valley extending to north of 50th Avenue north in Brooklyn Center, COE Section 404 Permit, Hennepin County, MI, *Due:* November 16, 1998, *Contact:* Cheryl Martin (612) 291–6120.

EIS No. 980404, REVISED DRAFT EIS, NPS, AK, Legislative—Lower Sheejek River, Revised/Updated Information, Designation and Non-Designation for inclusion in the National Wild and Scencic River System, Tributary of the Porcupine River, Yukon Flats National Wildlife Refuge, AK, *Due:* January 15, 1998, *Contact:* Jack Mosby (907) 257–2650.

EIS No. 980405, FINAL EIS, AFS, OR, Young'n Timber Sales, Implementation, Willamette National Forest Land and Resource Management Plan, Middle Fork Ranger District, Lane County, OR, *Due:* November 16, 1998, *Contact:* Rick Scott (541) 782–2283.

EIS No. 980406, FINAL EIS, AFS, WA, Green River Road Access Requests, Easements Grant, Mt. Baker-Snoqualmie National Forest, North Bend Ranger District, King County, WA, *Due:* November 16, 1998, *Contact:* Lloyd Johnson (425) 888–1421.

EIS No. 980407, FINAL EIS, FHW, CA, CA–4 ''GAP'' Closure Project, Improvements between I–80 and Cunninings Skyway, Funding, NPDES Permit and COE Section 404 Permit, City of Hercules, Contra Costa County, CA, *Due:* November 16, 1998, *Contact:* John Schultz (916) 498–5041.

EIS No. 980408, FINAL EIS, AFS, WA, Plum Creek Checkerboard Access Project, Grant Permanent Easements, Cle Elum and Naches Ranger Districts, Wenatchee National Forest, Kittitas County, WA, *Due:* November 16, 1998, *Contact:* Floyd Rogalski (509) 674–4411.

EIS No. 980409, FINAL EIS, NPS, AK, Sitka National Historical Park, General Management Plan,

Implementation, City and Borough of Sitka, AK, *Due:* November 16, 1998, *Contact:* Gary Garthier (907) 747–6281.

EIS No. 980410, FINAL EIS, AFS, SD, Veteran/Boulder Area Project, Enhancement of Vegetative Diversity, Improve Forest Health and to Improve Wildlife Habitats, Implementation, Black Hills National Forest, Spearfish and Nemo Ranger District, Lawrence and Meade Counties, SD, *Due:* November 16, 1998, *Contact:* Patricia Seay (605) 642–4622.

EIS No. 980411, FINAL EIS, AFS, WA, Sand Ecosystem Restoration Project, Implementation, Leavenworth Range District, Wenatchee National Forest, Chelan County, WA, *Due:* November 16, 1998, *Contact:* Bob Stoehr (509) 548–6977.

EIS No. 980412, DRAFT EIS, AFS, UT, Snowbird Ski and Summer Resort Master Development Plan, Implementation, Special-Use-Permit and COE Section 404 Permit, Salt Lake and Lake Counties, Salt Lake City, UT, *Due:* November 30, 1998, *Contact:* Rob Cruz (801) 943–9483.

EIS No. 980413, DRAFT EIS, FHW, PA, US 202 (Section 600) Transportation Corridor, Improvement from Johnson Highway in Norristown to PA 309 in Montgomery Square, Major Investment Study, Montgomery County, PA, *Due:* December 11, 1998, *Contact:* Ronald W. Carmichael (717) 221–3461.

EIS No. 980414, FINAL EIS, USN, FL, Cecil Field Naval Air Station Disposal and Reuse, Implementation, City of Jacksonville, Duval and Clay Counties, FL, *Due:* November 16, 1998, *Contact:* Robert Teaque (843) 820–5785.

EIS No. 980415, FINAL EIS, COE, IN, Indiana Harbor and Canal Dredging and Confined Disposal Facility, Construction and Operation, Comprehensive Management Plan, East Chicago, Lake County, ID, *Due:* November 16, 1998, *Contact:* Keith Ryder (312) 353–6400.

EIS No. 980416, FINAL EIS, EPA, CA, San Franccisco Bay Region, Long-Term Management Strategy (LTMS) for the Placement of Dredged Material for Disposal, several counties, CA, *Due:* November 16, 1998, *Contact:* Brian Ross (415) 744–1979.

Dated: October 13, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–27873 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5496–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 7, 1998 Through September 11, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 10, 1998 (62 FR 17856).

Draft EISs

ERP No. D–COE–C39010–NJ Rating EC2, Lower Cape May Meadows—Cape May Point Feasibility Study, Ecosystem Restoration, New Jersey Shore Protection Study, Cape May County, NJ.

Summary: EPA expressed environmental concerns over the potential impact to Benthic Communities and water quality from beach nourishment maintenance activities, and the potential cumulative impacts associated with this and other erosion/storm damage protection projects in New Jersey.

ERP No. D–COE–E32196–FL Rating EC2, Jacksonville Harbor Navigation Channel Deepening Improvements, Construction, St. Johns River, Duval County, FL.

Summary: EPA expressed environmental concerns about the various disposal options as well as the mitigation measures which may have to be implemented for this channel upgrade. Additional information will be necessary to address these matters.

ERP No. D–COE–G36148–TX Rating EC2, Dallas Floodway Extension, Implementation, Trinity River Basin, Flood Damage Reduction and Environmental Restoration, Dallas County, TX.

Summary: EPA expressed environmental concerns in the areas of water quality, wetlands, hazardous materials, environmental justice, land use, noise, visual and aesthetic impact, mitigation, and historic preservation.

ERP No. DS–COE–F32069–IL Rating LO, Chicago Area Confined Disposal Facility, Updated Information on Construction and Operation, Maintenance Dredging from Chicago River/Harbor, Calumet River and Harbor, Cook County, IL.

Summary: EPA had expressed lack of objection to proposed project.

ERP No. DS–FRC–E03006–00 Rating EO2, North Alabama Pipeline Facilities, Additional Information, Amended Natural Gas Pipeline, Construction and Operation, COE Section 10 and 404 Permits, Right-of-Way and NPDES Permits, Morgan, Limestone and Madison, AL.

Summary: EPA continues to have environmental objections to this proposed project due to projected environmental impacts that are avoidable through selection of the no-build alternative or a reasonable upgrade of the existing pipeline infrastructure.

Final EISs

ERP No. F–COE–E36176–FL C–51 West End Flood Control Project, Implementation To Improve the Level of Flood Control, Central and Southern Florida Project, Palm Beach County, FL.

Summary: EPA has confidence in the concept of the proposed stormwater treatment, EPA remains concerned over its long-term efficacy. Additional data will have to be collected/evaluated to address these concerns.

ERP No. F–COE–K30030–CA Unocal Avila Beach Cleanup Project, Petroleum Hydrocarbon Contamination, Approval and Implementation, US Army COE Section 10 and 404 Permits Issuance, San Luis Obispo County, CA.

Summary: EPA continues to have concerns regarding the assessment and evaluation of intertidal zones 7 and its relation to additional NEPA documentation.

Dated: October 13, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–27874 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6177–1]

Availability of FY 97 Grant Performance Report for the State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation report.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7)

require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed an end-of-year evaluation of one state air pollution control program (Tennessee Department of Environment and Conservation). The evaluation was conducted to assess the agency's performance under the grant awarded to them by EPA pursuant to Section 105 of the Clean Air Act. EPA Region 4 has prepared a report for the State of Tennessee which is now available for public inspection.

ADDRESSES: The report may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Vera Bowers, (404) 562-9053, at the above Region 4 address.

Dated: October 7, 1998.

Phyllis Hall,

Acting Regional Administrator, Region 4.

[FR Doc. 98–27837 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6177–4]

Notice of Availability: The Office of Solid Waste (OSW) Is Announcing the Availability of a New Draft Guidance Document Entitled ''Guidance on Collection of Emissions Data to Support Site-Specific Risk Assessments at Hazardous Waste Combustion Facilities''

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that the following draft guidance document: ''Guidance on Collection of Emissions Data to Support Site Specific Risk Assessments at Hazardous Waste Combustion Facilities'' (Peer Review Draft), EPA530–D–98–002, August 1998 is now available for use. This document is being sent for an independent, external peer review. Public comments will be considered in conjunction with the peer review comments in revising this document. This EPA combustion-related guidance document will serve to update and replace the existing draft guidance document entitled: ''Guidance on Trial Burns'' (May 2, 1994 draft).

DATES: Public comments should be received no later than November 16, 1998 to be considered in revising this document.

ADDRESSES: Commenters should send the original and one copy of their comments directly to Beth Antley, Region 4, U.S. Environmental Protection Agency, 980 College Station Road, Athens, Georgia 30605. Comments may also be submitted electronically in Wordperfect 6.1 file format or ASCII file format to antley.beth@epa.gov.

FOR FURTHER INFORMATION CONTACT: For further information contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For specific questions on implementation of the document, please contact your RCRA regulating authority.

SUPPLEMENTARY INFORMATION: For a paper copy of the guidance document ''Guidance on Collection of Emissions Data to Support Site-Specific Risk Assessments at Hazardous Waste Combustion Facilities'' please contact the RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, S.W., Washington, DC 20460, (703) 603–9230. The document number is EPA530–D–98–002. Copies may also be obtained from the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

The document is also available in electronic format on the world wide web. It can be found at www.epa.gov/epaoswer/hazwaste/combust.htm.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–27836 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 8, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), 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, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 16, 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, 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: 3060–0139.

Title: Application for Antenna Structure Registration, Antenna Structure Registration, Antenna Structure Registration Change of Ownership.

Form Number: FCC 854/854R, 854ULS, 854–O.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities; Individuals or households; Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 4,500.

Estimated Time Per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 6,750 hours.

Cost to Respondents: $181,800.

Needs and Uses: Section 303(q) of the Communications Act, as amended, authorizes the Commission to require the painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation, as determined by the FAA. In 1992, Congress amended sections 303 (q) and 503(b)(5) of the Communications

Act: (1) To make antenna structure owners, as well as Commission licensees and permittees responsible for the painting and lighting of antenna structures, and (2) to provide that non-licensee antenna structure owners may be subject to forfeiture for violations of painting or lighting requirements as specified by the Commission.

In the Commission's Report and Order, WT Docket No. 95–5, released on November 30, 1995, a uniform registration procedure was implemented. Antenna structure owners, rather than tenant licensees, are required to register and notify the Commission concerning changes to their antenna structures. Effective July 1, 1996, all new antenna structures meeting the ''notification criteria'' were to be registered with the Commission. For existing antenna structures, owners were required to register by state, in accordance with prescribed filing windows over a two year period from July 1, 1996 through June 30, 1998. In cases where an entity owned multiple structures in various states, owners were permitted to apply for a waiver of the filing window requirement to register all the structures at once, rather than on a state by state basis. After June 30, 1998, owners need to submit just one application to register new antenna structures, modify antenna structure registrations, or notify the Commission of antenna structure dismantlement (structure no longer exists).

The Commission is currently in the process of developing a Universal Licensing System (ULS) to incorporate 11 separate databases into a single database, including antenna structure registration. The Form 854ULS has been designed for the ULS and will collect Taxpayer Identification Number (TIN) of the antenna structure owner. In order to use ULS, each antenna structure owner will be required to register their TIN and any associated registration numbers. The TIN will link all antenna structure registrations associated to any one owner in the UlS and will allow pre-filing of data, too. The purposes for using the form have changed and Form 854ULS will collect coordinate information in NAD83 only.

In addition, a separate Antenna Structure Registration Change of Ownership Form, FCC Form 854–O has been designed to apply for a change of ownership for an FCC registered antenna structure and must be signed by both assignor and the assignee. (Owners previously filed Form 854 to accomplish this change.) FCC Form 854–O also allows for change of ownership for multiple registration numbers at the same time, provided the same owner is assuming ownership for all. Respondents will file only one of the four forms, depending upon which phase of the process they are in, i.e., current antenna registration process or ULS.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–27806 Filed 10–15–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[WT 95–5; DA 98–2042]

Petition for Declaratory Ruling on Streamlining the Commission's Antenna Structure Clearance Procedure

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: The Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau invited the public to comment on a Petition for Declaratory Ruling filed by Teletech, Inc. concerning the Commission's streamlining of its antenna structure clearance procedure and revision of the Commission's rules concerning construction, marking, and lighting of antenna structures. This action was taken to provide the public and those parties required to register antenna structures with the Commission with an opportunity to comment on Teletech's petition. Release of the Public Notice will ensure that interested parties fully participate in the Commission decision on whether to grant Teletech's request.

DATES: Comments must be filed on or before November 5, 1998, and reply comments on or before November 16, 1998.

ADDRESSES: Federal Communications Commission, Room 222, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jamison S. Prime and/or Bert Weintraub, both of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0680, jprime@fcc.gov, or bweintra@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Safety and Private Wireless Division's Public Notice, DA 98–2042, adopted and released October 8, 1998. The full text of this Public Notice is available for inspection and copying during normal business hours in the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 2025 M Street, NW, Room 8010, Washington, DC. The complete text may also be purchased from the Commission's copy contractor, ITS, Inc. 1231 20th Street, NW, Washington, DC 20036.

Federal Communications Commission.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 98–27751 Filed 10–15–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 98–N–7]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1998–99 third quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1998–99 third quarter review cycle must submit completed Community Support Statements to the Finance Board on or before November 30, 1998.

ADDRESSES: FHLBank members selected for the 1998–99 third quarter review cycle must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Compliance Assistance Division, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006; or by electronic mail: BATESP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Compliance Assistance Division, by telephone at 202/408–2574, by electronic mail at BATESP@FHFB.GOV, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), *id.* 2901 et seq., and record of lending to first-time homebuyers. *Id.* 1430(g)(2).

Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a FHLBank member must meet in order to maintain access to long-term advances and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR part 936. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* § 936.3. Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the November 30, 1998 deadline prescribed in this notice. *Id.* § 936.2(b)(1)(ii) and (c). On or before October 31, 1998, each FHLBank will notify the members in its district that have been selected for the 1998–99 third quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site at WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1998–99 third quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Community Savings Bank	Bristol	CT
Collinsville Savings Society	Collinsville	CT
Guilford Savings Bank	Guilford	CT
Southington Savings Bank	Southington	CT
Tolland Bank	Vernon	CT
Northwest Community Bank	Winsted	CT
Abington Savings Bank	Abington	MA
Athol Savings Bank	Athol	MA
Boston Bank of Commerce	Boston	MA
Security Federal Savings Bank	Brockton	MA
Canton Inst. for Savings, Bank of Canton	Canton	MA
Charlestown Cooperative Bank	Charlestown	MA
Clinton Savings Bank	Clinton	MA
Danvers Savings Bank	Danvers	MA
Lafayette Federal Savings Bank	Fall River	MA
Falmouth Co-operative Bank	Falmouth	MA
Family Federal Savings, FA	Fitchburg	MA
Florence Savings Bank	Florence	MA
Colonial Co-operative Bank	Gardner	MA
United Bank	Greenfield	MA
Hingham Institution for Savings	Hingham	MA
Peoples Savings Bank	Holyoke	MA
Ipswich Savings Bank	Ipswich	MA
Roxbury-Highland Co-operative Bank	Jamaica Plain	MA
Equitable Co-operative Bank	Lynn	MA
Mansfield Co-operative Bank	Mansfield	MA
Milford FS&LA	Milford	MA
Newton South Co-operative Bank	Newton	MA
The Northampton Co-operative Bank	Northampton	MA
Colonial Federal Savings Bank	Quincy	MA
Reading Co-operative Bank	Reading	MA
Southbridge Savings Bank	Southbridge	MA
Mechanics Co-operative Bank	Taunton	MA
Hometown Bank, a Co-operative Bank	Webster	MA
Woronoco Savings Bank	Westfield	MA
South Shore Savings Bank	Weymouth	MA
Bar Harbor Banking and Trust Company	Bar Harbor	E
Calais FS&LA	Calais	ME
Camden National Bank	Camden	ME
Damariscotta Bank and Trust Company	Damariscotta	ME
Franklin Savings Bank	Farmington	ME
Katahdin Trust Company	Patten	ME
Coastal Saving Bank	Portland	ME
Peoples Heritage Savings Bank	Portland	ME

Rockland S&LA	Rockland	ME
Bow Mills Bank and Trust	Bow	NH
Citizens Bank New Hampshire	Manchester	NH
New London Trust F.S.B.	New London	NH
Newport Federal Savings Bank	Newport	RI
First Vermont Bank and Trust Company	Brattleboro	VT
Merchants Bank	Burlington	VT
National Bank of Middlebury	Middlebury	VT
Union Bank	Morrisville	VT
Northfield Savings Bank	Northfield	VT
Franklin Lamoille Bank	St. Albans	VT

Federal Home Loan Bank of New York—District 2

Audubon Savings Bank	Audubon	NJ
Bogota Savings & Loan Association	Bogota	NJ
Peoples Savings Bank	Bordentown	NJ
Somerset Savings Bank, SLA	Bound Brook	NJ
Century Savings Bank	Bridgeton	NJ
Colonial Bank FSB	Bridgeton	NJ
Summit Bank	Chatham	NJ
NVE Savings Bank	Englewood	NJ
Premium Federal Savings Bank	Gibbsboro	NJ
Glen Rock Savings Bank, SLA	Glen Rock	NJ
Statewide Savings Bank, SLA	Jersey City	NJ
Kearny Federal Savings Bank	Kearny	NJ
Schuyler Savings Bank	Kearny	NJ
Lincoln Park S&LA	Lincoln Park	NJ
Metuchen Savings Bank	Metuchen	NJ
Boiling Springs Savings Bank	Rutherford	NJ
Gloucester County Federal Savings Bank	Sewell	NJ
Sturdy Savings Bank	Stone Harbor	NJ
Roma Federal Savings Bank	Trenton	NJ
South Jersey S&LA	Turnersville	NJ
Penn Federal Savings Bank	West Orange	NJ
Westwood Savings Bank	Westwood	NJ
First Financial Savings Bank, S.L.A.	Woodbridge	NJ
Woodstown National Bank and Trust Company	Woodstown	NJ
Evans National Bank	Angola	NY
Independence Savings Bank	Brooklyn	NY
Elmira Savings Bank, F.S.B.	Elmira	NY
Goshen Savings Bank	Goshen	NY
Cattaraugus County Bank	Little Valley	NY
Abacus Federal Savings Bank	New York	NY
Chinatown Federal Savings Bank	New York	NY
Commercial Bank of New York	New York	NY
Staten Island Savings Bank	Staten Island	NY
Savings Bank of Utica	Utica	NY
Wallkill Valley FS&LA	Wallkill	NY
Doral Federal Savings Bank	Catano	PR
Oriental Bank and Trust	Humacao	PR

Federal Home Loan Bank of Pittsburgh—District 3

Altoona First Savings Bank	Altoona	PA
Reeves Bank	Beaver Falls	PA
Bernville Bank, N.A.	Bernville	PA
Bridgeville Savings Bank, fsb	Bridgeville	PA
Founders' Bank	Bryn Mawr	PA
Pennsylvania State Bank	Camp Hill	PA
Financial Trust Company	Carlisle	PA
First Carnegie Deposit	Carnegie	PA
Coatesville Savings Bank	Coatesville	PA
Slovenian S&LA of Franklin-Conemaugh	Conemaugh	PA
Corry Savings Bank	Corry	PA
First National Community Bank	Dunmore	PA
Halifax National Bank	Halifax	PA
Peoples National Bank	Hallstead	PA
Pennsylvania National Bank & Trust Company	Harrisburg	PA
Mauch Chunk Trust Comany	Jim Thorpe	PA
First Summit Bank	Johnstown	PA
First National Bank of McConnellsburg	McConnellsburg	PA
Mifflinburg Bank and Trust Company	Mifflinburg	PA
Community Banks, N.A.	Millersburg	PA
Union National Community Bank	Mount Joy	PA
Muncy Bank and Trust Company	Muncy	PA

First Bank of Philadelphia	Philadelphia	PA
Pennsylvania Savings Bank	Philadelphia	PA
Polonia Bank	Philadelphia	PA
Eureka Federal Savings & Loan Association	Pittsburgh	PA
Iron and Glass Bank	Pittsburgh	PA
Pittsburgh Home Savings Bank	Pittsburgh	PA
Slovak Savings Bank	Pittsburgh	PA
United-American Savings Bank	Pittsburgh	PA
Berks County Bank	Reading	PA
Peoples Savings Bank	Ridgway	PA
Century National Bank and Trust Company	Rochester	PA
Merchants Bank of Pennsylvania	Shenandoah	PA
Northwest Savings Bank	Warren	PA
Northern Central Bank	Williamsport	PA
Peoples State Bank	Wyalusing	PA
Drovers & Mechanics Bank	York	PA
First Capitol Bank	York	PA
York FS&LA	York	PA
City National Bank of Charleston	Charleston	WV
One Valley Bank of Clarksburg, N.A.	Clarksburg	WV
WesBanco Bank Fairmont, Inc.	Fairmont	WV
Citizens Bank of Morgantown, Inc.	Morgantown	WV
One Valley Bank, Inc.	Morgantown	WV
First National Bank	Ronceverte	WV
Advance Financial Savings Bank	Wellsburg	WV

Federal Home Loan Bank of Atlanta—District 4

Exchange Bank of Alabama	Altoona	AL
Bank of Alabama	Birmingham	AL
First Commercial Bank	Birmingham	AL
Highland Bank	Birmingham	AL
First National Bank	Brewton	AL
Central State Bank	Calera	AL
Camden National Bank	Camden	AL
First Federal of the South	Clanton	AL
The Peoples Bank	Clio	AL
Commercial National Bank of Demopolis	Demopolis	AL
Southland Bank	Dothan	AL
First Federal Savings & Loan Association	Gadsden	AL
First National Bank	Hamilton	AL
Headland National Bank	Headland	AL
New South Federal Savings Bank	Irondale	AL
Valley National Bank	Lanett	AL
First State Bank of Clay County	Lineville	AL
First Citizens Bank	Luverne	AL
First Tuskegee Bank	Montgomery	AL
Independent Bank of Oxford	Oxford	AL
Bank of Prattville	Prattville	AL
Citizens' Bank, Inc.	Robertsdale	AL
Slocomb National Bank	Slocomb	AL
The Citizens Bank	Valley Head	AL
First Liberty National Bank	Washington	DC
Riggs Bank N.A.	Washington	DC
EuroBank	Boca Raton	FL
Pointe Bank	Boca Raton	FL
BankUnited, FSB	Coral Gables	FL
UniBank	Coral Gables	FL
BankAtlantic, A FSB	Fort Lauderdale	FL
Natbank, F.S.B.	Hollywood	FL
American Bank and Trust of Polk County	Lake Wales	FL
First FS&LA of Florida	Lakeland	FL
Citizens Bank of Marianna	Marianna	FL
Eagle National Bank of Miami	Miami	FL
Kislak National Bank	Lakes	FL
Metro Savings Bank, FSB	Orlando	FL
First FS&LA of Putnam County	Palatka	FL
Bay Bank and Trust Company	Panama City	FL
Sarasota Bank	Sarasota	FL
Capital City Bank	Tallahassee	FL
Bay Financial Savings Bank, F.S.B.	Tampa	FL
City First Bank	Tampa	FL
Columbia Bank	Tampa	FL
Manufacturers Bank of Florida	Tampa	FL
Guaranty Bank and Trust Company	Venice	FL
Republic Security Bank	West Palm Beach	FL

Federal Trust Bank	Winter Park	FL
Bank of Alapaha	Alapaha	GA
Summit National Bank	Atlanta	GA
Georgia Bank and Trust Company	Augusta	GA
First Bank of Brunswick	Brunswick	GA
First Georgia Bank	Brunswick	GA
White County Bank	Cleveland	GA
Habersham Bank	Cornelia	GA
Newton FS&LA	Covington	GA
Southeastern Bank	Darien	GA
First National Bank of Coffee County	Douglas	GA
Douglas Federal Bank, FSB	Douglasville	GA
Farmers and Merchants Bank	Eatonton	GA
Elberton FS&LA	Elberton	GA
Citizens Union Bank	Greensboro	GA
Regions Bank	Griffin	GA
The Coastal Bank	Hinesville	GA
Crescent Bank and Trust Company	Jasper	GA
Peoples Bank	Lavonia	GA
Embry National Bank	Lawrenceville	GA
Pineland State Bank	Metter	GA
First National Bank of Baldwin County	Milledgeville	GA
Gateway Bank and Trust	Ringgold	GA
First Floyd Bank	Rome	GA
Milton National Bank	Roswell	GA
Farmers and Merchants Bank	Statesboro	GA
Spivey State Bank	Swainsboro	GA
Thomaston Federal Savings Bank	Thomaston	GA
Commercial Bank	Thomasville	GA
Tucker Federal Bank	Tucker	GA
First Federal Savings & Loan Association	Valdosta	GA
Citizens Bank	Warrenton	GA
Charter FS&LA	West Point	GA
Severn Savings Bank, FSB	Annapolis	MD
Advance Federal Savings & Loan Association	Baltimore	MD
Baltimore American Savings Bank, FSB	Baltimore	MD
Bohemian American FS&LA	Baltimore	MD
Fraternity Federal Savings & Loan Association	Baltimore	MD
Hamilton FS&LA	Baltimore	MD
Leeds Federal Savings Bank	Baltimore	MD
Madison and Bradford FS&LA	Baltimore	MD
Saint Casimirs Savings Bank	Baltimore	MD
Presidential Savings Bank, FSB	Bethesda	MD
Peoples Bank of Kent County	Chestertown	MD
The Talbot Bank of Easton	Easton	MD
Peoples Bank of Elkton	Elkton	MD
Bank of Fruitland	Fruitland	MD
Eastern Savings Bank, FSB	Hunt Valley	MD
Maryland FS&LA	Hyattsville	MD
Wyman Park Federal Savings and Loan Assoc	Lutherville	MD
Key Federal Savings Bank	Owings Mills	MD
Enterprise Federal Savings Bank	Oxon Hill	MD
Baltimore County Savings Bank, F.S.B	Perry Hall	MD
Valley Bank of Maryland	Pikesville	MD
American Federal Savings Bank	Rockville	MD
First Shore FS&LA	Salisbury	MD
Sykesville Federal Savings Association	Sykesville	MD
Harbor Federal Savings Bank	Towson	MD
Ashburton Federal Savings & Loan Association	Westminster	MD
Equitable Federal Savings Bank	Wheaton	MD
Home Savings Bank, SSB of Eden	Eden	NC
Gaston FS&LA	Gastonia	NC
High Point Bank and Trust Company	High Point	NC
First Carolina Federal Savings Bank	Kings Mountain	NC
Scotland Savings Bank, S.S.B. Inc	Laurinburg	NC
Community Bank	Pilot Mountain	NC
Roanoke Valley Savings Bank, SSB	Roanoke Rapids	NC
Centura Bank	Rocky Mount	NC
First Savings Bank of Moore County, Inc., SSB	Southern Pines	NC
Haywood Savings Bank, Inc., SSB	Waynesville	NC
Ashe Federal Bank	West Jefferson	NC
Piedmont Federal Savings & Loan Association	Winston-Salem	NC
Perpetual Bank, FSB	Anderson	SC
Colonial Bank of South Carolina, Inc	Camden	SC
First Palmetto Savings Bank, F.S.B.	Camden	SC
Spratt S&LA	Chester	SC

Peoples FS&LA of South Carolina	Conway	SC
Greenville National Bank	Greenville	SC
Heritage FS&LA	Laurens	SC
Plantation Federal Savings Bank, Inc.	Pawleys Island	SC
Woodruff FS&LA	Woodruff	SC
Virginia Commerce Bank	Arlington	VA
Bedford Federal Savings Bank	Bedford	VA
Fredericksburg Savings & Loan Association, FA	Fredericksburg	VA
Franklin FS&LA of Richmond	Glen Allen	VA
Eastern American Bank, FSB	Herndon	VA
Hanover Bank	Mechanicsville	VA
First and Citizens Bank	Monterey	VA
Black Diamond Savings Bank, FSB	Norton	VA
Farmers & Merchants Bank—Eastern Shore	Onley	VA
Shore Savings Bank	Onley	VA
First Federal Savings Bank of Virginia	Petersburg	VA
Bank of Rockbridge	Raphine	VA
Southwest Virginia Savings Bank, FSB	Roanoke	VA
Community Federal Savings Bank	Staunton	VA
First Bank	Stuart	VA
Southside Bank	Tappahannock	VA
The Bank of Sussex and Surrey	Wakefield	VA

Federal Home Loan Bank of Cincinnati—District 5

Bank of Ashland	Ashland	KY
Catlettsburg Federal Savings Bank	Catlettsburg	KY
Citizens FS&LA	Covington	KY
South Central Bank, F.S.B.	Edmonton	KY
Peoples Bank of Fleming County	Flemingsburg	KY
State National Bank of Frankfort	Frankfort	KY
Fredonia Valley Bank	Fredonia	KY
First Southern National Bank—Garrard County	Lancaster	KY
Citizens Bank & Trust Company of Grayson Co.	Leitchfield	KY
Bank of the Bluegrass and Trust Company	Lexington	KY
Peoples Security Bank	Louisa	KY
Commonwealth Bank & Trust Company	Louisville	KY
The First Capital Bank of Kentucky	Louisville	KY
First Southern National Bank of Wayne County	Monticello	KY
First FS&LA of Morehead	Morehead	KY
Commonwealth Bank	Mt. Sterling	KY
Mount Sterling National Bank	Mt. Sterling	KY
Traditional Bank, Inc.	Mt. Sterling	KY
Farmers National Bank	Walton	KY
Belmont Savings Bank	Bellaire	OH
Citizens National Bank	Bluffton	OH
First Federal Bank	Bowling Green	OH
Brookville Building and Savings Association	Brookville	OH
First FS&LA of Bucyrus	Bucyrus	OH
First FS&LA	Centerburg	OH
BenchMark Federal Savings Bank	Cincinnati	OH
Columbia Savings Bank	Cincinnati	OH
Franklin Savings and Loan Company	Cincinnati	OH
Kenwood Savings Bank	Cincinnati	OH
Market Building and Saving Company	Cincinnati	OH
New Foundation Loan and Building Company	Cincinnati	OH
Oak Hills Savings & Loan Company, F.A.	Cincinnati	OH
Warsaw FS&LA	Cincinnati	OH
Charter One Bank, F.S.B.	Cleveland	OH
Third FS&LA of Cleveland	Cleveland	OH
United Midwest Savings Bank	DeGraff	OH
Hicksville Building Loan and Savings Company	Hicksville	OH
Merchants National Bank	Hillsboro	OH
NCB Savings Bank, FSB	Hillsboro	OH
First Federal Savings Bank of Kent	Kent	OH
Home Savings Bank	Kent	OH
Home Savings and Loan Company of Kenton	Kenton	OH
First FS&LA of Lakewood	Lakewood	OH
Fairfield Federal Savings & Loan Association	Lancaster	OH
First National Bank	Lebanon	OH
Leesburg Federal Savings Bank	Leesburg	OH
First-Knox National Bank of Mount Vernon	Mount Vernon	OH
New Carlisle Federal Savings Bank	New Carlisle	OH
Park National Bank	Newark	OH
Fidelity Federal Savings Bank	Norwood	OH
First Savings Bank of Norwood	Norwood	OH

Oakwood Deposit Bank	Oakwood	OH
Citizens Savings Bank Company	Pemberville	OH
Republic Savings Bank	Pepper Pike	OH
Third Savings and Loan	Piqua	OH
American Savings Bank	Portsmouth	OH
Enterprise Bank	Solon	OH
Home City Federal Savings Bank	Springfield	OH
Belmont National Bank	St. Clairsville	OH
Perpetual Federal Savings Bank	Urbana	OH
First FS&LA of Warren	Warren	OH
First Federal Savings Bank	Washington C.H.	OH
Jefferson Savings Bank	West Jefferson	OH
Milton Federal Savings Bank	West Milton	OH
Liberty Savings Bank	Wilmington	OH
Farmers & Merchants Bank	Adamsville	TN
Bank of Alamo	Alamo	TN
Bank of Crockett	Bells	TN
Pioneer Bank	Chattanooga	TN
First Bank of Polk County	Copperhill	TN
Decatur County Bank	Decaturville	TN
Peoples Bank	Dickson	TN
First Independent Bank	Gallatin	TN
Trust One Bank	Germantown	TN
Chester County Bank	Henderson	TN
Lewis County Bank	Hohenwald	TN
People's Community Bank	Johnson City	TN
First Bank of East Tennessee, N.A.	La Follette	TN
Wilson Bank and Trust	Lebanon	TN
First National Bank of Cumberlands	Livingston	TN
Citizens Bank	New Tazewell	TN
Newport Federal Savings and Loan	Newport	TN
Citizens National Bank	Sevierville	TN

Federal Home Loan Bank of Indianapolis—District 6

Boonville Federal Savings Bank	Boonville	IN
First State Bank	Brazil	IN
Riddell National Bank	Brazil	IN
Union S&LA	Connersville	IN
Union FS&LA	Crawfordsville	IN
First Federal Savings Bank	Evansville	IN
Citizens Savings Bank of Frankfort	Frankfort	IN
First Citizens Bank and Trust Company	Greencastle	IN
Pacesetter Bank of Hartford City	Hartford City	IN
Kentland Bank	Kentland	IN
The La Porte Savings Bank	La Porte	IN
Logansport Savings Bank, FSB	Logansport	IN
Home Bank, S.B.	Martinsville	IN
The Bank of Mitchell	Mitchell	IN
Peoples Bank SB	Munster	IN
Farmers State Bank	New Ross	IN
Pike County Bank	Petersburg	IN
First Bank Richmond, S.B.	Richmond	IN
Mid-Southern Savings Bank, FSB	Salem	IN
Owen County State Bank	Spencer	IN
Grant County State Bank	Swayzee	IN
First State Bank, Southwest Indiana	Tell City	IN
Citizens Bank of Western Indiana	Terre Haute	IN
Liberty Savings Association, F.A.	Whiting	IN
Homestead Savings Bank, FSB	Albion	MI
Fidelity Bank	Birmingham	MI
Tri-County Bank	Brown City	MI
LaSalle Federal Savings Bank	Buchanan	MI
Branch County FS&LA	Coldwater	MI
Select Bank	Grand Rapids	MI
Peoples State Bank	Hamtramck	MI
Commercial Bank	Ithaca	MI
Union Bank	Lake Odessa	MI
MFC First National Bank	Marquette	MI
Marshall Savings Bank, FSB	Marshall	MI
Peoples State Bank of Munising	Munising	MI
New Buffalo Savings Bank	New Buffalo	MI
Thumb National Bank and Trust	Pigeon	MI
Citizens First Savings Bank	Port Huron	MI
First National Bank of Three Rivers	Three Rivers	MI
First National Bank of Wakefield	Wakefield	MI

Federal Home Loan Bank of Chicago—District 7

Farmers State Bank of Beecher	Beecher	IL
First State Bank of Beecher County	Beecher City	IL
Bank of Bellwood	Bellwood	IL
Midwest Savings Bank	Bolingbrook	IL
The First National Bank in Carlyle	Carlyle	IL
White County Bank	Carmi	IL
Centralia Savings Bank	Centralia	IL
Associated Bank	Chicago	IL
Bank Champaign, N.A.	Chicago	IL
Community Savings Bank	Chicago	IL
Illinois Service FS&LA	Chicago	IL
Labe Federal Bank for Savings	Chicago	IL
Mid Town Bank & Trust Company of Chicago	Chicago	IL
NAB Bank	Chicago	IL
North Federal Savings Bank	Chicago	IL
Oak Trust and Savings Bank	Chicago	IL
Preferred Savings Bank	Chicago	IL
Pulaski Savings Bank	Chicago	IL
South Central Bank and Trust Company	Chicago	IL
Washington Federal Bank for Savings	Chicago	IL
Family Federal Savings of Illinois	Cicero	IL
Pinnacle Bank	Cicero	IL
West Town Savings Bank	Cicero	IL
The John Warner Bank	Clinton	IL
Banterra Bank Group	El Dorado	IL
Home FS & LA of Elgin	Elgin	IL
The Elizabeth State Bank	Elizabeth	IL
Flora Bank and Trust	Flora	IL
Community Bank-Wheaton/Glen Ellyn	Glen Ellyn	IL
Castle Bank Harvard, National Association	Harvard	IL
Alpine Savings Bank	Highland	IL
Liberty Federal Bank	Hinsdale	IL
Illinois State Bank of Lake in the Hills	Lake in the Hills	IL
Heritage National Bank	Lawrenceville	IL
Fairfield Savings Bank, F.S.B.	Long Grove	IL
First State Bank of Mason City	Mason	IL
Mazon State Bank	Mazon	IL
McHenry Savings Bank	McHenry	IL
City National Bank	Metropolis	IL
Minonk State Bank	Minonk	IL
First National Bank	Moline	IL
Monmouth Trust and Savings Bank	Monmouth	IL
Wabash Savings Bank	Mt. Carmel	IL
The Farmers Bank of Mt. Pulaski	Mt. Pulaski	IL
Regency Savings Bank, FSB	Naperville	IL
Superior Bank FSB	Oak Brook Terrace	IL
Financial Federal Trust and Savings Bank	Olympia Fields	IL
Herget National Bank	Pekin	IL
Pekin Savings Bank	Pekin	IL
Peru Federal Savings Bank	Peru	IL
National Bank of Petersburg	Petersburg	IL
Citizens State Bank of Shipman	Shipman	IL
Farmers State Bank of Somonauk	Somonauk	IL
Marine Bank, Springfield	Springfield	IL
Town and Country Bank of Springfield	Springfield	IL
Tremont Savings Bank	Tremont	IL
Northwest Savings Bank	Amery	WI
Banner Banks	Birnamwood	WI
Community First Bank	Boscobel	WI
North Shore Bank, FSB	Brookfield	WI
F&M Bank-Landmark	Clear Lake	WI
Dorchester State Bank	Dorchester	WI
Mid America Bank	Footville	WI
First American Bank and Trust Company	Fort Atkinson	WI
The Bank of Fort Atkinson	Fort Atkinson	WI
Capital Bank	Green Bay	WI
Greenleaf Wayside Bank	Greenleaf	WI
Hustisford State Bank	Hustisford	WI
Union State Bank	Kewaunee	WI
Bank of Lake Mills	Lake Mills	WI
Bank of Little Chute	Little Chute	WI
Associated Bank South Central	Lodi	WI
Rural American Bank—Luck	Luck	WI
Anchor Bank, S.S.B.	Madison	WI

Firstar Bank Wisconsin	Madison	WI
Home Savings Bank	Madison	WI
The Peoples State Bank	Mazomanie	WI
First American Bank, National Association	Menomonie	WI
Middleton Community Bank	Middleton	WI
First Community Bank	Milton	WI
Milton S&LA	Milton	WI
Maritime Savings Bank	Milwaukee	WI
Mutual Savings Bank	Milwaukee	WI
Fox Cities Bank, F.S.B.	Neenah	WI
West Pointe Bank	Oshkosh	WI
State Bank of Random Lake	Random Lake	WI
Reedsburg Bank	Reedsburg	WI
Dairy State Bank	Rice Lake	WI
Community Business Bank	Sauk City	WI
South Milwaukee Savings Bank	South Milwaukee	WI
Baylake Bank	Sturgeon Bay	WI
Superior Savings Bank	Superior	WI
Farmers & Merchants Bank	Tomah	WI
Bank of Waunakee	Waunakee	WI
West Bend Savings Bank	West Bend	WI
The First Citizens State Bank of Whitewater	Whitewater	WI

Federal Home Loan Bank of Des Moines—District 8

Raccoon Valley State Bank	Adel	IA
Bank Altoona	Altoona	IA
Chelsea Savings Bank	Belle Plaine	IA
First State Bank	Brunsville	IA
Hartford-Carlisle Savings Bank	Carlisle	IA
Guaranty Bank and Trust Company	Cedar Rapids	IA
Cherokee State Bank	Cherokee	IA
First State Bank	Conrad	IA
Dubuque Bank and Trust Company	Dubuque	IA
Exchange State Bank	Exira	IA
First Federal Savings Bank of Fort Dodge	Fort Dodge	IA
Gibson Savings Bank	Gibson	IA
Mills County State Bank	Glenwood	IA
Security State Bank	Guttenburg	IA
Farmers Savings Bank	Halbur	IA
Farmers State Bank	Hawarden	IA
First State Bank	Hawarden	IA
Humboldt Trust & Savings Bank	Humboldt	IA
Bank Iowa	Independence	IA
State Central Bank	Keokuk	IA
Heritage Bank	Marion	IA
F&M Bank—Iowa Central	Marshalltown	IA
Farmers State Bank	Merrill	IA
Security State Bank	Red Oak	IA
Lincoln Savings Bank	Reinbeck	IA
Security State Bank	Stuart	IA
First State Bank	Sumner	IA
Community State Bank	Tipton	IA
Farmers Savings Bank & Trust	Vinton	IA
Webster City Federal Savings Bank	Webster City	IA
Citizens State Bank	Wyoming	IA
First American Bank, N.A.	Alexandria	MN
State Bank of Aurora	Aurora	MN
First National Bank of Bertha-Verndale	Bertha	MN
First National Bank	Blue Earth	MN
First National Bank of Deerwood	Deerwood	MN
Community First National Bank	Fergus Falls	MN
Lake Elmo Bank	Lake Elmo	MN
First National Bank Le Center	Le Center	MN
First State Bank of LeRoy	LeRoy	MN
Community Federal Savings & Loan Association	Little Falls	MN
Prairie State Bank	Milan	MN
Peoples National Bank	Mora	MN
First Federal Savings Bank	Morris	MN
Community National Bank	North Branch	MN
Northwoods Bank of Minnesota	Park Rapids	MN
Pine City State Bank	Pine City	MN
Prior Lake State Bank	Prior Lake	MN
Minnesota Valley Bank	Redwood Falls	MN
First Independent Bank	Russell	MN
Green Lake State Bank	Spicer	MN

First National Bank	Thief River Falls	MN
State Bank of Tower, Minnesota	Tower	MN
Security State Bank of Wanamingo	Wanamingo	MN
Winona National and Savings Bank	Winona	MN
Belgrade State Bank	Belgrade	MO
Ozark Mountain Bank	Branson	MO
O'Bannon Banking Company	Buffalo	MO
Bank 21	Carrollton	MO
State Bank of Missouri	Concordia	MO
Joachim FS&LA	DeSoto	MO
Rockwood Bank	Eureka	MO
Peoples Bank of Fordland	Fordland	MO
Fulton Savings Bank	Fulton	MO
Jonesburg State Bank	Jonesburg	MO
Blue Ridge Bank and Trust Company	Kansas City	MO
Missouri Bank and Trust of Kansas City	Kansas City	MO
Kearney Commercial Bank	Kearney	MO
First Savings Bank	Mt. Vernon	MO
Neosho S&LA	Neosho	MO
Bank of New Madrid	New Madrid	MO
Charter 1 Bank	Owensville	MO
Ozark Bank	Ozark	MO
Progressive Ozark Bank, fsb	Salem	MO
First National Bank of Sarcoxie	Sarcoxie	MO
Security Bank and Trust Company	Scott City	MO
Community State Bank	Shelbina	MO
Mercantile Bank of South Central Missouri	Springfield	MO
Allegiant Bank, FSB	St. Louis	MO
Central West End Bank, A FSB	St. Louis	MO
Mercantile Bank, N.A.	St. Louis	MO
Missouri State Bank and Trust Company	St. Louis	MO
South Side National Bank in St. Louis	St. Louis	MO
Security Bank of Pulaski County	St. Robert	MO
First National Bank	Summersville	MO
Peoples Bank and Trust	Troy	MO
The Bank of Urbana	Urbana	MO
The Missouri Bank	Warrenton	MO
Missouri Southern Bank	West Plains	MO
Farmers and Merchants Bank of Wright City	Wright City	MO
American Federal Savings Bank	Fargo	ND
Valley Bank, N.A.	Elk Point	SD
Farmers State Bank	Estelline	SD
Bank of Hoven	Hoven	SD
First State Bank of Miller	Miller	SD
CorTrust Bank	Mitchell	SD
Farmers and Merchants State Bank	Plankinton	SD
First PREMIER Bank	Sioux Falls	SD
First Western Bank Sturgis	Sturgis	SD
The First Western Bank Wall	Wall	SD

Federal Home Loan Bank of Dallas—District 9

Compass Bank	Birmingham	AL
Elk Horn Bank and Trust Company	Arkadelphia	AR
The Union Bank of Bryant	Benton	AR
First National Bank of Howard County	Dierks	AR
Planters and Merchants Bank	Gillett	AR
Calhoun County Bank	Hampton	AR
Security Bank	Harrison	AR
Arkansas Bank and Trust Company	Hot Springs	AR
One National Bank	Little Rock	AR
Pulaski Bank and Trust Company	Little Rock	AR
Farmers Bank and Trust Company	Magnolia	AR
Union Bank and Trust Company	Monticello	AR
Newport Federal Savings Bank	Newport	AR
The Planters Bank	Osceola	AR
Priority Bank	Ozark	AR
PlAnters and Stockmen Bank	Pocahontas	AR
United Bank	Springdale	AR
Farmers and Merchants Bank	Stuttgart	AR
First FS&LA	Texarkana	AR
Abbeville Building and Loan	Abbeville	LA
Community Trust Bank	Choudrant	LA
Crowley Building and Loan Association	Crowley	LA
Jefferson Bank	Gretna	LA
Central Progressive Bank of Amite	Hammond	LA

Bank of LaPlace of St. John Parish	LaPlace	LA
St. James Bank and Trust Company	Lutcher	LA
The Union Bank	Marksville	LA
IberiaBank	New Iberia	LA
Crescent Bank and Trust	New Orleans	LA
Fidelity Homestead Association	New Orleans	LA
Regions Bank	Oak Grove	LA
Citizens Bank and Trust Company	Plaquemine	LA
Iberville Building & Loan Association	Plaquemine	LA
Bank of Zachary	Zachary	LA
The Valley Bank	Greenwood	MS
Grand Bank for Savings, fsb	Hattiesburg	MS
OmniBank, Mantee	Jackson	MS
Citizens Bank and Trust Company	Louisville	MS
Merchants and Farmers Bank	Macon	MS
First Federal Savings and Loan	Pascagoula	MS
Bank of Yazoo City	Yazoo City	MS
Union Savings Bank	Albuquerque	NM
Western Bank of Clovis	Clovis	NM
Gallup Federal Savings Bank	Gallup	NM
Citizens Bank of Las Cruces	Las Cruces	NM
Sierra Bank	LAs Cruces	NM
Bank of Las Vegas	Las Vegas	NM
Bank of Santa Fe	Santa Fe	NM
Century Bank, FSB	Santa Fe	NM
First State Bank	Austin	TX
Lamar Bank	Beaumont	TX
Bonham State Bank	Bonham	TX
Franklin Bank, SSB	Bowie	TX
Bank of Van Zandt	Canton	TX
First National Bank of Carthage	Carthage	TX
Shelby Savings Bank, SSB	Center	TX
Chappell Hill Bank	Chappell Hill	TX
Charter Bank—Northwest	Corpus Christi	TX
Nueces National Bank	Corpus Christi	TX
First National Bank of	Crockett Crockett	TX
First National Bank in Dalhart	Dalhart	TX
Inwood National Bank	Dallas	TX
First Command Bank	Fort Worth	TX
Pioneer National Bank	Fredericksburg	TX
First State Bank	Happy	TX
Henderson Savings & Loan	Henderson	TX
Coastal Bank ssb	Houston	TX
Community State Bank	Houston	TX
First Heights Bank, fsb	Houston	TX
Guardian S&LA	Houston	TX
Heritage Bank	Houston	TX
Merchants Bank	Houston	TX
Navigation Bank	Houston	TX
Riverway Bank	Houston	TX
University Bank	Houston	TX
La Grange State Bank	La Grange	TX
Bayshore National Bank of La Porte	La Porte	TX
Spring Hill State Bank	Longview	TX
Angelina Savings Bank, FSB	Lufkin	TX
Guaranty Bank	Mount Pleasant	TX
First National Bank of Palestine	Palestine	TX
Olympic Savings Association	Refugio	TX
Canyon Creek National Bank	Richardson	TX
Bank of South Texas	San Antonio	TX
First State Bank	Stratford	TX
Alliance Bank	Sulphur Springs	TX
First State Bank	Temple	TX
First FS&LA of Tyler	Tyler	TX
First National Bank of Weatherford	Weatherford	TX
Horizon Capital Bank	Webster	TX

Federal Home Loan Bank of Topeka—District 10

Pitkin County Bank and Trust Company	Aspen	CO
Aurora National Bank	Aurora	CO
Valley Bank and Trust	Brighton	CO
First National Bank of Canon City	Canon City	CO
Colorado Federal Savings Bank	Colorado Springs	CO
Burns National Bank	Durango	CO
First National Bank of Durango	Durango	CO
First National Bank of Flagler	Flagler	CO

Morgan County FS&LA	Fort Morgan	CO
Colorado East Bank and Trust	Lamar	CO
First National Bank in Lamar	Lamar	CO
The Valley State Bank	Atchison	KS
Guaranty State Bank and Trust Company	Beloit	KS
Citizens National Bank	Fort Scott	KS
Central Bank and Trust Company	Hutchinson	KS
Inter-State FS&LA of Kansas City	Kansas City	KS
State Bank of Kingman	Kingman	KS
Citizens S&LA, F.S.B.	Leavenworth	KS
First Savings Bank F.S.B.	Manhattan	KS
First State Bank	Norton	KS
First FS&LA of Olathe	Olathe	KS
First National Bank and Trust	Osawatomie	KS
Roxbury Bank	Roxbury	KS
Columbian Bank and Trust Company	Topeka	KS
American Bank	Wichita	KS
Community Bank	Alma	NE
Auburn State Bank	Auburn	NE
Bruning State Bank	Bruning	NE
South Central State Bank	Campbell	NE
City Bank and Trust Company	Crete	NE
Cedar Security Bank	Fordyce	NE
Fort Calhoun State Bank Fort	Calhoun	NE
First Federal Lincoln Bank—Iowa	Lincoln	NE
Security Home Bank	Malmo	NE
Commercial Federal Bank	Omaha	NE
Security National Bank of Omaha	Omaha	NE
Pinnacle Bank	Papillion	NE
Stockmens National Bank	Rushville	NE
First National Bank of Stromsburg	Stromsburg	NE
Lancaster County Bank	Waverly	NE
Bank of Yutan	Yutan	NE
First National Bank & Trust Company	Ardmore	OK
Republic Bank of Norman	Norman	OK
UMB Oklahoma Bank	OKlahoma City	OK
Lakeside State Bank	Oologah	OK
First National Bank of Oklahoma	Ponca	OK
First American Bank and Trust Company	Purcell	OK
Sulphur Community Bank	Sulphur	OK
Arvest Savings Bank	Tulsa	OK
State Bank and Trust, N.A.	Tulsa	OK

Federal Home Loan Bank of San Francisco—District 11

Bank of Stockdale	Bakersfield	CA
Fremont Bank	Fremont	CA
Fidelity Federal Bank, FSB	Glendale	CA
Brentwood Bank of California	Los Angeles	CA
U.S. Trust Company of California, N.A.	Los Angeles	CA
Vintage Bank	Napa	CA
United Labor Bank, FSB	Oakland	CA
World S&LA	Oakland	CA
Westcoast S&LA	Pacific Palisades	CA
Palm Desert National Bank	Palm Desert	CA
PFF Bank and Trust	Pomona	CA
Mission S&LA, F.A.	Riverside	CA
Summit Savings, FSB	Rohnert Park	CA
Malaga Bank, ssb	Rolling Hills Estate	CA
Monterey Bank Bay	Salinas	CA
California Savings & Loan, AFA	San Francisco	CA
Commercial Bank of San Francisco	San Francisco	CA
American Pacific State Bank	Sherman Oaks	CA
Norwest Bank Nevada, F.S.B.	Reno	NV

Federal Home Loan Bank of Seattle—District 12

Northrim Bank	Anchorage	AK
Guam S&LA	Agana	GU
Finance Factors, Limited	Honolulu	HI
Ireland Bank	Malad	ID
First Federal Savings Bank of Twin Falls	Twin Falls	ID
United Banks, N.A.	Absarokee	MT
Pioneer FS&LA	Dillon	MT
Pacific Continental Bank	Eugene	OR
First FS&LA of McMinnville	McMinnville	OR

Valley Community Bank	McMinnville	OR
Albina Community Bank	Portland	OR
Community First	Prineville	OR
Douglas National Bank	Roseburg	OR
Bank of American Fork	American Fork	UT
Home Credit Bank	Salt Lake City	UT
Heritage Savings Bank	St. George	UT
Bank of Fairfield	Fairfield	WA
Timberland Savings Bank	Hoquiam	WA
Kitsap Bank	Port Orchard	WA
First Savings Bank of Renton	Renton	WA
Continental Savings Bank	Seattle	WA
Washington First International Bank	Seattle	WA
Shoshone First Bank	Cody	WY
Lusk State Bank	Lusk	WY
First National Bank of Powell	Powell	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before October 31, 1998, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1998–99 third quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1998–99 third quarter review cycle must be delivered to the Finance Board on or before the November 30, 1998 deadline for submission of Community Support Statements.

Date: September 30, 1998.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–26570 Filed 10–15–98; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit commits on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011516–001.

Title: Voluntary Intermodal Sealift Rate Agreement.

Parties: American President Lines, Ltd. Sea-Land Service, Inc.

Synopsis: The proposed modification would extend the term of the agreement for an additional 90 days after November 20, 1998, until February 18, 1999.

Agreement No.: 201–200063–018.

Title: NYSA–ILA Tonnage Assessment Agreement.

Parties: New York Shipping Association, Inc. International Longshoremen's Association.

Synopsis: The proposed amendment establishes a new unit assessment for containerized domestic cargo.

Agreement No.: 224–201061.

Title: Manatee County Port Authority—Apollo Stevedoring Cargo Tonnage Volume Agreement.

Parties: Manatee County Port Authority Battery Creek Stevedoring, LLC d/b/a Apollo Stevedoring.

Synopsis: The agreement provides for the use of the port authority's facilities for various types of steel products moving in waterborne commerce. The agreement runs through September 23, 1999.

Dated: October 9, 1998.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–27752 Filed 10–15–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1994 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Natasha International Freight, Inc., 10505 N.W. 27 Street, Miami, FL 33172, Officers: Robert Haunes, President, Liliana Haynes, Vice President

Aetna Forwarding, Inc., 17 Miriam Street, Valley Stream, NY 11581, Officer: Michael Siracusano, President

Dated: October 13, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–27826 Filed 10–15–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 18, 1998

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 18, 1998.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that domestic final demand has continued to expand at a robust pace, but overall economic activity has been adversely affected by the strike at General Motors and developments in Asia. Nonfarm payroll

[1] Copies of the Minutes of the Federal Open Market Committee meeting of August 18, 1998, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

employment continued to expand through July and the civilian unemployment rate was unchanged at 4.5 percent. Industrial production declined considerably in June and July; most of the drop over the two months reflected the GM strike. A decline in total retail sales in July was more than accounted for by a sharp contraction in spending for motor vehicles. Residential sales and construction have remained exceptionally strong in recent months. Available indicators point to continued growth in business capital spending, although apparently at a more moderate pace than earlier in the year. Business inventory accumulation slowed sharply in the spring. The nominal deficit on U.S. trade in goods and services widened substantially further in the second quarter. Trends in wages and prices have remained stable in recent months.

Most interest rates have fallen slightly on balance since the meeting on June 30-July 1. Share prices in U.S. equity markets have remained volatile and major indexes have declined appreciably on balance over the intermeeting period. In foreign exchange markets, the trade-weighted value of the dollar rose somewhat further over the intermeeting period in relation to other major currencies; in addition, it was up slightly in terms of an index of the currencies of the developing countries of Latin America and Asia that are important trading partners of the United States.

After robust growth in the second quarter, M2 decelerated somewhat and M3 was about unchanged in July. For the year through July, both aggregates rose at rates well above the Committee's ranges for the year. Expansion of total domestic nonfinancial debt appears to have moderated somewhat in recent months after a pickup earlier in the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee reaffirmed at its meeting on June 30-July 1 the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1997 to the fourth quarter of 1998. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1999, the Committee agreed on a tentative basis to set the same ranges for growth of the monetary aggregates and debt, measured from the fourth quarter of 1998 to the fourth quarter of 1999. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5-1/2 percent. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, a slightly higher federal funds rate or a slightly lower federal funds rate would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with moderate growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, October 7, 1998.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 98–27737 Filed 10–15–98; 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, October 21, 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.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–27912 Filed 10–14–98; 10:40 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N–0240]

Erythrityl Tetranitrate; Drug Efficacy Study Implementation; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing conditional approval of abbreviated new drug applications (ANDA's) for single-entity drug products containing erythrityl tetranitrate. FDA is withdrawing approval because there is a lack of substantial evidence that these drugs are effective for indications relating to the management, prophylaxis, or treatment of anginal attacks.

EFFECTIVE DATE: November 16, 1998.

ADDRESSES: Requests for an opinion on the applicability of this notice to a specific product should be identified with Docket No. 77N–0240 and reference number DESI 1786 and directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 23, 1998 (63 FR 34188), FDA revoked the temporary exemption for the drug products described in this document which permitted these products to remain on the market beyond the time limits scheduled for implementation of the Drug Efficacy Study. The notice also offered an opportunity to request a hearing on a proposal to withdraw approval of the conditionally approved new drug applications for these products insofar as they provide for indications relating

to the management, prophylaxis, or treatment of anginal attacks. The proposal was based on a lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)) and 21 CFR 314.126.

Neither the holder of the conditionally approved ANDA's nor any other person filed a written notice of appearance and request for hearing as provided by the notice (63 FR 34188). The failure to file such an appearance and request for hearing constitutes a waiver of the opportunity for hearing. Accordingly, approval of the following conditionally approved ANDA's is being withdrawn:

1. ANDA 86–194; Cardilate Chewable Tablets containing 10 milligrams (mg) erythrityl tetranitrate per tablet; Glaxo Wellcome (formerly Burroughs Wellcome), 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.

2. ANDA 86–203; Cardilate Tablets containing 5, 10, or 15 mg of erythrityl tetranitrate per tablet; Glaxo Wellcome.

Although FDA withdrew approval of ANDA 86–194 in the **Federal Register** of February 13, 1996 (61 FR 5563), based on the applicant's written request, this notice constitutes FDA's final conclusions on the effectiveness of the product.

Any drug product that is identical, related, or similar to the drug products named previously and is not the subject of an approved new drug application is covered by the applications listed previously and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Prescription Drug Compliance and Surveillance (address above).

The Director of the Center for Drug Evaluation and Research, under section 505 of the act and under authority delegated to her (21 CFR 5.82), finds that, on the basis of new information on the drugs and the evidence available when the applications were approved, there is a lack of substantial evidence that the products named previously will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, based on the foregoing finding, approval of ANDA's 86–194 and 86–203 and all their amendments and supplements are withdrawn effective November 16, 1998. Shipment in interstate commerce of these products or of any identical, related, or similar product that is not the subject of a fully approved new drug application will then be unlawful.

Dated: September 25, 1998.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 98–27739 Filed 10–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0530]

FDA Modernization Act of 1997: Modifications to the List of Recognized Standards; Availability; Withdrawal of Draft Guidance ''Use of IEC 60601 Standards; Medical Electrical Equipment''

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the publication of the modifications to the list of standards that will be recognized for use in the premarket review process and withdrawing its draft guidance entitled ''Use of IEC 60601 Standards; Medical Electrical Equipment.'' This will assist manufacturers who elect to declare conformity with consensus standards to meet all or part of medical device review requirements.

DATES: This recognition of standards is effective on November 16, 1998; however, written comments concerning this notice may be submitted at any time.

ADDRESSES: Submit written requests for single copies of ''Modifications to the List of Recognized Standards'' to the Division of Small Manufacturers Assistance (DSMA), Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 301–443–8818. Written comments concerning this document must be submitted to the contact person listed below. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance. This document may also be accessed via the Internet at FDA's web site ''http://www.fda.gov/cdrh''.

FOR FURTHER INFORMATION CONTACT: To comment on this document and/or to recommend additional standards for recognition: James J. McCue, Jr., Center for Devices and Radiological Health (HFZ–101), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–4766, ext. 137.

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115, 111 Stat. 2296 (1997)) amends section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d), allowing the agency to recognize consensus standards established by international and national standards development organizations that may be used to satisfy identified portions of device premarket review submissions or other requirements. In a previous notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance document entitled ''Recognition and Use of Consensus Standards,'' which describes how FDA will implement that part of FDAMA, and provided the initial list of recognized standards (the February 1998 notice). This document announces modifications to the list of consensus standards to be recognized for use by FDA.

II. Recognition and Use of IEC 60601 Standards

In the **Federal Register** of January 13, 1998 (63 FR 1974), FDA published a notice that announced the availability of a draft guidance entitled ''Use of IEC 60601 Standards; Medical Electrical Equipment'' (the January 1998 notice). The purpose of the draft was to provide guidance to the Office of Device Evaluation reviewers on the use of the International Electrotechnical Commission (IEC) 60601 series of standards, including declarations of conformity to the standards, during the evaluation of premarket submissions for electrical medical devices.

FDA has decided not to finalize this draft guidance document. Instead, recognition of the IEC 60601 standards will occur by listing in this publication ''Modifications to the List of Recognized Standards.'' There appears to be little, if any, benefit to finalizing guidance on FDA's use of IEC 60601 standards in a separate document from the general recognition of consensus standards under FDAMA, announced in the February 1998 notice, especially as there is a fair amount of overlap between the two documents.

In response to the January 1998 notice, FDA received one comment on the draft guidance. The comment contained some specific recommendations concerning IEC 60601–1–2 on Electromagnetic Compatibility (EMC). These recommendations were considered in developing the supplementary information sheet for this standard that is maintained on the FDA Web site. The comment also included recommended changes to the draft guidance which are now not necessary because the draft guidance will not be finalized. However, most of the recommended changes were accommodated in the guidance ''Recognition and Use of Consensus Standards'' announced in the February 1998 notice. Finally, the comment recommended an additional standard (newly published) in the 60601 series for recognition. This standard will be treated as an official recommendation according to the ''Guidance on the Recognition and Use of Consensus Standards'' and will be considered in due course.

In the February 1998 notice, one of the recognized standards was IEC 60601–1. This ''Modifications to the List of Recognized Standards'' includes the IEC 60601–1 standard again because the associated supplementary information sheet has been modified, partly to include reference to the two amendments to IEC 60601–1 which are being recognized by this modified list. Also, some of the IEC 60601 part 2 standards referenced in the January 1998 notice do not appear in this modified list. This is because there was not sufficient time to complete the detailed evaluations and prepare the supplementary information sheets for these standards. They should appear in future **Federal Register** notices of recognized standards.

III. List of Recognized Standards

Modifications to the list of consensus standards to be recognized for use in premarket review and to meet other requirements are presented at the end of this document. This list is also maintained on the FDA Web site ''http://www.fda.gov/cdrh''. Also posted on the Web site are supplementary information sheets for each recognized standard. These information sheets list the address(es) where the standard can be obtained, information on any limitations on the application of the standard in medical device review or in satisfying other regulatory requirements, and a list of devices for which declarations of conformity with the recognized standard will be routinely accepted by agency reviewers. In addition to these documents, the web site contains answers to frequently asked questions regarding the use of recognized standards.

In the February 1998 notice, one of the recognized standards, under the OB–GYN/GASTROENTEROLOGY heading, was ASTM D3492–96. This publication ''Modifications to the List of Recognized Standards'' removes the February 25, 1998, recognition and adds recognition of ASTM 3492–96 in part. The associated supplementary information sheet excludes from recognition the standards quality inspection for air burst properties and water leakage which are different than the FDA requirements.

IV. Recommendation of Standards for Recognition by FDA

Modifications to the list of recognized consensus standards related to medical devices will be announced in the **Federal Register** at least once a year, or more often if necessary.

Any person may recommend consensus standards as candidates for recognition under the new paragraph of section 514 of the act by submitting such recommendations, with justification, to DSMA (address above). To be properly considered, such recommendations should contain, at a minimum, the following information: (1) Title of standard, (2) any reference number and date, (3) name and address of the nationally or internationally recognized standards development organization, (4) a proposed list of devices for which a declaration of conformity should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

V. Electronic Access

In order to receive the guidance document ''Recognition and Use of Consensus Standards,'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number 321, followed by the pound sign (#). Then follow the remaining voice prompts to complete your request. Persons interested in obtaining a copy of the guidance may also do so by using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes the guidance document ''Guidance on the Recognition and Use of Consensus Standards,'' as well as the list of recognized standards and details on their application, and information on obtaining copies. The CDRH home page may be accessed at ''http://www.fda.gov/cdrh''.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800-222-0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there, follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA Home Page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there, select Center for Devices and Radiological Health for general information or arrow down for specific topics.

VI. Comments

Interested persons may, at any time, submit to the contact person listed above written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments will be considered in determining whether to amend the current guidance.

Dated: October 8, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

BILLING CODE 4160–01–F

The text of the list is set forth below:

	Title of Standard	Reference No. and Date
	Generally Applicable Standards	
4.....	Medical Electrical Equipment - Part 1: General Requirements for Safety, Amendment 1, 1991-11 Amendment 2, 1995-03	IEC 60601-1 (1988)
5.....	Medical Electrical Equipment - Part 1: General Requirements for Safety; Safety Requirements for Medical Electrical Systems, Amendment 1(1995-11)	IEC 60601-1-1 (1992-06)
6.....	Medical Electrical Equipment - Part 1: General Requirements for Safety; Electromagnetic Compatibility - Requirements and Tests	IEC 60601-1-2 (First Edition, 1993-04)
7.....	Medical Electrical Equipment - Part 1: General Requirements for Safety; General Requirements for Radiation Protection in Diagnostic X-Ray Equipment	IEC 60601-1-3 (1994-07)
8.....	Medical Electrical Equipment - Part 1: General Requirements for Safety; 4. Collateral Standard: Programmable Electrical Medical Systems	IEC 60601-1-4:1996
9.....	Medical Devices - Risk Analysis	EN 1441:1997
	Anesthesia	
1.....	Standard Specification for Minimum Performance and Safety Requirements for Resuscitators Intended for Use with Humans	ASTM F 920-93
2.....	Standard Specification for Ventilators Intended for Use in Critical Care	ASTM F 1100-90
3.....	Standard Specification for Minimum Performance And Safety Requirements for Components and Systems of Anesthesia Gas Machines	ASTM F 1161-88
4.....	Standard Specification for Cuffed and Uncuffed Tracheal Tubes	ASTM F 1242-96
5.....	Standard Specification for Alarm Signals in Medical Equipment Used in Anesthesia and Respiratory Care	ASTM F1463-93
6.....	Standard Specification for Oxygen Concentrators for Domiciliary Use	ASTM F1464-93
7.....	Standard Specification for Pediatric Tracheostomy Tubes	ASTM F1627-95
8.....	Safety Standard for Pressure Vessels for Human Occupancy	ASME PVHO-1-1997
9.....	Medical Electrical Equipment Part 2: Particular Requirements for the Safety of Lung Ventilators for Medical Use	IEC 60601-2-12:1988-12
10.....	Medical Electrical Equipment Part 2: Particular Requirements for the Safety of Anesthetic Machines	IEC 60601-2-13:1998-05

11.....	Medical Electrical Equipment Part 3-1: Essential Performance Requirements for Transcutaneous Oxygen and Carbon Dioxide Partial Pressure Monitoring Equipment	IEC 60601-3-1:1996-08
12.....	Tracheal Tubes-Part 1: General Requirements	ISO 5361-1:1988
13.....	Tracheal Tubes-Part 2: Oro-tracheal and Naso-tracheal Tubes of Magill Type (plain and cuffed)	ISO 5361-2:1993
14.....	Tracheal Tubes-Part 3: Murphy Type	ISO 5361-3:1984
15.....	Tracheal Tubes-Part 4: Cole Type	ISO 5361-4:1987
16.....	Tracheal Tubes-Part 5: Requirements and Methods of Test for Cuffs and Tubes	ISO 5361-5:1984
17.....	Tracheostomy Tubes-Part 3: Pediatric Tracheostomy Tubes	ISO 5366-3:1994
18.....	Oxygen Concentrators for Medical Use	ISO 8359:1996
19.....	Resuscitators Intended for Use with Humans	ISO 8382:1988
20.....	Anesthesia and Respiratory Care Alarm Signals, Part 1: Visual Alarm Signals	ISO 9703-1:1992
21.....	Anesthesia and Respiratory Care Alarm Signals, Part 2: Auditory Alarm Signals	ISO 9703-2:1994
22.....	Standard for Health Care Facilities Chapter 19 - Hyperbaric Facilities	NFPA 99-1996

	Biocompatibility	
1.....	Standard Guide for Performance of the Chinese Hamster Ovary Cell/Hypoxanthine Guanine Phosphoribosyl Transferase Gene Mutation Assay	ASTM E 1262-88 (r1996)
2.....	Standard Guide for Conduct of Micronucleus Assays in Mammalian Bone Marrow Erythrocytes	ASTM E 1263-97
3.....	Standard Guide for Performing the Mouse Lymphoma Assay for Mammalian Cell Mutagenicity	ASTM E 1280-97
4.....	Standard Test Method for Conducting a 90-Day Oral Toxicity Study in Rats	ASTM E 1372-90
5.....	Standard Practice for the in vitro Rat Hepatocyte DNA Repair Assay	ASTM E 1397-91
6.....	Standard Practice for the in vivo Rat Hepatocyte DNA Repair Assay	ASTM E 1398-91
7.....	Standard Practice for Testing Biomaterials in Rabbits for Primary Skin Irritation	ASTM F 719-81 (r1996)
8.....	Standard Practice for Testing Guinea Pigs for Contact Allergens: Guinea Pig Maximization Test	ASTM F 720-81 (r1996)
9.....	Standard Practice for Evaluating Material Extracts by Intracutaneous Injection in the Rabbit	ASTM F 749-87 (r1996)
10.....	Standard Practice for Evaluating Material Extracts by Systemic Injection in the Mouse	ASTM F 750
11.....	Standard Practice for Short Term Screening for Implant Material	ASTM F 763-87
12.....	Standard Practice for Direct Contact Cell Culture Evaluation of Materials for Medical Devices	ASTM F 813-83 (r1996)
13.....	Standard Test Method for Agar Diffusion Cell Culture Screening for Cytotoxicity	ASTM F 895-84 (r1995)

14.....	Standard Practice for Assessment of Compatibility of Biomaterials for Surgical Implants with Respect to Effect of Materials on Muscle and Bone	ASTM F 981-93
15.....	Standard Practice for Subcutaneous Screening Test for Implant Materials	ASTM F 1408-92
16.....	Standard Guide for Performance of Lifetime Bioassay for the Tumorigenic Potential of Implant Materials	ASTM F 1439-92(r1996)
17.....	Biological Evaluation for Medical Devices-Part 5: Tests for Cytotoxicity: in vitro Methods	ANSI/AAMI/ISO 10993-5 (1993)
18.....	Biological Evaluation of Medical Devices-Part 6: Test for Local Effects After Implantation	ANSI/AAMI/ISO 10993-6 (1995)
19.....	Biological Evaluation of Medical Devices-Part 10: Tests for Irritation and Sensitization	ANSI/AAMI/ISO 10993-10 (1995)
20.....	Biological Evaluation of Medical Devices-Part 10: Maximization Sensitization Test	ANSI/AAMI/ISO 10993-10 (1995)
21.....	Biological Evaluation of Medical Devices-Part 11: Tests for Systemic Toxicity	ISO 10993-11 (1993)
22.....	Biological Evaluation of Medical Devices-Part 12: Sample Preparation and Reference Materials	ANSI/AAMI/ISO 10993-12 (1996)
23.....	Biological Reactivity Tests, In Vitro-Direct Contact Test <87>	USP 23
24.....	Biological Reactivity Tests, In Vitro-Elution Test <87>	USP 23
25.....	Biological Reactivity Tests, In Vivo, Classification of Plastics - Intracutaneous Test <88>	USP 23
26.....	Biological Reactivity Tests, In Vivo, Classification of Plastics, Sample Preparation <88>	USP 23
27.....	Biological Reactivity Tests, In Vivo - Systemic Injection Test <88>	USP 23

Cardiovascular/Neurology

1.....	Disposable ECG Electrodes	AAMI EC12-1991
2.....	ECG Cables and Leadwires	AAMI EC53-1995
3.....	Intracranial Pressure Monitoring Devices	AAMI NS28
4.....	Electronic or Automated Sphygmomanometers	AAMI SP10-1992
5.....	Cardiovascular Implants - Vascular Prostheses (rev. of ANSI/AAMI VP20-1986)	AAMI VP 20-1994
6.....	Standard Specification for Cast Cobalt-Chromium-Molybdenum Alloy for Surgical Implant Applications	ASTM F 75-92
7.....	Standard Specification for Wrought Cobalt-20 Chromium-15 Tungsten-10 Nickel Alloy for Surgical Implant Applications	ASTM F 90-96
8.....	Standard Specification for Wrought Titanium-6 Aluminum-4 Vanadium Alloy for Surgical Implant Applications	ASTM F 136-96
9.....	Standard Specification for Wrought 18 Chromium-14 Nickel-2.5 Molybdenum Stainless Steel Bar and Wire for Surgical Implants	ASTM F 138-97
10.....	Standard Specification for Unalloyed Tantalum for Surgical Implant Applications	ASTM F 560-92

11.....	Standard Specification for Wrought Cobalt-35 Nickel-20 Chromium-10 Molybdenum Alloy for Surgical Implant Applications	ASTM F 562-95
12.....	Standard Specification for Cobalt-35 Nickel-20 Chromium-10 Molybdenum Alloy Forgings for Surgical Implant Applications [UNS R30035]	ASTM F 961-96
13.....	Standard Specification for Wrought Cobalt-Chromium-Nickel-Molybdenum-Iron Alloy for Surgical Applications	ASTM F 1058-91
14.....	Recommended Practice for Selection of Blood for In Vitro Hemolytic Evaluation of Blood Pumps	ASTM F 1830
15.....	Recommended Practice for Assessment of Hemolysis in Continuous Flow Blood Pumps	ASTM F 1841
16.....	Medical Electrical Equipment-Part 2: Particular Requirements for the Safety of Nerve and Muscle Stimulators	IEC 60601-2-10 (1987)
17.....	Medical Electrical Equipment, Part 2: Particular Requirements for the Safety of Electrocardiographs	IEC 60601-2-25 (1993)
18.....	Medical Electrical Equipment, Part 2: Particular Requirements for the Safety of Electrocardiographic Monitoring Equipment	IEC 60601-2-27 (1994)
19.....	Medical Electrical Equipment, Part 2: Particular Requirements for the Safety of Automatic Cycling Indirect Blood Pressure Monitoring Equipment	IEC 60601-2-30 (1995)
20.....	Medical Electrical Equipment, Part 2: Particular Requirements for the Safety of External Cardiac Pacemakers with Internal Power Source	IEC 60601-2-31 (1994)

Dental/ENT

1.....	Standard Specifications for Unalloyed Titanium for Surgical Implant Applications	ASTM F67-95
2.....	Standard Specification for Cast Cobalt-Chromium-Molybdenum Alloy for Surgical Implant Applications	ASTM F75-92
3.....	Standard Specification for Wrought Cobalt-20 Chromium-15 Tungsten-10 Nickel Alloy for Surgical Implant Applications (UNS R30605)	ASTM F90-96
4.....	Standard Specification for Wrought Titanium-6 Aluminum-4 Vanadium ELI (Extra Low Interstitial) Alloy (R56401) for Surgical Implant Applications	ASTM F136-96
5.....	Standard Specification for Stainless Steel Bar and Wire for Surgical Implants (Special Quality)	ASTM F138-92
6.....	Standard Specification for Wrought-18 Chromium-14 Nickel-2.5 Molybdenum Stainless Sheet and Strip for Surgical Implants (UNS S31673)	ASTM F139-96

7.....	Standard Specification for Wrought Cobalt-35 Nickel-20 Chromium-10 Molybdenum Alloy for Surgical Implant Applications	ASTM F562-95
8.....	Standard Specification for Titanium-6 Aluminum-4 Vanadium ELI Alloy Forgings for Surgical Implants (UNS R56401)	ASTM F620-96
9.....	Standard Specification for Stainless Steel Forgings for Surgical Implants	ASTM F621-92
10.....	Standard Specification for Wrought Cobalt-35 Nickel-20 Chromium-10 Molybdenum Alloy Plate, Sheet, and Foil for Surgical Implants	ASTM F688-95
11.....	Standard Specification for 18 Chromium-12.5 Nickel-2.5 Molybdenum Stainless Steel for Cast and Solution-Annealed Surgical Implant Applications	ASTM F745-95
12.....	Standard Specification for Cobalt-28 Chromium-6 Molybdenum Alloy Forgings for Surgical Implants (UNS R31537)	ASTM F799-96
13.....	Standard Specification for Cobalt-Nickel-Chromium-Molybdenum Alloy Forgings for Surgical Implant Applications	ASTM F961-96
14.....	Standard Specification for Beta-Tricalcium Phosphate for Surgical Implantation	ASTM F1088-87 (R1992)
15.....	Standard Specification for Wrought Cobalt-20 Chromium-15 Tungsten-20 Nickel Alloy Surgical Fixation Wire (UNS R30605)	ASTM F1091-91 (R1996)
16.....	Standard Specification for Titanium-6 Aluminum-4 Vanadium Alloy Castings for Surgical Implants (UNS R56406)	ASTM F1108-97
17.....	Standard Specification for Composition of Ceramic Hydroxylapatite for Surgical Implants	ASTM F1185-88 (R1993)
18.....	Standard Specification for Wrought Titanium-6 Aluminum-7 Niobium Alloy for Surgical Implant Applications	ASTM F1295-97
19.....	Standard Specification for Wrought Nitrogen Strengthened-22 Chromium-12.5 Nickel-5 Manganese-2.5 Molybdenum Stainless Steel Bar and Wire for Surgical Implants	ASTM F1314-95
20.....	Standard Specification for Unalloyed Titanium Wire for Surgical Implant Applications	ASTM F1341-92
21.....	Standard Specification for Wrought-18 Chromium-14 Nickel-2.5 Molybdenum Stainless Steel Surgical Fixation Wire (UNS S31673)	ASTM F1350-96
22.....	Standard Specification for Cobalt-Chromium-Molybdenum Powder for Coating of Orthopaedic Implants	ASTM F1377-92
23.....	Standard Specification for Wrought TI-6AI-4V Alloy for Surgical Implant Applications	ASTM F1472-93
24.....	Standard Specification for Wrought Cobalt-28 Chromium-6-Molybdenum Alloy for Surgical Implants	ASTM F1537-94
25.....	Standard Specification for Titanium and Titanium-6% Aluminum-4% Vanadium Alloy Powders for Coatings of Surgical Implants	ASTM F1580-95

26.....	Standard Specification for Wrought Nitrogen Strengthened-21 Chromium-10 Nickel-3 Manganese-2.5 Molybdenum Stainless Steel Bar for Surgical Implants	ASTM F1586-95
27.....	Standard Specification for Calcium Phosphate Coatings for Implantable Materials	ASTM F1609-95
28.....	Standard Specification for Wrought Titanium-13 Niobium-13 Zirconium Alloy for Surgical Implant Applications	ASTM F1713-96
29.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Endoscopic Equipment	IEC 60601-2-18(1996)
30.....	Implants for Surgery - Metallic Materials - Part 1: Wrought Stainless Steel	ISO 5832-1:1997
31.....	Implants for Surgery - Metallic Materials - Part 2: Unalloyed Titanium	ISO 5832-2:1993
32.....	Implants for Surgery - Metallic Materials - Part 3: Wrought Titanium 6-Aluminum 4-Vanadium Alloy	ISO 5832-3:1996
33.....	Implants for Surgery - Metallic Materials - Part 4: Cobalt-Chromium-Molybdenum Casting Alloy	ISO 5832-4:1996
34.....	Implants for Surgery - Metallic Materials - Part 5: Wrought Cobalt-Chromium-Tungsten-Nickel Alloy	ISO 5832-5:1993
35.....	Implants for Surgery - Metallic Materials - Part 6: Wrought Cobalt-Nickel-Chromium-Molybdenum Alloy	ISO 5832-6:1997
36.....	Implants for Surgery - Metallic Materials - Part 9: Wrought High Nitrogen Stainless Steel First Edition	ISO 5832-9:1992
37.....	Implants for Surgery - Metallic Materials - Part 10: Wrought Titanium 5-Aluminum 2.5-Iron	ISO 5832-10:1996
38.....	Implants for Surgery - Metallic Materials - Part 11: Wrought Titanium 6-Aluminum 7-Niobium Alloy	ISO 5832-11:1994
39.....	Implants for Surgery - Metallic Materials - Part 12: Wrought Cobalt-Chromium-Molybdenum Alloy	ISO 5832-12:1996

General Plastic Surgery/General Hospital

1.....	For Blood Transfusion Micro-Filter	AAMI BF7-1989 (revising BF7-1982)
2.....	Standard Specification for Electronic Thermometers for Intermittent Determinations of Patient Temperature	ASTM E1112-86 (r1991)
3.....	Standard Specification for Implantable Polytetrafluoroethlene (PTFE) Polymer Fabricated in Sheet, Tube, and Rod Shapes	ASTM F754-88
4.....	Standard Specification for Elastomer Facial Implants	ASTM F881-94
5.....	Standard Performance and Safety Specification for Cryosurgical Medical Instrumentation	ASTM F882-96a
6.....	Standard Specification for Soft Tissue Expanders	ASTM F1441-92
7.....	Medical Electrical Equipment - Part 2: Particular Requirements for Safety of Baby Incubators, Amend. No. 1	IEC 60601-2-19 (1990-12) (r1996-10)

8.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Transport Incubators, Amend. No. 1 (1996-10)	IEC 60601-2-20 (1990-12)
9.....	Medical Electrical Equipment - Part 2: Particular Requirements for Safety of Infant Radiant Warmers, Amend. No. 1 (1996-10)	IEC 60601-2-21(1994-02)
10.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Electrically Operated Hospital Beds	IEC 60601-2-38(1996)
11.....	Conical Fittings with a 6% (luer) Taper for Syringes, Needles and Certain Other Medical Equipment - Part 1: General Requirements	ISO 594/1 (First edition 1986-06-15)
12.....	Conical Fittings with a 6% (luer) Taper for Syringes, Needles and Certain Other Medical Equipment - Part 2: Lock Fittings	ISO 594/2 (first edition 1991-05-01)
13.....	Reusable All-glass or Metal-and-glass Syringes for Medical Use - Part 1: Dimensions	ISO 595/1 (first edition 1986-12-15)
14.....	Reusable-glass or Metal-and-glass Syringes for Medical Use - Part 2: Design, Performance Requirements and Tests	ISO 595/2 (first edition 1987-12-15)
15.....	Sterile Hypodermic Needles for Single Use	ISO 7864:1993
16.....	Sterile Hypodermic Syringes for Single Use - Part 1: Syringes for Manual Use	ISO 7886-1:1993
17.....	Infusion Equipment for Medical Use - Part 4: Infusion Sets for Single Use	ISO 8536-4 (first edition 1987-11-01)
18.....	Sterile Single-Use Syringes, with or without Needle, for Insulin	ISO 8537:1991
19.....	Transfusion Equipment for Medical Use - Part 4: Transfusion Sets for Single Use	ISO 1135-4 (first edition 1987-12-01)
20.....	Sterile - Single-Use Intravascular Catheters Part 1: General Requirements	ISO 10555-1
21.....	Sterile Single-Use Intravascular Catheter Part 3: Central Venous Catheter	ISO 10555-3
22.....	Absorbable Surgical Sutures	USP 21
23.....	Nonabsorbable Surgical Sutures	USP 21
24.....	Sutures - Diameter <861>	USP 21
25.....	Sutures Needle Attachment <871>	USP 21
26.....	Tensile Strength <881>	USP 21
27.....	Sterile Sodium Chloride for Irrigation	USP 23 <11>
28.....	Sterile Water for Injection	USP 23 <11>

In Vitro Devices

12.....	Definitions of Quantities and Conventions Related to Blood pH and Gas Analysis; Approved Standard	NCCLS C12-A (1994)
13.....	Performance Characteristics for Devices Measuring P02 and PC02 in Blood Samples; Approved Standard	NCCLS C21-A (1992)
14.....	Internal Quality Control Testing; Principles and Definitions; Approved Guideline	NCCLS C24-A (1991)

15.....	Fractional Oxyhemoglobin, Oxygen Content and Saturation, and Related Quantities in Blood: Terminology, Measurement, and Reporting; Approved Guideline	NCCLS C25-A (1997)
16.....	Blood Gas Preanalytical Considerations: Specimen Collection, Calibration, and Controls; Approved Guideline	NCCLS C27-A (1993)
17.....	Standardization of Sodium and Potassium Ion-selective Electrode Systems to the Flame Photometric Reference Method; Approved Standard	NCCLS C29-A (1995)
18.....	Ancillary (Bedside) Blood Glucose Testing	NCCLS C30-A
19.....	Ionized Calcium Determinations: Precollection Variables, Specimen Choice, Collection, and Handling; Approved Guideline	NCCLS C31-A (1995)
20.....	Sweat Testing; Sample Collection and Quantitative Analysis; Approved Guideline	NCCLS C34-A (1994)
21.....	Erythrocyte Protoporphyrin Testing; Approved Guideline	NCCLS C42-A (1996)
22.....	Fine-Needle Aspiration Biopsy (FNAB) Techniques; Approved Guideline	NCCLS GP20-A (1996)
23.....	Evacuated Tubes and Additives for Blood Specimen Collection - Fourth Edition; Approved Standard	NCCLS HI-A4 (1996)
24.....	Procedure for Determining Packed Cell Volume by the Microhematocrit Method - Second Edition; Approved Standard	NCCLS H7-A2 (1993)
25.....	Detection of Abnormal Hemoglobin Using Cellulose Acetate Electrophoresis - Second Edition; Approved Standard	NCCLS H8-A2 (1994)
26.....	Chromatographic (Microcolumn) Determination of Hemoglobin A2; Approved Standard	NCCLS H9-A (1989)
27.....	Solubility Test to Confirm the Presence of Sickling Hemoglobins - Second Edition; Approved Standard	NCCLS H10-A2 (1995)
28.....	Percutaneous Collections of Arterial Blood for Laboratory Analysis - Second Edition; Approved Standard	NCCLS H11-A2 (1992)
29.....	Devices for Collection of Skin Puncture Blood Specimens - Second Edition; Approved Guideline	NCCLS H14-A2 (1990)
30.....	Reference and Selected Procedures for the Quantitative Determination of Hemoglobin in Blood - Second Edition; Approved Standard	NCCLS H15-A2 (1994)
31.....	Reference Leukocyte Differential Count (Proportional) and Evaluation of Instrumental Methods; Approved Standard	NCCLS H20-A (1992)
32.....	Performance Goals for the Internal Quality Control of Multichannel Hematology Analyzers; Approved Standard	NCCLS H26-A (1996)
33.....	Procedure for the Determination of Fibrinogen in Plasma; Approved Guideline	NCCLS H30-A (1994)
34.....	Methods for Reticulocyte Counting (Flow Cytometry and Supravital Dyes); Approved Guideline	NCCLS H44-A (1997)

35.....	One-Stage Prothrombin Time (PT) Test and Activated Partial Thromboplastin Time (APTT) Test; Approved Guideline	NCCLS H47-A (1996)
36.....	Quality Assurance for the Indirect Immunofluorescence Test for Autoantibodies to Nuclear Antigen (IF-ANA); Approved Guideline	NCCLS I/LA2-A (1996)
37.....	Detection and Quantitation of Rubella IgG Antibody: Evaluation and Performance Criteria for Multiple Component Test Products, Specimen Handling, and Use of Test Products in the Clinical Laboratory; Approved Guideline	NCCLS I/LA6-A (1997)
38.....	Choriogonadotropin Testing: Nomenclature, Reference Preparations, Assay Performance, and Clinical Application; Approved Guideline	NCCLS I/LA10-A (1996)
39.....	Assessing the Quality of Systems for Alpha-Fetoprotein (AFP) Assays Used in Prenatal Screening and Diagnosis of Neural Tube Defects; Approved Guideline	NCCLS I/LA17-A (1997)
40.....	Specifications for Immunological Testing for Infectious Diseases; Approved Guideline	NCCLS I/LA18-A (1994)
41.....	Primary Reference Preparations Used to Standardize Calibration of Immunochemical Assays for Serum Prostate Specific Antigen (PSA); Approved Guideline	NCCLS I/LA19-A (1997)
42.....	Evaluation Methods and Analytical Performance Characteristics of Immunological Assays for Human Immunoglobulin E (IgE) Antibodies of Defined Allergen Specificities; Approved Guideline	NCCLS I/LA20-A (1997)
43.....	Blood Collection on Filter Paper for Neonatal Screening Programs; Approved Standard - Third Edition	NCCLS LA4-A3 (1997)
44.....	Methods for Dilution Antimicrobial Susceptibility Tests for Bacteria Tests for Bacteria that Grow Aerobically - Fourth Edition; Approved Standard	NCCLS M7-A4 (1997)
45.....	Methods for Antimicrobial Susceptibility Testing of Anaerobic Bacteria; Approved Standard - Fourth Edition	NCCLS M11-A4 (1997)
46.....	Reference Method for Broth Dilution Antifungal Susceptibility Testing of Yeasts; Approved Standard	NCCLS M27-A (1997)
47.....	Immunoglobulin and T-Cell Receptor Gene Rearrangement Assays; Approved Guideline	NCCLS (MM2-A) (1995)
48.....	Blood Alcohol Testing in the Clinical Laboratory	NCCLS T/DM6-A (1997)

OB-GYN/Gastroenterology

4.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Haemodialysis Equipment	IEC 60601-2-16 (1998)
5.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Endoscopic Equipment	IEC 60601-2-18 (1996)

6.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Equipment for Extracoporeally Induced Lithotripsy	IEC 60601-2-36 (1997)
7.....	Ultrasonics - Pressure Pulse Lithotripters - Characteristics of Fields	IEC 61846 (1998)
8.....	Rubber Condoms Part 1: Requirements	ISO 4074-1:1996(E)
9.....	Rubber Condoms Part 2: Determination of Length	ISO 4074-2:1994(E)
10.....	Rubber Condoms Part 3: Determination of Width	ISO 4074-3:1994(E)
11.....	Rubber Condoms Part 5: Testing for Holes - Water Leak Test	ISO 4074-5:1996(E)
12.....	Rubber Condoms Part 6: Determination of Bursting Volume and Pressure	ISO 4074-6:1996(E)
13.....	Rubber Condoms Part 7: Oven Conditioning	ISO 4074-7:1996(E)
14.....	Rubber Condoms Part 9: Determination of Tensile Properties	ISO 4074-9:1996(E)
15.....	Standard Specifications for Rubber Contraceptives (Male Condoms)	ASTM D 3492-96

Ophthalmic

13.....	Optics and Optical Instruments-Ophthalmic Instruments-Direct Ophthalmoscopes	ISO 10942

Radiology

33.....	Medical Electrical Equipment - Part 2: Particular Requirements for Medical Electron Accelerators in the Range 1 MeV to 50 MeV.	IEC 60601-2-1 (1998)
34.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of High-voltage Generators of Diagnostic X-ray Generators	IEC 60601-2-7 (1998)
35.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Therapeutic X-ray Equipment Operating in the Range 10 kV to 1 MV, Amend. No. 1 (1997-08)	IEC 60601-2-8 (1987-04)
36.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Patient Contact Dosimeters used in Radiotherapy with Electrically Connected Radiation Detectors	IEC 60601-2-9 (1998)
37.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Gamma Beam Therapy Equipment	IEC 60601-2-11 (1997)
38.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Capacitor Discharge X-ray Generators	IEC 60601-2-15 (1988)
39.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Remote-Controlled Automatically-Driven Gamma-ray Afterloading Equipment, Amend. No. 1 (1996)	IEC 60601-2-17 (1989)

40.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of X-ray Source Assemblies and X-ray Tube Assemblies for Medical Diagnosis	IEC 60601-2-28 (1993)
41.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Radiotherapy Simulators, Amend. No. 1 (1996)	IEC 60601-2-29 (1993)
42.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Associated Equipment of X-ray Equipment	IEC 60601-2-32 (1994)
43.....	Medical Electrical Equipment - Part 2: Particular Requirements for the Safety of Magnetic Resonance Equipment for Medical Diagnosis	IEC 60601-2-33 (1995)

Software

1.....	Information Technology-Software Life Cycle Processes	ISO/IEC 12207:1995

Sterility

1.....	Official Method 955.14, Testing Disinfectants against Salmonella choleraesuis, Use-Dilution Method	AOAC 6.2.01:1995
2.....	Official Method 991.47, Testing Disinfectants Against Salmonella choleraesuis, Hard Surface Carrier Test Method	AOAC 6.2.02:1995
3.....	Official Method 991.48, Testing Disinfectants Against Staphylococcus aureus, Hard Surface Carrier Test Method	AOAC 6.2.03:1995
4.....	Official Method 955.15, Testing Disinfectants Against Staphylococcus aureus, Use-Dilution Method	AOAC 6.2.04:1995
5.....	Official Method 991.49, Testing Disinfectants Against Pseudomonas aeruginosa, Hard Surface Carrier Test Method	AOAC 6.2.05:1995
6.....	Official Method 964.02, Testing Disinfectants Against Pseudomonas aeruginosa, Use-Dilution Method	AOAC 6.2.06:1995
7.....	Official Method 955.17, Fungicidal Activity of Disinfectants Using Trichophyton mentagrophytes	AOAC 6.3.02:1995
8.....	Official Method 966.04, Sporicidal Activity of Disinfectants	AOAC 6.3.05:1995
9.....	Official Method 965.12, Tuberculocidal Activity of Disinfectants	AOAC 6.3.06:1995
10.....	Hospital Steam Sterilizers	ANSI/AAMI ST8:1994
11.....	Biological Indicators for Saturated Steam Sterilization Processes in Health Care Facilities	ANSI/AAMI ST19:1994
12.....	Biological Indicators for Ethylene Oxide Sterilization Processes in Health Care Facilities	ANSI/AAMI ST21:1994

13.....	Automatic, General Purpose Ethylene Oxide Sterilizers and Ethylene Oxide Sterilant Sources Intended for Use in Health Care Facilities	ANSI/AAMI ST24:1992
14.....	Guidelines for the Selection and Use of Reusable Rigid Sterilization Container Systems for Ethylene Oxide Sterilization and Steam Sterilization in Health Care Facilities	ANSI/AAMI ST33:1996
15.....	Guideline for the Use of Ethylene Oxide and Steam Biological Indicators in Industrial Sterilization Processes	ANSI/AAMI ST34:1991
16.....	Safe Handling and Biological Contamination of Medical Devices in Health Care Facilities and in Nonclinical Settings	ANSI/AAMI ST35:1996
17.....	BIER/EO Gas Vessels	ANSI/AAMI ST44:1992
18.....	BIER/Steam Vessels	ANSI/AAMI ST45:1992
19.....	Good Hospital Practice: Steam Sterilization and Sterility Assurance	ANSI/AAMI ST46:1993
20.....	Dry Heat (Heated Air) Sterilizers	ANSI/AAMI ST50:1995
21.....	Table-top Steam Sterilizers	ANSI/AAMI ST55:1997
22.....	Sterilization of Health Care Products - Chemical Indicators - Part 1: General Requirements	ANSI/AAMI ST60:1996
23.....	Biological Evaluation of Medical Devices - Part 7: Ethylene Oxide Sterilization Residuals	ANSI/AAMI/ISO 10993-7:1995
24.....	Sterilization of Health Care Products - Requirements for Validation and Routine Control - Industrial Moist Heat Sterilization	ANSI/AAMI/ISO 11134:1993
25.....	Medical Devices - Validation and Routine Control of Ethylene Oxide Sterilization	ANSI/AAMI/ISO 11135:1994
26.....	Sterilization of Health Care Products - Requirements for Validation and Routine Control - Radiation Sterilization	ANSI/AAMI/ISO 11137:1994
27.....	Packaging for Terminally Sterilized Medical Devices	ANSI/AAMI/ISO 11607:1997
28.....	Sterilization of Medical Devices - Microbiological Methods - Part 1: Estimation of the Population of Microorganisms on Product	ANSI/AAMI/ISO 11737-1:1995
29.....	Biological Indicator for Dry-Heat Sterilization, Paper Strip	USP 23:1995
30.....	Biological Indicator for Ethylene Oxide Sterilization, Paper Strip	USP 23:1995
31.....	Biological Indicator for Steam Sterilization, Paper Strip	USP 23:1995
32.....	Microbial Limits Test <61>	USP 23:1995
33.....	Microbiological Tests, Sterility Tests <71>	USP 23:1995
34.....	Biological Tests and Assays, Bacterial Endotoxin Test (LAL) <85>	USP 23:1995
35.....	Pyrogen Test (USP Rabbit Test) <151>	USP 23:1995
36.....	Sterilization and Sterility Assurance of Compendial Articles <1211>	USP 23:1995

[FR Doc. 98–27738 Filed 10–15–98; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Form # HCFA–R–0264–a,b,c,d,e]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this 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.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. The Agency cannot reasonably comply with the normal clearance procedures because of a statutory deadline imposed by section 1853(a)(3) of the Balanced Budget Act of 1997. Without this information, HCFA would not be able to properly implement the requirements set forth in the statute.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below within ten working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New collection;

Title of Information Collection: Collection of DMEPOS Supplier Data in Support of the Medicare DMEPOS Competitive Bidding Demonstration using form (HCFA–R–0264) and Supporting Statute Section 4319 of the Balanced Budget Act of 1997;

Form No.: HCFA–R–0264;

Use: Section 4319 of the Balanced Budget Act (BBA) mandates HCFA to implement demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing of Part B items and services, except for physician's services. The first of these demonstration projects implements competitive bidding of categories of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). Under the law, suppliers can receive payments from Medicare for items and services covered by the demonstration only if their bids are competitive in terms of quality and price. Each demonstration project may be conducted in up to three metropolitan areas for a three year period. Authority for the demonstration expires on December 31, 2002. The schedule for the demonstration anticipates about a six month period required between mailing the bidding forms to potential bidders and the start of payments for DMEPOS under the demonstration. HCFA intends to operate the demonstration in two rounds, the first of two years, and the second of one year. HCFA has announced that it intends to operate its first demonstration in Polk County, Florida, which is the Lakeland-Winter Haven Metropolitan Area.

There are five forms that are required for the demonstration. The first, HCFA–R–0264A, will be filled out by suppliers to describe the attributes of their organization, including quality of services and financial data. Form HCFA–R–0264B will be filled out by suppliers for each of the categories of DMEPOS for which they bid, and includes information about their supply of that category of equipment or supplies, and the prices that they bid for each item in that category. Form HCFA–R–0264C will be used by site inspectors who gather information at the facilities of bidders. Form HCFA–R–0264D is used to gather data by telephone from referral sources of business for the bidding suppliers, and form HCFA–R–0264E is used to gather data by telephone from banks and other financial institutions for financial and business references.

The competitive bidding demonstration for DMEPOS has the following objectives:

- Test the policies and implementation methods of competitive bidding to determine whether or not it should be expanded as a Medicare Program.
- Reduce the price that Medicare pays for medical equipment and supplies.
- Limit beneficiary out-of-pocket expenditures for copayments.
- Improve beneficiary access to high quality medical equipment and supplies.
- Prevent business transactions with suppliers who engage in fraudulent practices.

HCFA plans to mail the bidding package, including the referenced forms A and B, to potential bidders at the first demonstration sites in Polk County, Florida on November 16, 1998, and to request bidder submissions by December 16, 1998. The remaining forms C, D and E will be used for inspections and reference checking in the three months following the bid submissions. These forms will be used by HCFA or its agents to gather information regarding bidders who have made financially attractive bids and are being evaluated for quality, financial stability, and other attributes for consideration as demonstration suppliers.

Frequency: Two times at each demonstration site;

Affected Public: Business or other for-profit, and not-for-profit institutions;

Number of Respondents: 2,040;

Total Annual Responses: 2,040;

Total Annual Hours: 25,260.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, OR E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designee

referenced below, within ten working days:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise Standards,
Attn: Dawn Willinghan,
Room: N2–14–26,
7500 Security Boulevard,
Baltimore, Maryland 21244–1850
or
Office of Information and Regulatory Affairs,
Office of Management and Budget,
Room 10235,
New Executive Office Building,
Washington, DC 20503,
Fax Number: (202) 395–6974 or (202) 395–5167,
Attn: Allison Herron Eydt, HCFA Desk Officer

Dated: October 7, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–27850 Filed 10–15–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Availability of a Panel of HIV–1 Subtypes for Commercial Production and Distribution

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH), in cooperation with the Department of Defense (DoD) and the European Network for Viral Assessment, would like to make available to a qualified recipient a panel of HIV–1 subtypes for commercial production. The panel will consist of approximately 10–12 virus seed stocks representing clades A,B,C,D,E,F,G,H, and O. These isolates are an invaluable resource to the HIV–1 research community for development of assays for the detection of various subtypes of HIV–1 and for use as standards in quality assuring the performance of these assays. A qualified manufacturer must demonstrate a well-established history in the acquisition, production and provision of quality assurance reagents. The manufacturer must be willing to provide the commercially produced reagents at cost to non-profit representatives and under specific stipulations which will be set forth in a Transfer Agreement with the collaborating groups. These materials will be transferred to the qualified manufacturer at no cost other than the costs associated with the packaging and shipping of the materials from the current repository. A panel consisting of representatives from the collaborating groups will evaluate the proposals received. It is anticipated that the collection will be transferred to one or more manufacturers but NICHD will be under no obligation to make this collection available in this manner.

DATES: Only written proposals for acquisition of these materials which are received by NICHD on or before December 15, 1998 in the Federal Register will be considered.

ADDRESSES: Requests for further information about these materials and applications should be directed to: Patricia S. Reichelderfer, Ph.D., Center for Population Research, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 8B13F, Rockville, MD 20892; telephone (301) 496–1661; facsimile (301) 480–1972.

Dated: October 7, 1998.

Yvonne T. Maddox,

Deputy Director, National Institute of Child Health and Human Development.

[FR Doc. 98–27750 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel Clinical Research.

Date: October 29, 1998.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John J. Ryan, PHD, Scientific Review Administrator, Office of Review, National Center For Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0818.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93,371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: October 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27748 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: October 20, 1998.

Time: 10:00 am to 12:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Natcher Bldg, 45 Center Drive, Room 5As.25u, Bethesda, MD 20893 (Telephone Conference Call).

Contact Person: Tommy L. Broadwater, Phd, NIAMS, 45 Center Drive, Room 5AS 25U, Bethesda, MD 20892.

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: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: October 30, 1998.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Barbara Detrick, Phd, Scientific Review Administrator, National Institutes of Health, NIAMS, Bldg. 45, Room 5AS25N, Bethesda, MD 20892, 301–594–4952.

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. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27742 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Arthritis and Musculoskeletal and Skin Diseases; 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(b)(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: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: October 29–30, 1998.

Time: 8:00 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: John R. Lymangrover, Scientific Review Administrater, National Institutes of Health, NIAMS, Natcher Bldg., Room 5AS25N, Bethesda, MD 20892, 301–594–4952.

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. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27743 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

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 Mental Health Special Emphasis Panel.

Date: October 30, 1998.

Time: 11:30 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Jean G. Noronha, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

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: National Institute of Mental Health Special Emphasis Panel.

Date: November 13, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Marriott, 7335 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Robert H. Stretch, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–4728.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 23, 1998.

Time: 10:00 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857, 301–443–7216.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 23, 1998.

Time: 1:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857, 301–443–7216.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Developoment Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Resarch Training, National Institutes of Health, HHS)

Dated: October 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27744 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infections Diseases; 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 a meeting of the Board of Scientific Counselors, NIAID.

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 amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, 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, NIAID.

Date: December 7–9, 1998.

Time: December 7, 1998, 8:00 am to adjournment.

Agenda: To review and evaluate the staff and programs of the Laboratory of Clinical Investigation and the Laboratory of Host Defenses.

Place: National Institutes of Health, Building 10, Sheldon M. Wolff Memorial Conference Room (11S235), 10 Center Drive, Bethesda, MD 20892.

Contact Person: Thomas J. Kindt, PHD, Director, Division of Intramural Research, National Inst. of Allergy & Infectious Diseases, Building 10, Room 4A31, Bethesda, MD 20892, 301 496–3006, tk9c@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27745 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following 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/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: Infectious Diseases and Microbiology Initial Review Group, Experimental Virology Study Section.

Date: October 19–20, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Garrett V. Keefer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

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: Biochemical Sciences Initial Review Group, Medical Biochemistry Study Section.

Date: October 19–20, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Washington, DC 20007.

Contact Person: Alexander S. Liacouras, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

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: Center for Scientific Review Special Emphasis Panel.

Date: October 19, 1998.

Time: 2:00 pm to 3:15 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nabeeh Mourad, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, (301) 435–1222.

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: Oncological Sciences Initial Review Group, Metabolic Pathology Study Section.

Date: October 21–23, 1998.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Silver Spring Plaza, 8777 Georgia Ave, Silver Spring, MD 20910.

Contact Person: Marcelina B. Powers, DVM, MS, 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: Biophysical and Chemical Sciences Initial Review Group, Molecular and Cellular Biophysics Study Section.

Date: October 22–23, 1998.

Time: 8:30 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005.

Contact Person: Nancy Lamontagne, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1726.

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: Cell Development and Function Initial Review Group, International and Cooperative Projects Study Section.

Date: October 22–23, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC 20007.

Contact Person: Sandy Warren, DMD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

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: Center for Scientific Review Special Emphasis Panel ARG1 REB 01.

Date: October 22, 1998.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dennis Leszczynski, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93–846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: October 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27749 Filed 10–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Integrative, Functional, and Cognitive Neuroscience Initial Review Group, Visual Sciences B Study Section.

Date: October 14–15, 1998.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P St. NW, Washington, DC 20037.

Contact Person: Leonard Jakubczak, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 9, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–27929 Filed 10–14–98; 11:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–31]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: October 16, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 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 the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–27556 Filed 10–15–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–003125

Applicant: Mark Runnals, Brandenton, FL,

The applicant requests a permit to import ten pairs of scarlet chested parakeets (*Neophema splendida*) from Germany for the purpose of enhancement to the propagation of the species.

PRT–003557

Applicant: Joe and Nancy Speed, Benton, MS,

The applicant requests a permit to buy two pairs of Cuban amazons (*Amazona leucocephala*) in interstate commerce for the purpose of enhancement to the propagation of the species.

PRT–003205

Applicant: Centers for Disease Control and Prevention, Ft. Collins, CO,

The applicant received an permit for the import of liver and speen tissue samples and serum samples obtained from Vancouver Island marmots (*Marmota vancouverensis*). The purpose of the import is to determine the cause of mortality of animals found dead in the wild. This determination will enhance the survival of the species in the wild.

PRT–003722

Applicant: Williams S. Bestor, Scottsdale, AZ,

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

PRT–003534

Applicant: Donald L. Bricker, Lubbock, TX,

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: October 13, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–27875 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–030–09–1310–01]

Notice of Availability; Mosquito Creek Lake Proposed Planning Analysis/ Environmental Assessment; DOI

AGENCY: Bureau of Land Management, Milwaukee Field Office.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), Milwaukee Field Office, in cooperation and coordination with the U.S. Army Corps of Engineers (COE) and the Ohio Department of Natural Resources, has completed the Mosquito Creek Lake Proposed Planning Analysis/ Environmental Assessment (PA/EA) for oil and gas leasing. The Proposed PA/ EA serves as a companion document to the Mosquito Creek Lake Draft PA/EA released in April 1998. The Draft PA/EA detailed the potential impacts associated with the leasing and subsequent development of Federal oil and gas resources at the COE's Mosquito Creek Lake project, Trumbull County, Ohio.

Based on the findings of the Draft PA/ EA and the supplemental information/ analyses included in the Proposed PA/ EA, the BLM proposes to lease federally owned oil and gas resources underlying the Mosquito Creek Lake project area subject to the surface and subsurface use restrictions identified on pages 1–11 and 1–12 of the Draft PA/EA. Mitigation measures listed in Appendix A of the Proposed PA/EA would apply to all approved Federal drilling permits or agreements.

The Proposed PA/EA may be protested by any person who participated in the planning process and has an interest which is or may be adversely affected by the approval of the plan. A protest may raise only those issues which were submitted for the record during the planning process (see 43 CFR 1610.5–2).

DATES/ADDRESSES: Protests must be submitted in writing to the Director of BLM at the following address: Director, Bureau of Land Management, Attn: Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, DC 20240. Protests must be postmarked on or before November 18, 1998. Protests filed late or filed with the State Director or Field Manager shall be rejected by BLM.

FOR FURTHER INFORMATION CONTACT: Copies of the Mosquito Creek Lake Draft and/or Proposed PA/EAs are available for public and agency review from the BLM Milwaukee Field Office, P.O. Box 631, Milwaukee, Wisconsin, 53201–0631. For further information, please contact Terry Saarela, Team Leader, at (414) 297–4437 (e-mail: tsaarela@es.blm.gov), or Chris Hanson, Assistant Field Manager, Division of Natural Resource Management at (414) 297–4421 (e-mail: chanson@es.blm.gov).

SUPPLEMENTARY INFORMATION: The Mosquito Creek Lake Draft PA/EA detailed the potential impacts associated with the proposed leasing and subsequent development of Federal oil and gas resources at the COE's Mosquito Creek Lake project, Trumbull County, Ohio. The Draft PA/EA analyzed two alternatives: Alternative A, No Action/No Lease, and Alternative B, Lease with a ''no surface occupancy'' restriction. The Proposed PA/EA serves as a companion document to the Draft PA/EA which was released in April 1998. Based on public comments received during the 60-day review period, the Proposed PA/EA provides more detail regarding certain processes and includes several new pieces of information. This new information was considered and incorporated into the analysis process. The Proposed PA/EA also includes responses to public comments made during the comment period, including both written and oral statements.

The Proposed PA/EA has been prepared in accordance with the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969.

Upon resolution of protests, an Approved Planning Analysis and Decision Record (DR) will be issued. The Approved Planning Analysis/DR will be mailed to all individuals who are currently on the plan's mailing list and other interested parties as requested.

Dated: October 9, 1998.

James W. Dryden,

Field Manager.

[FR Doc. 98–27789 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–09–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

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 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on November 19 and 20, 1998 at the Best Western Mesilla Valley Inn, 901 Avenida de Mesilla, Las Cruces, NM 88005. The meeting on Thursday November 19 starts at 8:30 a.m., and the meeting on Friday November 20 starts at 8:00 a.m. The draft agenda for the RAC meeting includes agreement on the meeting agenda, any RAC comments on the draft summary minutes of the last RAC meeting on October 1 and 2, 1998 in Albuquerque, NM, a Fort Bliss EIS presentation and discussion, a time for the public to address the RAC, a McGregor Range Withdrawal presentation and discussion, BLM Field Office Managers presentations and discussion, a Standards and Guidelines presentation and discussion, a revisit to the Rio Grande Corridor Resource Management Plan Amendment, a Watershed presentation and discussion, a Soil and Water Conservation Districts/ New Mexico Association of Conservation Districts presentation and discussion, develop draft agenda items for the next RAC meeting, and a RAC assessment on the meeting.

The time for the public to address the RAC is on Thursday, November 19, 1998, from 10:00 a.m. to 12:00 noon. The RAC may reduce or extend the end time of 12:00 noon depending on the number of people wishing to address the RAC. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items. The meeting on November 20, 1998, will be from 8:00 a.m. to 4:00 p.m. The end time of 4:00 p.m. for the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Bob Armstrong, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: October 8, 1998.

Richard A. Whitley,

Associate State Director.

[FR Doc. 98–27803 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–00: GP9–0003]

Filing of Plats of Survey: Oregon/Washington

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 Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 19 S., R. 45 E., accepted September 4, 1998
T. 25 S., R. 3 W., accepted September 4, 1998
T. 29 S., R. 4 W., accepted September 23, 1998
T. 23 S., R. 6 W., accepted September 4, 1998
T. 5 S., R. 8 W., accepted September 30, 1998
T. 16 S., R. 8 W., accepted September 23, 1998
T. 28 S., R. 10 W., accepted September 18, 1998
T. 30 S., R. 11 W., accepted September 30, 1998

Washington

T. 11 N., R. 20 E., accepted September 4, 1998

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: October 6, 1998.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 98–27851 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Abbreviated Final General Management Plan/Environmental Impact Statement for Sitka National Historical Park

AGENCIES: National Park Service, Interior.

ACTION: Notice of Availability of the Abbreviated Final General Management Plan/Environmental Impact Statement for Sitka National Historical Park.

SUMMARY: The National Park Service announces the availability of a Abbreviated Final General Management Plan/Environmental Impact Statement (GMP/EIS) for Sitka National Historical Park, in the City and Borough of Sitka, Alaska. This document in conjunction with the Draft GMP/EIS describes and analyzes the environmental impacts of a proposed action and two action alternatives for the future management of the park. A no action alternative also is evaluated.

DATES: A Record of Decision will be made no sooner than November 16, 1998.

ADDRESSES: Copies of the abbreviated final GMP/EIS are available by request from Ron Johnson, National Park Service, Denver Service Center, 12795 West Alameda Parkway, Box 25287, Denver , CO 80225–0287. Telephone: (303) 969–2342 FAX: (303) 987–6679.

FOR FURTHER INFORMATION CONTACT: Superintendent, Sitka National Historical Park, 106 Metlakatla Street, P.O. Box 738, Sitka, Alaska 99835.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the National Park Service has prepared an abbreviated final GMP/EIS with proposed guidance for management of Sitka National Historical Park for the next 15–20 years.

The abbreviated final GMP/EIS in conjunction with the draft document describes and analyzes the environmental impacts of a proposed action, two other action alternatives, and a no action alternative. The proposed action, alternative 1, would balance resource management and visitor use. It would improve visitor access and safety and the accuracy of information available to potential park and city visitors. It also would better protect cultural resources and enhance existing park partnerships. Alternative 2, the no-action alternative, would continue current management direction. Benefits would continue for visitors in information and interpretation, but crowding in the visitor center unit would result in adverse visitor safety conditions. In addition, the uses of adjacent lands would continue to have adverse effects on visual resources and land use. Alternative 3 would emphasize resource preservation. This alternative would increase protection of cultural and natural resources, moderately benefit visual resources and the visitor experience, and improve park administration and operation. Alternative 4 would accommodate more visitors during peak visitation times. It would lead to some improvement in visitor access and circulation in and near the park, improvements in opportunities for information about Sitka attractions, and a better visitor experience.

The responsible official for a Record of Decision on the proposed action is the NPS Alaska Regional Director.

Dated: September 18, 1998.

Paul R. Anderson,

Acting Regional Director, Alaska.

[FR Doc. 98–27779 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Wrangell-St. Elias National Preserve; Notice of Availability

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of Title 36 Code of Federal Regulations Part 9 subpart A, Mark Fales has filed a plan of operations in support of proposed mining operations on lands embracing the Tony No. 1, Rocky No. 1, and Ole No. 1 through No. 3, placer claims on Big Eldorado Creek within the Wrangell-St. Elias National Preserve.

ADDRESSES: This supplement to the existing plan of operations is available for inspection during normal business hours at the following location: Alaska Support Office—Physical Resource Team, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503–2892.

FOR FURTHER INFORMATION CONTACT: Lynn Griffiths of the National Park Service—Physical Resources Team at the address given above; Telephone (907) 257–2629.

Thomas J. Ferranti,

Acting Regional Director.

[FR Doc. 98–27778 Filed 10–15–98; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development

Interim Advisory Committee on Food Security; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the Interim Advisory Committee on Food Security. The meeting will be held from 10:00 a.m. to 5:00 p.m. on October 26, 1998, in the USAID Information Center, Suite M.1, Mezzanine Level, Ronald Reagan Building, located at 1300 Pennsylvania Avenue, NW., Washington DC, 20523.

As part of its agenda, the Interim Advisory Committee on Food Security will review and approve the Food Security Action Plan. The meeting is open to the public. Any interested person may attend the meeting, may file written statements with the Committee before or after the meeting, or present any oral statements in accordance with procedures established by the Committee, to the extent that time available for the meeting permits.

Those wishing to attend the meeting should contact Mr. George Like at the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–072, Washington, DC 20523–2110, telephone (202) 712–1436, fax (202) 216–3010 or internet [glike@usaid.gov] with your full name.

Anyone wishing to obtain additional information about the Interim Advisory Committee on Food Security should contact Mr. Tracy Atwood the Designated Federal Officer for BIFAD. Write him in care of the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–005, Washington, DC 20523–2110, telephone him at (202) 712–5571 or fax (202) 216–3010.

Tracy Atwood,

AID Designated Federal Officer (Deputy Director, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs).

[FR Doc. 98–27856 Filed 10–15–98; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Problem Solving Partnerships: Analysis and Assessment Surveys.

The Department of Justice, Office of Community Oriented Policing Services, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by October 23, 1998. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Mr. Stewart Shapiro, (202) 395–7857, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Stacy Curtis, 633–1297, Social Science Analyst, Office of Community Oriented Policing Services, 1100 Vermont Avenue, Washington, DC 20530. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information

(1) *Type of Information Collection:* new collection.

(2) *Title of the Form/Collection:* Problem Solving Partnerships: Analysis and Assessment Surveys.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form: COPS 29/01. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government. Other: None. Local law enforcement agencies that received grant funding for the Problem Solving Partnerships (PSP) grant from the COPS Office will be surveyed regarding the

activities and outcomes of the analysis and assessment phases of their grant project. The agencies implementing the problem-solving process through their PSP grants vary significantly in terms of population size, primary problems, location, partners, evaluators, and demographics. The agencies and their partners are working together to target either specific property crimes, violent crimes, problems associated with drugs and/or alcohol, or crimes related to public disorder.

The COPS Office is looking to provide documentation that may stimulate the promotion of problem solving as a way of addressing crime/disorder problems for both current and future grantees looking to implement the problem-solving approach. The Analysis Survey will be distributed to grantees once OMB approval is obtained. The Assessment Survey will be distributed to grantees at a later date, once agencies have completed evaluating the impact of their tailor-made responses. Information obtained from these surveys will be disseminated to other departments to promote the adoption of problem-solving approaches.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Each survey, the Analysis Survey and the Assessment Survey, will be administered one time. Approximately 470 respondents per survey administration, at 55 minutes per respondent per survey (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 861.6 hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Office, United States Department of Justice, Information Management and Security Staff Justice Management Division, Suite 850, Washington Center, 1001 G Street NW, Washington, DC 20530.

Dated: October 8, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–27783 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Emergency Planning and Right To Know Act, and Toxic Substance Control Act

Notice is hereby given that the United States, on behalf of the United States Environmental Protection Agency (''EPA'') lodged a proposed Consent Decree in the United States District Court for the Eastern District of Kentucky, in *United States* v. *Ashland, Inc.*, Civil Action No. 98–157, on October 1, 1998. This Consent Decree resolves the claims of the United States against Ashland, pursuant to the Clean Air Act, 16 U.S.C. § 1431, *et seq.*, the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*, the Resource Conservation and Recovery Act, §§ 6901, *et seq.*, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11011, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*, state permits, related state laws, and state and federal regulations. The consent decree concerns Ashland's operation of petroleum refineries in Canton, Ohio, Catlettsburg, Kentucky, and St. Paul Park, Minnesota.

The Consent Decree provides that Ashland will pay $5,864,000 in cash penalties and will spend approximately $15 million implementing four Supplemental Environmental Projects (''SEPs''). In addition, Ashland has agreed to undertake injunctive work at its three facilities. The cost of this work totals approximately $12 million. The consent decree further provides for the payment of interest from the date of lodging the decree and stipulated penalties should Ashland fail to comply with the decree including failure to complete any of the injunctive work or SEPs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Ashland, Inc.* DOJ #90–7–1–906.

The proposed Settlement Agreement may be examined at the following offices: United States Attorney, Eastern District of Kentucky, 110 West Vine Street, Suite 400, Lexington, KY 40596–3077, United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Ave., E., Cleveland, Ohio 44114–2600; United States Attorney for the District of Minnesota, 300 South 4th St., Suite 600, Minneapolis, Minnesota 55415; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the reference given above and enclose a check in the amount of $9.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–27853 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Clean Water Act Enforcement Action

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Coastal Coal Company, Inc. et al.*, Civil Action No. 2:98CV97 was lodged with the United States District Court for the Northern District of West Virginia on September 28, 1998. This Consent Decree resolves the United States' claims against the named defendants under Section 309(b) and 309(d) of the Clean Water Act, 33 U.S.C. § 1319(b) and 1319(d), for discharging pollutants in violation of a National Pollutant Discharge Elimination System (''NPDES'') permit at the T & T Fuels Mine No. 2 in Preston County, West Virginia. The Consent Decree requires Coastal Coal Company, LLC and Coastal Coal Company—West Virginia, LLC to implement a remediation project at the T & T Fuels Mine No. 2 site to abate continuing discharges of acid mine drainage. The Consent Decree also requires the Coastal companies to pay a civil penalty of $100,000 and requires defendant FSS Holdings, Inc. to pay a civil penalty of $10,000.

The Department of Justice will accept written comments on the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to

United States v. *Coastal Coal Company, et al.*, DOJ No. 90–5–1–4287–1.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of West Virginia, 100 Main Street, Room 200, Wheeling, West Virginia 26003; EPA Region III, 1650 Arch Street, Philadelphia, PA 19103; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decree, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the ''Consent Decree Library'' in the amount of $10, and please reference *United States* v. *Coastal Coal Company, et al.*, DOJ No. 90–5–1–1–4287–1.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 98–27852 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #179P]

Controlled Substances: Proposed Aggregate Production Quotas for 1999

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed 1999 aggregate production quotas.

SUMMARY: This notice proposes initial 1999 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections must be received on or before November 16, 1998.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S. C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

The proposed 1999 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 1999 to provide adequate supplies of each substance for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

In determining the proposed 1999 aggregate production quotas, the Acting Deputy Administrator considered the following factors: total actual 1997 and estimated 1998 and 1999 net disposals of each substance by all manufacturers; estimates of 1998 year-end inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; product development requirements of both bulk and finished dosage form manufacturers; projected demand as indicated by procurement quota applications filed pursuant to Section 1303.12 of Title 21 of the Code of Federal Regulations; and other pertinent information.

Pursuant to Section 1303 of Title 21 of the Code of Federal Regulations, the Acting Deputy Administrator of the DEA will, in early 1999, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 1998 year-end inventory and actual 1998 disposition data supplied by quotas recipients for each basic class of Scheudle I or II controlled substance.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby proposes that the 1999 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1999 quotas
Schedule I:	
2,5-Dimethoxyamphetamine	10,001,000
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2
3-Methylfentanyl	14
3-Methylthiofentanyl	2
3,4-Methylenedioxyamphetamine (MDA)	20
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	30
3,4-Methylenedioxymethamphetamine (MDMA)	20
3,4,5-Trimethoxyamphetamine	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2
4-Bromo-2,5-Dimethoxyphenethylamine (2-CB)	2
4-Methoxyamphetamine	17
4-Methylaminorex	3
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2
Acetyl-alpha-methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	7
Allylprodine	2
Alpha-acetylmethadol	7

Basic class	Proposed 1999 quotas
Alpha-ethyltryptamine	2
Alphameprodine	2
Alpha-methadol	2
Alpha-methylfentanyl	2
Alpha-methylthiofentanyl	2
Alphaprodine	2
Aminorex	7
Benzylmorphine	2
Beta-acetylmethadol	2
Beta-hydroxy-3-methylfentanyl	2
Beta-hydroxyfentanyl	2
Betameprodine	2
Beta-methadol	2
Betaprodine	2
Bufotenine	2
Cathinone	9
Codeine-N-oxide	2
Diethyltryptamine	3
Difenoxin	9,000
Dihydromorphine	7
Dimethyltryptamine	3
Heroin	2
Hydroxypethidine	2
Lysergic acid diethylamide (LSD)	57
Mescaline	8
Methaqualone	17
Methcathinone	11
Morphine-N-oxide	2
N,N-Diemethylamphetamine	7
N-Ethyl-1-Phenylcyclohexylamine (PCE)	5
N-Ethylamphetamine	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	4
Noracymethadol	2
Norlevorphanol	2
Normethadone	7
Normorphine	7
Para-fluorofentanyl	2
Pholcodine	2
Propiram	415,000
Psilocin	2
Psilocybin	2
Tetrahydrocannabinols	52,000
Thiofentanyl	2
Trimeperidine	2
Schedule II:	
1-Phenylcyclohexylamine	12
1-Piperidinocyclohexanecarbonitrile (PCC)	12
Alfentanil	2
Amobarbital	12
Amphetamine	5,554,000
Cocaine	251,000
Codeine (for sale)	60,641,000
Codeine (for conversion)	22,950,000
Desoxyephedrine—662,000 grams of levodesoxyephedrine for use in a non-controlled, non-prescription product and 35,000 grams for methamphetamine	697,000
Dextropropoxyphene	109,500,000
Dihydrocodeine	121,000
Diphenoxylate	1,240,000
Ecgonine	151,000
Ethylmorphine	13
Fentanyl	228,000
Glutethimide	2
Hydrocodone (for sale)	16,314,000
Hydrocodone (for conversion)	1,300,000
Hydromorphone	856,000
Isomethadone	12
Levo-alpha-acetylmethadol (LAAM)	201,000
Levomethorphan	2
Levorphanol	15,000
Meperidine	10,294,000
Methadone (for sale)	4,992,000
Methadone (for conversion)	267,000
Methadone Intermediate	7,223,000

Basic class	Proposed 1999 quotas
Methamphetamine (for conversion)	723,000
Methylphenidate	14,442,000
Morphine (for sale)	12,445,000
Morphine (for conversion)	76,300,000
Nabilone	2
Noroxymorphone (for sale)	25,000
Noroxymorphone (for conversion)	2,067,000
Opium	640,000
Oxycodone (for sale)	12,118,000
Oxycodone (for conversion)	51,000
Oxymorphone	166,000
Pentobarbital	17,356,000
Phencyclidine	40
Phenmetrazine	2
Phenylacetone	10
Secobarbital	25
Sufentanil	752
Thebaine	17,695,000

The Acting Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances included in Sections 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the Federal Register, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of aggregate production quotas for Schedules I and II controlled substance is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage form manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: October 8, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–27740 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection; reengineered foreign students pilot program.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 9, 1998 at 63 FR 37142, allowing for a 60-day comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 16, 1998. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Information and Regulatory Affairs, Attention: OMB Desk Officer for the Immigration and Naturalization Service, Office of Management and Budget, Room 10235, Washington, DC 20530 (202–395–7316). Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Stuart Shapiro, Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of

information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Reengineered Foreign Students Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Examinations—Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions, Business or other for-profit. The INS and the United States and Information Agency (USIA) are initiating a pilot project to test a prototype of a reengineered Foreign Student and School Program as mandated under Subtitle D, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The pilot effort will test an administrative process to use a computer-supported notification and reporting process from schools to the INS regarding foreign students and exchange visitors through the duration of their status in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 respondents at 60 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

If additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202–514–3291), Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan. If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street N.W. Washington, DC 20530.

Dated: October 8, 1998.

Brenda E. Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–27741 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Request OMB Emergency Approval; Application for Naturalization, Supplement A.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by October 16, 1998. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this the information collection. Comments are encouraged and will be accepted until December 15, 1998. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: *Reinstatement with change of previously approved information collection.*

(2) Title of the Form/Collection: Application for Naturalization, Supplement A.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form N–400. Office of Naturalization Operations, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households. The information collected is used by the INS to determine eligibility for naturalization.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 700,000 responses at 6 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 4,200,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 8, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–27784 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

National Institute of Justice

[OJP (NIJ)–1199]

RIN 1121–ZB35

National Institute of Justice Announcement of the Third Meeting of the National Commission on the Future of DNA Evidence

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of meeting.

SUPPLEMENTARY INFORMATION: The third meeting of the National Commission on the Future of DNA Evidence will take place beginning on Sunday, November 22, 1998, from 2:00 PM–5:00 PM CST and will continue on Monday, November 23, 1998, beginning at 9:00 AM CST and ending at 4:00 PM CST. The meeting will take place at the Regal Knickerbocker Hotel, 163 East Walton Place, Chicago, Illinois 60611.

The National Commission on the Future of DNA Evidence, established pursuant to Section 3(2)A of the Federal Advisory Committee Act, 5 U.S.C. App. 2, will meet to carry out its advisory functions under Sections 201–202 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Christopher H. Asplen, AUSA, Executive Director (202)616–8123.

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–02, as amended, 42 U.S.C. 3721–23 (1994).

Background

The purpose of the National Commission on the Future of DNA Evidence is to provide the Attorney General with recommendations on the use of current and future DNA methods, applications and technologies in the operation of the criminal justice system, from the Crime scene to the courtroom. Over the course of its Charter, the Commission will review critical policy issues regarding DNA evidence and provide recommended courses of action to improve its use as a tool of investigation and adjudication in criminal cases.

The Commission will address issues in five specific areas: (1) the use of DNA in postconviction relief cases, (2) legal concerns including Daubert challenges and the scope of discovery in DNA cases, (3) criteria for training and technical assistance for criminal justice professionals involved in the identification, collection and preservation of DNA evidence at the crime scene, (4) essential laboratory capabilities in the face of emerging technologies, and (5) the impact of future technological developments in the use of DNA in the criminal justice system. Each topic will be the focus of the in-depth analysis by separate working groups comprised of prominent professionals who will report back to the Commission.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–27804 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension of three information collections. Two of the information collections are conducted by the Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, and the third is conducted by the Wage and Hour Division. They are: (1) Comparability of Current Work to Coal Mine Employment (CM–913), Coal Mine Employment Affidavit (CM–918), Affidavit of Deceased Miner's Condition (CM–1093); (2) Report of Ventilatory Study (CM–907), Roentgenographic Interpretation Form (CM–933 and 933b), Medical History and Examination for Coal Mine Workers' Compensation (CM–988), Report of Arterial Blood Gas Study (CM–1159); and (3) Report of Construction Contractor's Wage Rates (WD–10). A copy of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 18, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEES: Contact Ms. Patricia Forkel at the U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 693–0339. The Fax number is (202) 219–6592. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Comparability of Current Work to Coal Mine Employment (CM–913), Coal Mine Employment Affidavit (CM–918), Affidavit of Deceased Miner's Condition (CM–1093)

I. Background

Once a coal miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor completes a CM–913, a form which compares coal mine with non-coal mine work, and is used to establish whether the miner is totally disabled due to black lung disease. The CM–918 is an affidavit which is used to gather coal mine employment evidence when primary evidence is unavailable or incomplete. The CM–1093 is an affidavit for recording lay medical evidence when evidence of the miner's medical condition is insufficient.

II. Current Actions

The Department of Labor (DOL) seeks approval of the extension of this information collection in order to carry out its responsibility to determine eligibility for black lung benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title(s): Comparability of Current Work to Coal Mine Employment, Coal Mine Employment Affidavit, Affidavit of Deceased Miner's Condition.

OMB Number: 1215–0056.

Agency Numbers: CM–913, CM–918, CM–1093.

Affected Public: Individuals or Households.

Total Respondents: 3,336.

Frequency: On occasion.

Total Responses: 3,336.

Estimated Total Burden Hours: 1,618.

Form	Respondents	Responses	Average minutes per response	Burden hours
CM–913	3,136	3,136	30	1,568
CM–918	100	100	10	17
CM–1093	100	100	20	33

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating and maintenance): $0.

Report of Ventilatory Study (CM–907), Roentgenographic Interpretation Forms (CM–933 and 933b), Report of Physical Examination (CM–988), Report of Arterial Blood Gas Study (CM–1159)

I. Background

These forms are reports of diagnostic medical testing and are used to establish the total disability of a coal miner due to black lung disease.

II. Current Actions

The Department of Labor (DOL) seeks approval of the extension of this information collection in order to carry out its responsibility to determine eligibility for black lung benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title(s): Report of Ventilatory Study, Roentgenographic Interpretation Forms, Report of Physical Examination, Report of Arterial Blood Gas Study.

OMB Number: 1215–0090.

Agency Numbers: CM–907, CM–933, CM–933b, CM–988, CM–1159.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Total Respondents: 37,800.

Frequency: On occasion.

Total Responses: 37,800.

Estimated Total Burden Hours: 9,338.

Form	Respondents	Responses	Average minutes per response	Burden hours
CM–907	7,425	7,425	20	2,475
CM–933	14,850	14,850	5	1,238
CM–933b	675	675	5	56
CM–988	7,425	7,425	30	3,713
CM–1159	7,425	7,425	15	1,856

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating and maintenance): $0.

Report of Construction Contractor's Wage Rates (WD–10)

I. Background

The Davis-Bacon Act provides that every government contract in excess of $2,000 which involves the employment of mechanics and/or laborers contain a provision stating the minimum wages to be paid, which are based upon the prevailing wage rate in the area for corresponding classes of mechanics and laborers employed on similar projects. Further, Section 1.3 of Regulations, 29 CFR Part I provides that the Wage and Hour Administrator will conduct a continuing program for the obtaining and compiling of wage rate information for the purpose of making wage determinations.

II. Current Actions

The Wage and Hour Division seeks the revision of the currently approved information collection WD–10. The form has been revised in order to make it more user friendly and easier for respondents to provide requested information. It has also been made machine readable. Electronic imaging of the forms will expedite data transfer from hard copy to the supporting data base. The form redesign is necessary for character recognition software to work effectively. The revised form provides contractors with space to list the subcontractors which they engaged on the project; the current form asked the contractors to list their subcontractors on a separate sheet of paper. There are four different versions of the WD–10 based on the four different types of construction recognized by the Wage and Hour Division.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: Report of Construction Contractor's Wage Rates.

OMB Number: 1215–0046.

Agency Numbers: WD–10.

Affected Public: Business or other for-profit.

Total Respondents: 37,500.

Frequency: On occasion.

Total Responses: 75,000.

Average Minutes per Response: 20.

Estimated Total Burden Hours: 25,000.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating and maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and budget approval of the information collection request; they will also become a matter of public record.

Dated: October 9, 1998.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 98–27834 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–27–P

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 provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective 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 Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Jersey
NJ980002 (Feb. 13, 1998)
NJ980003 (Feb. 13, 1998)
New York
NY980004 (Feb. 13, 1998)

Volume II

West Virginia
WV980002 (Feb. 13, 1998)
WV980003 (Feb. 13, 1998)
WV980004 (Feb. 13, 1998)

Volume III

Alabama
AL980034 (Feb. 13, 1998)

Volume IV

Illinois
IL980001 (Feb. 13, 1998)
IL980002 (Feb. 13, 1998)
IL980003 (Feb. 13, 1998)
IL980004 (Feb. 13, 1998)
IL980005 (Feb. 13, 1998)
IL980007 (Feb. 13, 1998)
IL980009 (Feb. 13, 1998)
IL980011 (Feb. 13, 1998)
IL980012 (Feb. 13, 1998)
IL980013 (Feb. 13, 1998)
IL980014 (Feb. 13, 1998)
IL980015 (Feb. 13, 1998)
IL980017 (Feb. 13, 1998)
IL980019 (Feb. 13, 1998)
IL980023 (Feb. 13, 1998)
IL980028 (Feb. 13, 1998)
IL980029 (Feb. 13, 1998)
IL980056 (Feb. 13, 1998)
IL980062 (Feb. 13, 1998)
IL980064 (Feb. 13, 1998)
IL980068 (Feb. 13, 1998)
Indiana
IN980001 (Feb. 13, 1998)
IN980005 (Feb. 13, 1998)
IN980006 (Feb. 13, 1998)

Volume V

Iowa
IA980005 (Feb. 13, 1998)
New Mexico
NM980001 (Feb. 13, 1998)

Volume VI

Oregon
OR980001 (Feb. 13, 1998)
OR980017 (Feb. 13, 1998)
Washington
WA980001 (Feb. 13, 1998)
WA980002 (Feb. 13, 1998)
WA980008 (Feb. 13, 1998)

Volume VII

California
CA980004 (Feb. 13, 1998)
CA980009 (Feb. 13, 1998)
CA980029 (Feb. 13, 1998)
CA980030 (Feb. 13, 1998)
CA980031 (Feb. 13, 1998)
CA980032 (Feb. 13, 1998)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 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 9th Day of October 1998.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–27653 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How To Enhance and Encourage the Establishment of Pension Plans, Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Thursday, November 12, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 4 p.m., is for Working Group members to complete their report and/or recommendations.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by November 5, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

Signed at Washington, DC, this 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–27830 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plans; 104th Public Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 104th public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Friday, November 13, 1998.

The purpose of the open meeting, which will run from 1:00 p.m. to approximately 2:30 p.m. in The Secretary's Conference Room S–2508, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, D.C. 20210, is for working group chairs and vice chairs to present their groups' final reports/recommendations of the year to the full Advisory Council for its action on their findings and/or acceptance before the reports are officially forwarded to the Secretary of Labor. The meeting also will provide the opportunity for an update on activities of the Pension and Welfare Benefits Administration by the Deputy Assistant Secretary of that organization and for a formal ceremony of appreciation for outgoing members of the Advisory Council.

Members of the public are encouraged to file a written statement pertaining to the study topics by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by November 5, 1998, at the address indicated in this notice.

Organizations or individuals also my submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

Signed at Washington, D.C. this 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–27831 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying, Retirement Plan Leakage: Cashing Out Your Future From ERISA Employer-Sponsored Pension Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Friday, November 13, 1998, of the Retirement Plan Leakage: Cashing Out Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distributions, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, D.C. 20210, is for Working Group members to complete their report and/or recommendations on the import of these ''pension preservation'' issues.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by November 5, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

Signed at Washington, D.C. this 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–27832 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Health Care Plans, Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Thursday, November 12, 1998, in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210.

The purpose of the open meeting, which will run from 9:30 a.m. To approximately noon, is for Working Group members to complete their report and/or recommendations.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodation, should contact Sharon Morrissey by November 5, at the address indicated in this notice.

Organizations or individuals may also submit statement for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

Signed at Washington, D.C. This 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–27833 Filed 10–15–98; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Opportunity To File Amicus Briefs in Roach v. Department of the Army, MSPB Docket No. DC–1221–97–0251–W–1, and Hesse v. Department of State, MSPB Docket No. DC–0752–97–1079–I–1

AGENCY: Merit Systems Protection Board.

ACTION: The Merit Systems Protection Board is providing interested parties with an opportunity to submit amicus briefs on whether the Board has authority to adjudicate whistleblower retaliation claims involving an appellant's security clearance, and, if so, whether there are limits pertaining to the scope of that authority.

SUMMARY: The appellant in *Roach* v. *Department of the Army,* MSPB Docket No. DC–1221–97–0251–W–1 filed an individual right of action (IRA) appeal under the Whistleblower Protection Act (WPA) alleging that the agency, among other actions, suspended his security clearance in retaliation for whistleblowing activities. The appellant in *Hesse* v. *Department of State,* MSPB Docket No. DC–0752–97–1079–I–1, simultaneously filed a petition for appeal under 5 U.S.C. Chapter 75, and a request for corrective action with the Office of the Special Counsel after the agency indefinitely suspended his based upon the suspension of his security clearance.

In *Department of the Navy* v. *Egan,* 484 U.S. 518, 530–31 (1988), the Supreme Court held that, in an appeal under 5 U.S.C. § 7513 based on the denial or revocation of a security clearance, the Board does not have authority to review the substance of the underlying security clearance determination. Based upon *Egan,* as well as other considerations, the Board has previously held that the revocation of a security clearance was not included within the statutory definition of a ''personnel action,'' under 5 U.S.C. 2302(a)(2), and that it lacked authority to review allegations of retaliation for whistleblowing when the claims pertained to the revocation of a security clearance. *See Wilson* v. *Department of Energy,* 63 M.S.P.R. 228, 232–32 (1994);

McCabe v. *Department of the Air Force,* 62 M.S.P.R. 641, 647–48 (1994), *aff'd,* 62 F.3d 1433 (Fed. Cir. 1995) (Table); *Weber* v. *Department of the Army,* 59 M.S.P.R. 293, 297 (1993), *aff'd,* 26 F.3d 140 (Fed. Cir. 1994) (Table).

In 1994, however, Congress amended the WPA to include ''any other significant change in duties, responsibilities, or working conditions'' under the definition of a ''personnel action.'' 5 U.S.C. 2302(a)(2)(A)(xi). The legislative history of the amendments discusses security clearance determinations as an element of that broad category, which tends to support a conclusion that the Board has jurisdiction over security clearance issues in an IRA appeal. In *Roach* and *Hesse,* we are considering this issue for the first time. We therefore invite interested parties to submit amicus briefs addressing this subject.

We also recognize that a conclusion that an agency decision pertaining to a security clearance is a ''personnel action,'' that may be pursued with the Board under the WPA, raises various subsidiary issues, some of which are interrelated. These include the following: (1) May appellants raise claims of whistleblower retaliation involving security clearance determinations as affirmative defenses in Chapter 75 adverse action appeals, in addition to IRA appeals under the WPA, or are such Chapter 75 defenses precluded by *Egan;* (2) if such whistleblowing claims may be raised in both Chapter 75 and IRA appeals, should the Board continue to apply its current burden of proof and analytical framework (see e.g., *Horton* v. *Department of the Navy,* 66 F.3d 279, 284 (Fed. Cir. 1995), cert. *denied,* 516 U.S. 1176 (1996); *Caddell* v. *Department of Justice,* 66 M.S.P.R. 347, 351 (1995), *aff'd,* 96 F.3d 1367 (Fed. Cir. 1996)), given the Supreme Court's concern for the burden of proof issue in *Egan,* 484 U.S. at 531–32; (3) what is the relationship between a security clearance determination and a decision to permit or allow access to sensitive information, such as Sensitive Compartmented Information; (4) are there limits to the Board's authority over claims and evidence pertaining to security clearances or sensitive information; and (5) how should the Board adjudicate claims of evidentiary privilege that may arise in security clearance cases, and what effect, if any, will such privilege have on a party's burden of proof? We, therefore, invite interested parties to submit amicus briefs addressing all of these questions, as well as any related matter they deem relevant for a full examination of the Board's authority to adjudicate security-clearance related whistleblowing claims.

Vice Chair Slavet did not participate in the issuance of this notice.

DATES: All briefs in response to this notice shall be filed with the Clerk of the Board on or before November 6, 1998.

ADDRESSES: All briefs shall include the case names and docket numbers noted above (*Roach* v. *Department of the Army,* MSPB Docket No. DC–1221–97–0251–W–1 and *Hesse* v. *Department of State,* NSPB Docket No. DC–0752–97–1079–I–1) and be entitled ''Amicus Brief.'' Briefs should be filed with the Office of the Clerk, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Deputy Clerk of the Board, or Matthew Shannon, Counsel to the Clerk, (202) 653–7200.

Dated: October 8, 1998.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 98–27782 Filed 10–15–98; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–150]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee.

DATES: Wednesday, October 21, 1998, 8:00 a.m. to 4:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC HQ7H46, 300 E Street SW, Washington DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Livingston, Code UX, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0697.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Discussion of National Academy of Public Administration Review of Commercial Space Centers
—Space Development and Commercial Research Performance Goals
—Status of Commercial Legislation

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 9, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–27755 Filed 10–15–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–149]

NASA Advisory Council (NAC), Technology and Commercialization Advisory Committee (TCAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: Tuesday, October 27, 1998, 8:30 a.m. to 3:00 p.m. and Wednesday, October 28, 1998, 8:00 a.m. to 12:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–5, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory M. Reck, Code AF, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4700).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Enhance NASA Process for Technology and Commercialization
—Coordination of Advisory Groups
—NASA Center of Excellence Key Areas
—Enterprise Plans for Technology

It is imperative that the meeting be held on these dates to accommodate the

scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 8, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–27754 Filed 10–15–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Museum/Visual Arts Section (Heritage & Preservation category) to the National Council on the Arts will be held on November 4–6, 1998. The panel will meet from 9:00 a.m. to 7:00 p.m. on November 4th, from 9:00 a.m. to 6:00 p.m. on November 5th, and from 9:00 a.m. to 5:00 p.m. on November 6th in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 1:00 p.m. to 2:30 p.m. on November 6th, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 7:00 p.m. on November 4th, from 9:00 a.m. to 6:00 p.m. on November 5th, and from 9:00 a.m. to 1:00 p.m. and 2:30 p.m. to 5:00 p.m. on November 6th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: October 9, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–27859 Filed 10–15–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Presenting (Multidisciplinary) Section (Planning & Stabilization/Education & Access categories) to the National Council on the Arts will be held on November 10, 1998. The panel will meet from 8:30 a.m. to 6:00 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 3:30 p.m. to 4:30 p.m., will be open to the public for a policy discussion on field issues and needs, Leadership initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:30 a.m. to 3:30 p.m. and from 4:30 p.m. to 6:00 p.m., are for the purposes of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: October 9, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–27860 Filed 10–15–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis in Biological Sciences: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Biological Sciences (1754).

Date and Time: November 9–10, 1998, 8:30am–5:00pm.

Place: National Science Foundation at 4201 Wilson Blvd., Arlington, VA 22230, Rm. 310.

Type of Meeting: Closed.

Contact Person: Lee Makowski and Patricia Moore, Program Directors, Biological Instrumentation and Instrument Development, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposal for acquisition of Biological Instrumentation and Instrument Development for the Instrument Development Biological Research (IDBR) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27845 Filed 10–15–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date & Time: November 5 and 6, 1998; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 530 and 580, Arlington, Virginia 22230.

Contact Person: Dr. Jorn Larsen-Basse, Control, Materials and Mechanics Cluster, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230. 703/306–1361, x5073.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: October 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27843 Filed 10–15–98; 8:45 am]

BILLING CODE 4555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (1756).

Date and Time: November 4–5, 1998; 8:00 am to 5:00 pm.

Place: Room 730; National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Mr. Kenneth L. Van Sickle, Facility Manager, UCAR and Lower Atmosphere Facilities Oversight Section, Division of Atmospheric Sciences, Room 775, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1526.

Purpose of Meeting: To provide advice and recommendations concerning a proposal submitted to NSF for financial support.

Agenda: To review and evaluate the HAIPER Systems Integrator proposal as part of the selection process for an award.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data; such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27844 Filed 10–15–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research (1203)

Dates & Times: November 4–5, 1998; 8:00 am–5:00 pm

Place: University of Oregon, Eugene, OR; Room TBA

Type of Meeting: Closed.

Contact Person: Dr. H. Hollis Wickman, Program Director, Division of Materials Research, Room 1065.19, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1816.

Purpose of Meeting: To provide advice and recommendations concerning progress of an NSF funded project.

Agenda: To review operations at the University of Oregon Cryogenic Helium Turbulence Center.

Reason for Closing: The project being reviewed involves information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the project. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27846 Filed 10–15–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–003]

Consolidated Edison Company; Indian Point Nuclear Generating Station Unit 1; Notice of Cancellation of Public Meeting

The public meeting that was to be held at Village Hall, 236 Tate Avenue, Buchanan, New York, on October 21, 1998, to discuss the decommissioning of the Indian Point Nuclear Generating Station, Unit 1 (IP–1) has been cancelled. The meeting will be rescheduled to be held at a later date. The Notice of Public Meeting to be held was published in the **Federal Register** on October 5, 1998 (63 FR 53465).

The purpose of the meeting was to describe the Nuclear Regulatory Commission's regulatory process for the decommissioning of the facility. Consolidated Edison Company, the owner of IP–1, was planning to describe their plans and schedule for decommissioning the reactor facility. A public meeting is required by Title 10 of the Code of Federal Regulations, Section 50.82(a)(4).

Dated at Rockville, Maryland, this 9th day of October 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Regulatory Regulation.

[FR Doc. 98–27810 Filed 10–15–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

In the Matter of Florida Power and Light Company; (Turkey Point Units 3 and 4); Exemption

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR–31 and DPR–41, which authorize operation of Turkey Point Units 3 and 4 (the facility) at a steady-state reactor power level not in excess of 2300 megawatts thermal. The facility is a pressurized-water reactor located at the licensee's site in Dade County, Florida. The licenses require among other things that the facility comply with all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

In exemptions dated March 27, 1984, and August 12, 1987, concerning the requirements of Section III.G, Appendix R to 10 CFR Part 50, the staff approved the use of 1-hour-rated fire barriers in lieu of 3-hour barriers in certain outdoor areas at Turkey Point Units 3 and 4. In addition, the staff found that, for certain outdoor areas not protected by automatic fire detection and suppression systems, separation of cables and equipment and associated non-safety-related circuits of redundant trains by a horizontal distance of 20 feet free of intervening combustibles provided an acceptable level of fire safety.

On the basis of the results of the industry's Thermo-Lag fire endurance testing program, the licensee concluded that the outdoor Thermo-Lag fire barrier designs cannot achieve a 1-hour fire-resistive rating but can achieve a 30-minute fire-resistive rating when exposed to a test fire that follows the American Society for Testing and Materials E–119 standard time-temperature curve. Because of these test results, the licensee in a letter dated June 15, 1994, requested an exemption to use 30-minute fire barriers for outdoor applications in lieu of the 1-hour fire barriers previously approved; however, the exemption request was withdrawn by letter dated June 28, 1996.

In a letter dated December 12, 1996, as supplemented on July 31, October 31, and December 17, 1997, the licensee requested an exemption from the requirements pertaining to the 3-hour fire barriers required by Section III.G.2.a, Appendix R to 10 CFR Part 50, for the outdoor areas, excluding the turbine building area. The licensee requested that the NRC approve the use of 25-minute raceway fire barriers for these outdoor applications in lieu of the 1-hour fire barriers that were previously approved (refer to safety evaluations dated March 27, 1984, and August 12, 1987). This request was based on the following: (1) the fire loading and potential fire severities are low; (2) there are minimal ignition sources; (3) transient ignition sources and combustibles are controlled in these zones; and (4) manual fire fighting equipment is readily accessible to these zones.

On February 24, 1998, the staff issued a partial exemption for fire zones 47, 54, 113, 114, 115, 116, 118, 119, 120, and 143, and denied the request for fire zone 106R. In addition, the licensee was informed that the staff will be evaluating the remaining fire zones separately. Specifically, the remaining fire zones are 79-partial, 81, 84-partial, 86, 88-partial, 89-partial, and 131. Subsequently, by letters dated June 2 and August 4, 1998, the licensee submitted additional information in support of the exemption request for the remaining fire zones.

III

The underlying purpose of Section III.G.2.a, Appendix R to 10 CFR Part 50, is to provide reasonable assurance that one safe shutdown train and associated circuits used to achieve and maintain safe shutdown are free of fire damage.

On the basis of the staff's supporting safety evaluation of the licensee's submittals, the staff concludes that the exemption from the requirements of Section III.G.2.a of Appendix R, for fire zones 79-partial, 81, 84-partial, 86, 88-partial, and 89-partial, as requested by the licensee, provides an adequate level of fire safety, and presents no undue risk to public health and safety. In addition, the staff concludes the underlying purpose of the rule is achieved. Fire zone 131 will be addressed separately.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. In addition, the Commission has determined that special circumstances are present in that application of the Regulation is not necessary to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants Florida Power and Light Company an exemption from the requirements of Section III.G.2.a of Appendix R to 10 CFR Part 50, as requested in its above-referenced submittals, for fire zones 79-partial, 81, 84-partial, 86, 88-partial, and 89-partial.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption for fire zones 79-partial, 81, 84-partial, 86, 88-partial, and 89-partial, will not have a significant effect on the quality of the human environment (63 FR 52310).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 8th day of October 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–27808 Filed 10–15–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–259, 50–260 and 50–296]

Tennessee Valley Authority; Notice of Withdrawal of Application for Amendement to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted a request by the Tennessee Valley Authority (TVA or the licensee) to withdraw its June 16, 1995, application for an amendment to Facility Operating License Nos. DPR–33, DPR–52 and DPR–68 issued to the licensee for operation of the Browns Ferry Nuclear Plant (BFN), Units 1, 2 and 3, respectively, located in Limestone County, Alabama. Notice of consideration of issuance of this amendment was published in the **Federal Register** on August 16, 1995 (60 FR 42610).

The purpose of the licensee's amendment request was to allow the Traveling In-core Probe (TIP) system to be considered operable with less than five TIP machines operable. This change would allow the data normally supplied by the inoperable TIP unit to be supplied by either substituting data from traverses of symmetric TIP locations or using normalized TIP readings calculated by the on-line core monitoring system.

On July 14, 1998, NRC issued Amendment Nos. 234, 253, and 212 to Facility Operating License Nos. DPR–33, DPR–52, and DPR–69 for BFN Units 1, 2, and 3 respectively, which approved conversion of CTS to Improved Technical Specifications (ITS). With the implementation of the ITS, there are no explicit requirements for TIP operability. As a result, by letter dated September 18, 1998, TVA informed the NRC staff that it no longer requires staff action on its June 16, 1995 application for TIP operability. Thus the licensee's June 16, 1995 application is considered withdrawn by the licensee.

For further details with respect to this action, see the application for amendments dated June 16, 1995, the licensee's September 18, 1998 letter and the staff's letter dated October 7, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building,

2120 L Street NW., Washington, DC and at the local public document room located at the Athens Public Library, 405 E. South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 7th day of October 1998.

For the Nuclear Regulatory Commission.

L. Raghavan,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–27807 Filed 10–15–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Assessment of the Use of Potassium Iodide (KI) As a Public Protective Action During Severe Reactor Accidents; Withdrawal of Draft NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of draft NUREG–1633.

SUMMARY: On July 20, 1998, the NRC announced the availability of Draft NUREG–1633, ''Assessment of the Use of Potassium iodide (KI) As a Public Protective Action During Severe Reactor Accidents,'' and requested comments by September 14, 1998. Based on the many useful public comments received, a substantially revised document that takes those comments into account will be issued in its place, and the draft NUREG is therefore being withdrawn.

FOR FURTHER INFORMATION CONTACT: Aby S. Mohseni, Incident Response Division, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone 301–415 6409, e-mail asm@nrc.gov.

SUPPLEMENTARY INFORMATION: On June 26, 1998, the Commission granted a petition for rulemaking on the use of KI around nuclear power plants and directed the staff to issue the draft NUREG–1633 for public comment. On September 30, 1998, the Commission directed the staff to issue a **Federal Register** notice stating that, in light of the many useful public comments on draft NUREG–1633, a substantially revised document that takes those comments into account will be issued in its place, and that the draft NUREG is therefore being withdrawn. The reissued document will include an improved discussion on how the practical problems in KI stockpiling, distribution, and use are handled in the States that already use KI as a supplement and in the numerous nations which use KI as a supplement. A discussion, in some detail, of the various guidance documents of the World Health Organization and International Atomic Energy Agency, as well as the U.S. Food and Drug Administration, on this subject will also be included in the revised document. The revised NUREG will be consistent with the policy adopted by the Commission in response to the petition for rulemaking and will fairly discuss the factors that need to be weighed in the State and local decisions. The staff anticipates making the revised draft NUREG–1633 in its final form by September, 1999. Subsequently, the staff will develop an information brochure based on NUREG–1633 to assist State and local planners in reaching an informed decision as to whether KI is an appropriate protective supplement.

Dated at Rockville, Maryland, this 2nd day of October 1998.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Incident Response Division, Office for Analysis and Evaluation of Operational Data.

[FR Doc. 98–27812 Filed 10–15–98; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of Pub. L. 87–693 (76 Stat. 593; 42 U.S.C.2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the two sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (part 43, chapter I, title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

1. Department of Defense

The FY 1999 Department of Defense (DoD) reimbursement rates for inpatient, outpatient, and other services are provided in accordance with Section 1095 of title 10, United States Code. Due to size, the sections containing the Drug Reimbursement Rates (Section III.E) and the rates for Ancillary Services Requested by Outside Providers (Section III.F) are not included in this package. The Office of the Assistant Secretary of Defense (Health Affairs) will provide these rates upon request. The medical and dental service rates in this package (including the rates for ancillary services, prescription drugs or other procedures requested by outside providers) are effective October 1, 1998.

2. Health and Human Services

The sum of obligations for each cost center providing medical service is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation cost were incorporated to conform to requirements set forth in OMB Circular A–25. In addition, each cost center's obligations include obligations from certain other accounts, such as Medicare and Medicaid collections and Contract Health funds that were used to support direct program operations. Certain cost centers that primarily support workload outside of the directly operated hospitals or clinics (public health nursing, public health nutrition, health education) were excluded. These obligations are not a part of the traditional cost of hospital operations and do not contribute directly to the inpatient and outpatient visit workload. Overall, these rates reflect a more accurate indication of the cost of care in HHS facilities.

In addition, separate rates per inpatient day and outpatient visit were computed for Alaska and the rest of the United States. This gives proper weight to the higher cost of operating medical facilities in Alaska.

1. Department of Defense

For the Department of Defense, effective October 1, 1998 and thereafter:

Inpatient, Outpatient and Other Rates and Charge

I. Inpatient Rates [1 2]

	International military education per inpatient day	Interagency and other federal agency and training (IMET)	Other sponsored patients
A. Burn Center	$2,538.00	$4,632.00	$4,952.00
B. Surgical Care Services (Cosmetic Surgery)	1,236.00	2,255.00	2,411.00

C. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG) [3])

1. FY99 Direct Care Inpatient Reimbursement Rates

Adjusted standard amount	IMET	Interagency	Other (full/third party)
Large Urban	$2,429.00	$4,552.00	$4,825.00
Other Urban/Rural	2,642.00	5,413.00	5,760.00
Overseas	2,989.00	6,823.00	7,234.00

2. Overview

The FY99 inpatient rates are based on the cost per DRG, which is the inpatient full reimbursement rate per hospital discharge weighted to reflect the intensity of the principal diagnosis, secondary diagnoses, procedures, patient age, etc. involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban/rural, and overseas facilities will be published annually as an inpatient adjusted standardized amount (ASA) (see paragraph I.C.1. above). The ASA will be applied to the RWP for each inpatient case, determined from the DRG weights, outlier thresholds, and payment rules published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1), including adjustments for length of stay (LOS) outliers. The published ASAs will be adjusted for area wage differences and indirect medical education (IME) for the discharging hospital. An example of how to apply DoD costs to a DRG standardized weight to arrive at DoD costs is contained in paragraph I.C.3., below.

3. Example of Adjusted Standardized Amounts for Inpatient Stays

Figure 1 Shows Examples for a Nonteaching Hospital in a Large Urban Area

a. The cost to be recovered is DoD's cost for medical services provided in the nonteaching hospital located in a large urban area. Billings will be at the third party rate.

b. DRG 020: Nervous System Infection Except Viral Meningitis. The RWP for an inlier case is the CHAMPUS weight of 2.9769. (DRG statistics shown are from FY 1997).

c. The DoD adjusted standardized amount to be charged is $4,825 (i.e., the third party rate as shown in the table).

d. DoD cost to be recovered at a nonteaching hospital with area wage index of 1.0 is the RWP factor (2.9769) in 3.b., above, multiplied by the amount ($4,825) in 3.c., above.

e. Cost to be recovered is $14,364.

FIGURE 1.—THIRD PARTY BILLING EXAMPLES

DRG No.	DRG description	DRG weight	Arithmetic mean LOS	Geometric mean LOS	Short stay threshold	Long stay threshold
020	Nervous System Infection Except Viral Meningitis	2.9769	11.2	7.8	1	30

Hospital	Location	Area wage rate index	IME adjustment	Group ASA	Applied ASA
Nonteaching Hospital	Large Urban	1.0	1.0	$4,825.00	$4,825.00

Patient	Length of stay	Days above threshold	Relative weighted product			TPC amount***
			Inlier*	Outlier**	Total	
#1	7 days	0	2.9769	0.0000	2.9769	$14,364
#2	21 days	0	2.9769	0.0000	2.9769	14,364
#3	35 days	5	2.9769	0.6297	3.6066	17,402

*DRG Weight.

**Outlier calculation=33 percent of per diem weight × number of outlier days=.33 (DRG Weight/Geometric Mean LOS)×(Patient LOS—Long Stay Threshold).

=.33 (2.9769/7.8)×(35–30).

=.33 (.38165)×5 (take out to five decimal places).

=.12594×5 (take out to five decimal places).

=.6297 (take out to four decimal places).

***Applied ASA×Total RWP.

II. Outpatient Rates [1 2] Per Visit

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	A. Medical Care			
BAA	Internal Medicine	$104.00	$186.00	$198.00
BAB	Allergy	48.00	86.00	92.00
BAC	Cardiology	78.00	140.00	149.00
BAE	Diabetic	57.00	102.00	108.00
BAF	Endocrinology (Metabolism)	90.00	162.00	173.00
BAG	Gastroenterology	114.00	205.00	219.00
BAH	Hematology	145.00	260.00	277.00
BAI	Hypertension	89.00	160.00	170.00
BAJ	Nephrology	138.00	245.00	261.00
BAK	Neurology	112.00	200.00	213.00
BAL	Outpatient Nutrition	33.00	59.00	63.00
BAM	Oncology	132.00	236.00	251.00
BAN	Pulmonary Disease	118.00	211.00	225.00
BAO	Rheumatology	84.00	151.00	160.00
BAP	Dermatology	68.00	122.00	130.00
BAQ	Infectious Disease	126.00	225.00	240.00
BAR	Physical Medicine	74.00	133.00	142.00
BAS	Radiation Therapy	91.00	164.00	174.00
	B. Surgical Care			
BBA	General Surgery	164.00	295.00	314.00
BBB	Cardiovascular and Thoracic Surgery	132.00	237.00	252.00
BBC	Neurosurgery	188.00	337.00	359.00
BBD	Ophthalmology	102.00	183.00	194.00
BBE	Organ Transplant	239.00	429.00	457.00
BBF	Otolaryngology	124.00	222.00	237.00
BBG	Plastic Surgery	129.00	231.00	247.00
BBH	Proctology	65.00	117.00	124.00
BBI	Urology	125.00	224.00	239.00
BBJ	Pediatric Surgery	91.00	163.00	174.00
	C. Obstetrical and Gynecological (OB–GYN) Care			
BCA	Family Planning	45.00	81.00	87.00
BCB	Gynecology	101.00	181.00	193.00
BCC	Obstetrics	72.00	129.00	137.00
BCD	Breast Cancer Clinic	171.00	307.00	327.00
	D. Pediatric Care			
BDA	Pediatric	63.00	113.00	120.00
BDB	Adolescent	60.00	108.00	115.00
BDC	Well Baby	40.00	71.00	76.00
	E. Orthopaedic Care			
BEA	Orthopaedic	118.00	212.00	226.00
BEB	Cast	50.00	90.00	96.00
BEC	Hand Surgery	61.00	109.00	116.00
BEE	Orthotic Laboratory	60.00	108.00	115.00
BEF	Podiatry	67.00	119.00	127.00
BEZ	Chiropractic	24.00	42.00	45.00
	F. Psychiatric and/or Mental Health Care			
BFA	Psychiatry	97.00	174.00	186.00
BFB	Psychology	79.00	141.00	150.00
BFC	Child Guidance	52.00	93.00	99.00
BFD	Mental Health	105.00	188.00	201.00
BFE	Social Work	77.00	137.00	146.00
BFF	Substance Abuse	82.00	147.00	156.00
	G. Family Practice/Primary Medical Care			
BGA	Family Practice	74.00	133.00	141.00
BHA	Primary Care	75.00	134.00	143.00
BHB	Medical Examination	66.00	118.00	126.00

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
BHC	Optometry	48.00	86.00	91.00
BHD	Audiology	27.00	49.00	52.00
BHE	Speech Pathology	69.00	123.00	131.00
BHF	Community Health	48.00	87.00	92.00
BHG	Occupational Health	78.00	141.00	150.00
BHH	TRICARE Outpatient	44.00	79.00	84.00
BHI	Immediate Care	108.00	193.00	206.00
	H. Emergency Medical Care			
BIA	Emergency Medical	114.00	205.00	218.00
	I. Flight Medical Care			
BJA	Flight Medicine	103.00	185.00	197.00
	J. Underseas Medical Care			
BKA	Underseas Medicine	35.00	63.00	67.00
	K. Rehabilitative Services			
BLA	Physical Therapy	34.00	60.00	64.00
BLB	Occupational Therapy	48.00	86.00	91.00

III. Other Rates and Charges [1 2] Per Visit

MEPRS Code [4]	Clinical service	International Military Education & Training (IMET)	Interagency and other federal agency sponsored patients	Other (full/third party)
FBI	A. Immunization	$13.00	$22.00	$24.00
DGC	B. Hyperbaric Chamber [5]	191.00	343.00	366.00
	C. Ambulatory Procedure Visit (APV) [6]	926.00	1,657.00	1,765.00
	D. Family Member Rate (formerly Military Dependents Rate)	10.45		

E. Reimbursement Rates For Drugs Requested By Outside Providers [7]

The FY 1999 drug reimbursement rates for drugs are for prescriptions requested by outside providers and obtained at a Military Treatment Facility. The rates are established based on the cost of the particular drugs provided. Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term ''high cost ancillary service.'' The phrase ''high cost ancillary service'' will be replaced with the phrase ''ancillary services requested by an outside provider'' on publication of final rule 32 CFR part 220. The list of drug reimbursement rates is too large to include here. These rates are available on request from OASD (Health Affairs).

F. Reimbursement Rates for Ancillary Services Requested By Outside Providers [8]

Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term ''high cost ancillary service.'' The phrase ''high cost ancillary service'' will be replaced with the phrase ''ancillary services requested by an outside provider'' on publication of final rule 32 CFR part 220. The list of FY 1999 rates for ancillary services requested by outside providers and obtained at a Military Treatment Facility is too large to include here. These rates are available on request from OASD (Health Affairs).

G. Elective Cosmetic Surgery Procedures and Rates

Cosmetic surgery procedure	International Classification Diseases (ICD–9)	Current procedural terminology (CPT) [9]	FY 1999 charge [10]	Amount of charge
Mammaplasty	85.50, 85.32, 85.31	19325, 19324, 19318	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Mastopexy	85.60	19316	Inpatient Surgical Care Per Diem Or APV or applicable Outpatient Clinic Rate.	([a b c])
Facial Rhytidectomy	86.82, 86.22	15824	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Blepharoplasty	08.70, 08.44	15820, 15821, 15822, 15823.	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Mentoplasty (Augmentation/Reduction).	76.68, 76.67	21208, 21209	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Abdominoplasty	86.83	15831	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Lipectomy suction per region [11].	86.83	15876, 15877, 15878, 15879.	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])

Cosmetic surgery procedure	International Classification Diseases (ICD–9)	Current procedural terminology (CPT) [9]	FY 1999 charge [10]	Amount of charge
Rhinoplasty	21.87, 21.86	30400, 30410	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Scar Revisions beyond CHAMPUS.	86.84	15785	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Mandibular or Maxillary Repositioning.	76.41	21194	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Minor Skin Lesions [12]	86.30	15785	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Dermabrasion	86.25	15780	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Hair Restoration	86.64	15775	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Removing Tattoos	86.25	15780	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Chemical Peel	86.24	15790	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Arm/Thigh Dermolipectomy.	86.83	15839	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])
Brow Lift	86.3	15839	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	([a b c])

H. Dental Rate [13] Per Procedure

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	Dental Services, ADA code and DoD established weight	$56.00	$101.00	$108.00

I. Ambulance Rate [14] Per Visit

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
FEA	Ambulance	$56.00	$101.00	$107.00

J. Ancillary Services Requested by an Outside Provider [8] Per Procedure

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	Laboratory procedures requested by an outside provider CPT '98 Weight Multiplier.	$10.00	$17.00	$18.00
	Radiology procedures requested by an outside provider CPT '98 Weight Multiplier.	25.00	45.00	48.00
	Cardiology procedures requested by an outside provider CPT '98 Weight Multiplier.	17.00	31.00	33.00

K. AirEvac Rate [15] Per Visit

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	AirEvac Services—Ambulatory	$90.00	$161.00	$172.00
	AirEvac Services—Litter	256.00	459.00	489.00

Observation Rate [16] Per Hour

MEPRS code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	Observation Services—Hour	$14.50	$25.83	$27.50

Notes on Cosmetic Surgery Charges

[a] Per diem charges for inpatient surgical care services are listed in Section I.B. (See notes 9 through 11, below, for further details on reimbursable rates.)

[b] Charges for ambulatory procedure visits (formerly same day surgery) are listed in Section III.C. (See notes 9 through 11, below, for further details on reimbursable rates.) The ambulatory procedure visit (APV) rate is used if the elective cosmetic surgery is performed in an ambulatory procedure unit (APU).

[c] Charges for outpatient clinic visits are listed in Sections II.A–K. The outpatient clinic rate is not used for services provided in an APU. The APV rate should be used in these cases.

Notes on Reimbursable Rates

[1] Percentages can be applied when preparing bills for both inpatient and outpatient services. Pursuant to the provisions of 10 U.S.C. 1095, the inpatient Diagnosis Related Groups and inpatient per diem percentages are 96 percent hospital and 4 percent professional charges. The outpatient per visit percentages are 89 percent outpatient services and 11 percent professional charges.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] The cost per Diagnosis Related Group (DRG) is based on the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal and secondary diagnoses, surgical procedures, and patient demographics involved. The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the direct care system is comparable to procedures used by the Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses include all direct care expenses associated with direct patient care. The average cost per RWP for large urban, other urban/rural, and overseas will be published annually as an adjusted standardized amount (ASA) and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources, not just third party payers.

[4] The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. MEPRS codes are used to ensure that consistent expense and operating performance data is reported in the DoD military medical system. An example of the MEPRS hierarchical arrangement follows:

MEPRS Code

Outpatient Care (Functional Category) B
Medical Care (Summary Account) BA
Internal Medicine (Subaccount) BAA

[5] Hyperbaric services charges shall be based on hours of service in 15 minute increments. The rates listed in Section III.B. are for 60 minutes or 1 hour of service. Providers shall calculate the charges based on the number of hours (and/or fractions of an hour) of service. Fractions of an hour shall be rounded to the next 15 minute increment (e.g., 31 minutes shall be charged as 45 minutes).

[6] Ambulatory procedure visit is defined in DOD Instruction 6025.8, ''Ambulatory Procedure Visit (APV),'' dated September 23, 1996, as immediate (day of procedure) pre-procedure and immediate post-procedure care requiring an unusual degree of intensity and provided in an ambulatory procedure unit (APU). Care is required in the facility for less than 24 hours. This rate is also used for elective cosmetic surgery performed in an APU.

[7] Prescription services requested by outside providers (e.g., physicians or dentists) are relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for prescription services when beneficiaries who have medical insurance obtain medications from a Military Treatment Facility (MTF) that are prescribed by providers external to the MTF. Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. Medical Services Account (MSA) patients, who are not beneficiaries as defined in 10 U.S.C. 1074 and 1076, are charged at the ''Other'' rate if they are seen by an outside provider and only come to the MTF for prescription services. The standard cost of medications ordered by an outside provider includes the cost of the drugs plus a dispensing fee per prescription. The prescription cost is calculated by multiplying the number of units (e.g., tablets or capsules) by the unit cost and adding a $5.00 dispensing fee per prescription. Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term ''high cost ancillary service.'' The phrase ''high cost ancillary service'' will be replaced with the phrase ''ancillary services requested by an outside provider'' on publication of final rule 32 CFR part 220. The elimination of the threshold also eliminates the need to bundle costs whereby a patient is billed if the total cost of ancillary services in a day (defined as 0001 hours to 2400 hours) exceeded $25.00. The elimination of the threshold is effective as per date stated in final rule 32 CFR part 220.

[8] Charges for ancillary services requested by an outside provider (physicians, dentists, etc.) are relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for ancillary services when beneficiaries who have medical insurance obtain services from the MTF that are prescribed by providers external to the MTF. Laboratory and Radiology procedure costs are calculated by multiplying the DoD established weight for the Physicians' Current Procedural Terminology (CPT '98) code by either the cardiology, laboratory or radiology multiplier (Section III.J). Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. MSA patients, who are not beneficiaries as defined by 10 U.S.C. 1074 and 1076, are charged at the ''Other'' rate if they are seen by an outside provider and only come to the MTF for ancillary services. Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term ''high cost ancillary service.'' The phrase ''high cost ancillary service'' will be replaced with the phrase ''ancillary services requested by an outside provider'' on publication of final rule 32 CFR part 220. The elimination of the threshold also eliminates the need to bundle costs whereby a patient is billed if the total cost of ancillary services in a day (defined as 0001 hours to 2400 hours) exceeded $25.00. The elimination of the threshold is effective as per date stated in final rule 32 CFR part 220.

[9] The attending physician is to complete the CPT '98 code to indicate the appropriate procedure followed during cosmetic surgery. The appropriate rate will be applied depending on the treatment modality of the patient: ambulatory procedure visit, outpatient clinic visit or inpatient surgical care services.

[10] Family members of active duty personnel, retirees and their family members, and survivors shall be charged elective cosmetic surgery rates. Elective cosmetic surgery procedure information is contained in Section III.G. The patient shall be charged the rate as specified in the FY 1999 reimbursable rates for an episode of care. The charges for elective cosmetic surgery are at the full reimbursement rate (designated as the ''Other'' rate) for inpatient per diem surgical care services in Section I.B., ambulatory procedure visits as contained in Section III.C, or the appropriate outpatient clinic rate in Sections II.A-K. The patient is responsible for the cost of the implant(s) and the prescribed cosmetic surgery rate. (Note: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.)

[11] Each regional lipectomy shall carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[12] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges shall be for the entire treatment, regardless of the number of visits required.

[13] Dental service rates are based on a dental rate multiplier times the American Dental Association (ADA) code and the DoD established weight for that code.

[14] Ambulance charges shall be based on hours of service in 15 minute increments. The rates listed in Section III.I are for 60 minutes or 1 hour of service. Providers shall calculate the charges based on the number of hours (and/or fractions of an hour) that the ambulance is logged out on a patient run. Fractions of an hour shall be rounded to the next 15 minute increment (e.g., 31 minutes shall be charged as 45 minutes).

[15] Air in-flight medical care reimbursement charges are determined by the status of the patient (ambulatory or litter) and are per patient. The appropriate charges are billed only by the Air Force Global Patient Movement Requirement Center (GPMRC).

[16] Observation Services are billed at either the hourly or daily charge. Begin counting when the patient is placed in the observation bed, and round to the nearest hour. The daily rate for full/third party, for example, would be $660 based on 24 hours of service. If a patient status changes to inpatient, the charges for observation services are added to the DRG assigned to the case and not billed separately. If a patient is released from Observation status and is sent to an APV, the charges for Observation services are not billed separately, but are added to the APV rate in order to recover all expenses.

1. Department of Health and Human Services

For the Department of Health and Human Services, Indian Health Service, effective October 1, 1998 and thereafter:

Hospital Care Inpatient Day

General Medical Care:	
Alaska	$1,798
Rest of the United States	1,049

Outpatient Medical Treatment

Outpatient Visit:	
Alaska	$360
Rest of the United States	210

For the period beginning October 1, 1998, the rates prescribed herein superseded those established by the Director of the Office of Management and Budget October 31, 1997 (61 FR 56360).

Jacob Lew,

Director, Office of Management and Budget.

[FR Doc. 98–27813 Filed 10–15–98; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Clearance of a Revised Information Collection: SF 3104 and SF 3104B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for clearance of a revised information collection. SF 3104, Application for Death Benefits/Federal Employees Retirement System, is used to apply for death benefits under the Federal Employees Retirement System based on the death of an employee, former employee or retiree who was covered by FERS at the time of his/her death or separation from Federal Service. SF 3104B, Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death, is used by applicants for death benefits under FERS if the deceased was a Federal Employee at the time of death.

It is estimated that approximately 4,873 SF 3104s are expected to be processed annually. This form requires approximately 60 minutes to complete. An annual burden of 4,873 hours is estimated. Approximately 3,188 SF 3104Bs are expected to be processed annually. It is estimated that the form requires approximately 60 minutes to complete. An annual burden of 3,188 hours is estimated. The total annual burden is 8,061.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov

DATES: Comments on this proposal should be received on or before November 16, 1998.

ADDRESSES: Send or deliver comments to—John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management 1900 E Street, NW, Room 3313, Wshington, DC 20415, and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–27818 Filed 10–15–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review, Comment Request Investigations Forms 41–44

AGENCY: Office of Personnel Management.

ACTION: Proposed collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U. S. Code, Chapter 35), this notice announces that OPM has submitted to the Office of Management and Budget (OMB) a request for reclearance of four information collections and solicits comments on them. OPM uses these form to request information by mail for use in OPM investigations.

These investigations are conducted to determine suitability for Federal employment and/or the ability to hold a security clearance as prescribed in Executive Orders 10450, 12968 and 10577 (5 CFR Part V) and 5 U.S.C. 3301.

INV Form 41, Investigative Request for Employment Data and Supervisor Information, is sent to former employers and/or supervisors.

INV Form 42, Investigative Request for Personal Information, is sent to references.

INV Form 43, Investigative Request for Educational Registrar and Dean of Students Record Data, is sent to educational institutions.

INV Form 44, Investigative Request for Law Enforcement Data, is sent to local law enforcement agencies.

INV Form 40, General Request for Investigative Data, is no longer being used for public information collection and has been removed from this collection.

Based upon current usage it is estimated that 1,609,000 individuals will respond annually (770,000 to INV Form 41; 412,000 to INV Form 42; 98,000 to INV Form 43; and 329,000 to INV Form 44) with each response requiring approximately 5 minutes. The total burden requested is 134,083 hours.

To obtain copies of this proposal please contact Mary Beth Smith-Toomey at (202) 606–8358 or by E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Richard A. Ferris, Associate Director, Investigations Service, U.S. Office of Personnel Management, Room 5416, 1900 E. Street, NW, Washington, DC 20415, and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, NW, Washington, DC 20503.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–27820 Filed 10–15–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40533; File No. SR–AMEX–98–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Extension of the Exchange's Pilot Program for Specialists in Portfolio Depositary Receipts, Investment Trust Securities and Index Fund Shares to Participate In the After-Hours Trading Facility

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 1998, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program permitting specialists in Portfolio Depository Receipts (''PDRs'')[3], investment trust securities and Index Fund Shares to particpiate in the After-Hours Trading (''AHT'') facility to ''clean-up'' order imbalances and to effect closing price coupled orders. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks an extension to October 31, 1998, of the pilot program permitting specialists in PDRs, investment trust securities and Index Fund Shares to participate in the AHT facility to ''clean-up'' order imabalances and to effect closing price coupled orders.

The Exchange believes that an extension of the Exchange's pilot program to permit specialists in PDRs, investment trust securities and Index Fund Shares to participate in the AHT facility in order to ''clean-up'' order imbalances and effect closing price coupled orders would benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon well known market indexes. Investor interest in these securities is rapidly increasing, and specialist participant in the AHT session provides necessary liquidity after the close of the regular trading session. In addition, the market price of these exchange traded funds is based upon transactions largely effected in markets other than the Amex. (In the case of Index Fund Shares, the market price of these securities is based exclusively on transaction occurring outside the Amex). The specialist in the Amex listed securities has no unique access to market sensitive information regarding the market for the underlying securities or closing index values. The Exchange, therefore, believes that specialist participation in the AHF facility in PDRs, investment trust securities and Index Fund Shares in the manner previously approved by the Commission on a pilot basis does not raise any market integrity issues. In addition, should a customer not care for an execution at the closing price, the rules of the Exchange's AHT facility permit cancellation of an order up to the close of the AHT session at 5:00 p.m. (Orders in the AHT facility are not executed until the 5:00 p.m. close of the After-Hours session.) A customer, therefore, has approximately 40 minutes to determine if an execution at the closing price suits his needs and may cancel the order if he believes that the closing price does not suit his objectives.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange currently lists three Portfolio Depository Receipts: Depository Receipts on the Standard and Poor's 500® and Mid Cap® Indexes and Depository Receipts on the Dow Jones Industrial Average ™. The Exchange also lists 17 Index Fund Shares which are commonly referred to as WEBS℠. WEBS are shares issued by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. The Exchange currently lists WEBS based on the following Morgan Stanley Capital International ''MSCI'') indices: MSCI Australia Index, MSCI Austria Index, MSCI Belgium Index, MSCI Canada Index, MSCI France Index, MSCI Germany Index, MSCI Hong Kong Index, MSCI Italy Index, MSCI Japan Index, MSCI Malaysia Index, MSCI Mexico Index, MSCI Netherlands Index, MSCI Singapore (Free) Index, MSCI Spain Index, MSCI Sweden Index, MSCI Switzerland Index, and MSCI United Kingdom Index. The Commission notes that due to certain restrictions imposed by the Malaysian government WEBS based on the MSCI Malaysia Index currently trade differently than the other WEBS trading on Amex.

6(b)[4] of the Act, in general, and furthers the objectives of Section 6(b)(4),[5] in particular, in that it is designed to prevent fraudulent manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submissions should refer to the File No. SR–AMEX–98–36 and should be submitted by November 6, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27821 Filed 10–15–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e)(3).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40538; File No. SR–BSE–98–06]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change Seeking Permanent Approval of the Exchange's Market-On-Close Order Handling Requirements Pilot Program

October 9, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 1998, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the BSE. On September 17, 1998, the Exchange submitted Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal, as amended.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Karen A. Aluise, Vice President, BSE to Richard Strasser, Assistant Director, Division of Market Regulation, Commission dated September 15, 1998 (''Amendment No. 1''). In Amendment No. 1, the Exchange requests permanent approval of the pilot program relating to market on-close orders.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its current pilot program regarding procedures for market-on-close (''MOC'') orders[4] to mirror changes recently made to the comparable New York Stock Exchange (''NYSE'') and American Stock Exchange (''Amex'') rules. Also, the Exchange seeks permanent approval of its MOC pilot procedures as amended by this proposal.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the current pilot program for the handling of MOC orders[5] to mirror recent changes made by the NYSE[6] and the Amex[7] and to seek permanent approval of the pilot program. The Exchange's current rules provide for different treatment of MOC orders on Expiration Fridays and Quarterly Index Expiration Days[8] than on non-expiration days.[9] In addition,

[4] A MOC order is a market order to be executed in its entirety at the closing price on the Exchange.

[5] The Exchanges' current pilot program will expire on October 31, 1998. *See* Securities Exchange Act Release No. 39327 (November 14, 1997), 62 FR 62381 (November 21, 1997).

[6] *See* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 33975 (June 22, 1998) (NYSE MOC Approval Order).

[7] *See* Securities Exchange Act Release No. 40123 (June 24, 1998), 63 FR 36280 (July 2, 1998) (Amex MOC Approval Order). In the Amex MOC approval order, the Amex also adopted a rule allowing the Amex to accept limit-at-the-close (''LOC'') orders. *Id.* At this time, the BSE does not accept LOC orders.

[8] The term ''expiration days'' refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently (''Expiration Fridays'') and (2) the trading day on which end of calendar quarter index options expire (''QIX Expiration Days'').

[9] *See* BSE Rules §§ 22(A) and 22(B).

the current rules provide for the publication of order imbalances of 50,000 shares or more only in the pilot stocks,[10] stocks being added to or dropped from an index, and upon the request of a specialist, any other stock with the approval of a floor official.[11]

While the deadline for entry of indications of interest by floor brokers to the specialist and the cancellation of MOC orders on Expiration Fridays and Quarterly Index Expiration Days is currently set at 3:40 p.m., the deadline on non-expiration days is currently set at 3:50 p.m.[12] The Exchange seeks to adopt the same time frame as the primary markets, which recently amended their respective procedures to set the deadline at 3:40 p.m. in all stocks on all trading days.[13]

The current rules also address the publication of order imbalances of 50,000 shares or more on Expiration Fridays and Quarterly Index Expiration Days. Currently, publication is required as soon as practicable after 3:40 p.m. on expiration days, and as soon as practicable after 3:50 p.m. on nonexpiration days. The Exchange seeks to provide that publication of order imbalances of 50,000 shares or more in NYSE-listed securities (and 25,000 shares or more in Amex-listed securities) shall occur as soon as practicable after 3:40 p.m. on all trading days, bringing the BSE rule into conformity with its primary market counterparts.

An additional publication shall be required at 3:50 p.m. on all trading days for any NYSE-listed security that had an imbalance publication at 3:40 p.m. If the imbalance at 3:50 p.m. is less than 50,000 shares, a ''no imbalance'' status must be published, although an imbalance of less than 50,000 shares may be published with floor official approval, provided there had been an imbalance publication at 3:40 p.m. If the 3:50 p.m. imbalance publication reversed the first imbalance publication, only MOC orders that offset the 3:50 p.m. imbalance would be permitted to be entered thereafter. This requirement is intended to present market participants with a more timely and accurate picture of imbalances before the close.

In addition, the current rules provide for the publication of order imbalances (on both Expiration Fridays/Quarterly Index Expiration Days and non-expiration days) in the pilot stocks, stocks being added to or dropped from an index, and upon the request of a specialist, any other stock with the approval of a floor official. The Exchange seeks to publish order imbalances in all stocks on all trading days, also in conformity with the primary market rules.[14]

The Exchange proposes to adopt language that will permit, but not require, the publication of order imbalances of less than 50,000 shares in NYSE-listed securities (and less than 25,000 shares in Amex-listed securities) as soon as practicable after 3:40 p.m. in any stock with the approval of a floor official, thereby permitting the publication of an imbalance which, although less than 50,000 (25,000) shares, may be significantly greater than the average daily volume in a stock.

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6 of the Act[15] and the rules and regulations thereunder. In particular, the Commission believes that the proposal is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[17]

In recent years, the Exchange and other self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions at the end of the trading day. Special procedures regarding the entry of MOC orders on Expiration Fridays were first used by the NYSE in 1986 for assisting in handling the order flow associated with the concurrent quarterly expiration of stock index futures, stock index options and options on stock index futures on Expiration Fridays.[18]

[10] The pilot stocks consist of the 50 most highly capitalized Standard & Poor's (''S&P'') 500 stocks and any component stocks of the Major Market Index (''MMI'') not included in the S&P 500 groups of stocks.

[11] *See* BSE Rules §§ 22(A)(c) and 22(B)(c).

[12] *See* BSE Rules §§ 22(A)(a) and 22(B)(a).

[13] *See* Amex MOC Approval Order, *supra* note 7 and NYSE MOC Approval Order, *supra* note 6.

[14] *See* NYSE MOC Approval Order, *supra* note 6.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b).

[18] *See* Securities Exchange Act Release No. 24926 (September 17, 1987), 52 FR 24926 (approving File No. SR–NYSE–87–32 and noting that the MOC procedures described therein had been utilized on a quarterly basis since September 1986).

These procedures allow specialists to determine the burying and selling interest in MOC orders and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice of the imbalance and with an opportunity to make appropriate investment decisions in response. Based on the NYSE's experience,[19] the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days.

In today's highly competitive market environment, however, it is possible that a regional exchange, which trades NYSE-and Amex-listed stocks but does not have comparable closing procedures, could be utilized by market participants to enter MOC orders prohibited on the primary markets. Although the Commission has no reason to believe that the BSE market has become a significant alternative market to enter otherwise prohibited MOC orders, the Commission agrees with the BSE that, if this possibility were realized, it could have a negative impact on the fairness and orderliness of the national market system.[20] Accordingly, the Commission believes that it is reasonable for the BSE to adopt procedures for the handling of MOC orders that mirror those of the NYSE and Amex, thereby ensuring the equal treatment of orders in those markets and, in the event of unusual market conditions, offering the BSE the same benefits in terms of potentially reducing volatility.

In this regard, the Commission notes that the proposed rule change will standardize the BSE's closing procedures on expiration and non-expiration days with those on the NYSE and Annex.[21] The proposal will impose a deadline of 3:40 p.m. for entry of all MOC orders on both expiration and on-expiration days. Floor brokers representing MOC orders also must indicate their MOC interest to the specialist by 3:40 p.m. every day. In conjunction with the prohibition on canceling or reducing any MOC order after 3:40 p.m., the Commission believes that these requirements should allow the specialist to make a timely and reliable assessment, on expiration and non-expiration days alike, of MOC order flow and its potential impact on closing prices.

The proposal will also provide that publication of order imbalances of 50,000 shares or more in all NYSE-listed securities (and 25,000 shares or more in all Amex-listed securities) shall occur as soon as practicable after 3:40 p.m. on all trading days. An additional publication shall be required at 3:50 p.m. on all trading days for any NYSE-listed security which had an imbalance publication at 3:40 p.m. If the imbalance at 3:50 p.m. is less than 50,000 shares, a ''no imbalance'' status must be published, although an imbalance of less than 50,000 shares may be published with floor official approval, provided there had been an imbalance publication at 3:40 p.m. If the 3:50 p.m. imbalance publication reversed the first imbalance publication, only MOC orders which offset the 3:50 p.m. imbalance would be permitted to be entered thereafter.

Finally, the proposal permits, but does not require, the publication of order imbalances of less than 50,000shares in NYSE-listed securities (and less than 25,000 shares in Amex-listed securities) as soon as practicable after 3:40 p.m. in any stock with the approval of a floor official, thereby permitting the publication of an imbalance which, although less than 50,000 (25,000) shares, may be significantly greater than the average daily volume in a stock.

The Commission believes that the enhanced publication requirements described above are appropriate and consistent with the Act. Requiring an additional order imbalance publication at 3:50 p.m. for all NYSE-listed securities having a published imbalance as of 3:40 p.m. is consistent with the current practice on the NYSE and may help ease market volatility at the close by attracting additional offsetting MOC orders for stocks that have a significant order imbalance as of 3:50 p.m. In addition, the Commission believes that allowing the publication of imbalances of less than 50,000 (25,000) shares in all stocks with the approval of a floor official is consistent with the practice on the NYSE and Amex and may assist in easing volatility at the close. With respect to changing the deadline for entering MOC orders on non-expiration days, the Commission believes that, by giving market participants more time to

[19] The NYSE has submitted to the Commission several monitoring reports describing its experience with the auxiliary closing procedures. For further discussion of the reports filed by the NYSE, *see* Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071 (approving File No. SR–NYSE–95–28). The most recent report filed by the NYSE was received on May 14, 1998.

[20] For example, if MOC orders prohibited on the NYSE and Amex were entered instead on the BSE, unusually large MOC order imbalances on the regional exchange could contribute to overall market volatility.

[21] *See* Amex MOC Approval Order, *supra* note 7, and NYSE MOC Approval Order, *supra* note 6.

react to published MOC order imbalances, the proposal may contribute to reducing volatility at the close. Finally, the proposal requests that the Commission permanently approve the Exchange's MOC pilot program. As noted above, these auxiliary closing procedures have been used by the NYSE since 1986 without significant difficulty. Therefore, the Commission believes that it is appropriate at this time to approve the Exchange's pilot program on a permanent basis.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of this proposal in the **Federal Register.** As discussed in more detail above, the changes made in this proposal are identical to changes made by the NYSE and the Amex.[22] As a result, the Commission does not believe that the proposal raises any new regulatory issues. Further, the Commission notes that the Amex and NYSE proposals were published for the full 21-day comment period during which no comment letters against either proposal were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)[23] of the Act, to approve the Exchange's proposal and Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change and Amendment No. 1, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–98–06 and should be submitted by November 6, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–BSE–98–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27822 Filed 10–15–98; 8:45 am]

BILLING CODE 8010–01–M

[22] *Id.*

[23] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40536; File No. SR–NSCC–98–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Modifying NSCC's Collateral Management Service

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 22, 1998, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–98–10) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will add an interactive messaging feature to NSCC's Collateral Management Service (''CMS'').[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CMS provides automated access to information on participants' clearing fund, margin, and other deposits at NSCC and other participating clearing entitles.[4] The information available through CMS includes excess and deficit collateral amounts and detailed data on deposited collateral (*i.e.,* cash, securities, and letters of credit).

CMS information is made available to NSCC participants that choose to participate in the service, to participating clearing entities, and if an entity requests, to participants of a participating clearing entity. Each participating clearing entity may access only its own participants' information through CMS. Similarly, a participant may access only its own information through CMS. CMS enables participating clearing entities to submit information and enables participating clearing entities and participants to view their respective information. However, CMS currently does not provide any additional processing capabilities.

The participating clearing entities that currently provide information to CMS include The Depository Trust Company (''DTC''), Government Securities Clearing Corporation (''GSCC''), MBS Clearing Corporation, NSCC, and The Options Clearing Corporation (''OCC''). Information regarding the Mortgage-Backed Securities Division of DTC (formerly Participants Trust Company) is expected to be provided to CMS in the near future. In addition, NSCC has established an interface that links CMS to the Pays and Collects System (''PCS'') of the Board of Trade Clearing Corporation (''BOTCC'').[5]

NSCC believes that CMS enables participants to manage their collateral efficiently at participating clearing entities by providing a single automated source of information. According to NSCC, CMS also benefits participating

[1] 15 U.S.C. 78s(b)(1).

[2] The complete text of the proposed amendments to NSCC's rules and procedures is attached to NSCC's filing as Exhibit A, which is available for inspection and copying at the Commission's Public Reference Room and through NSCC.

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] For a detailed description of CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR–NSCC–95–06].

[5] PCS is a database operated by BOTCC that contains information regarding participants' collateral positions at futures clearing entities.

clearing entities by increasing cooperation and coordination of information on common participants thereby helping them to better monitor their participants' collateral positions. NSCC believes that CMS is especially useful to identify excess collateral positions at participating clearing entities in the event of a default of a common participant.

The proposed rule change has the following specific objectives: (i) to enable participating clearing entities and participants to send and receive messages regarding collateral on an automated basis through CMS, (ii) to enable participants that elect to participate in CMS to request a withdrawal of excess collateral on a daily basis, including an intraday withdrawal of excess cash collateral, and (iii) to address the movement of collateral based on CMS messages. The modifications primarily affect Rule 53 (Collateral Management Service) of NSCC's Rules and Procedures.

NSCC intends to implement the modifications to CMS upon approval of the proposed rule change. Participating clearing entities will be able to make available the CMS modifications relating to clearing fund and margin requirements and deposits on a phased-in basis at a time determined by each clearing entity. NSCC believes that phased-in implementation will afford participating clearing entities sufficient time to address operational and regulatory considerations in connection with their and their participants' participation in the CMS modifications.

CMS Message Processing

The proposed rule change will modify NSCC Rule 53 to enable NSCC, participating clearing entities, and participating participants to send and receive interactive messages (''CMS messages'') regarding their respective CMS information. CMS messages will include the following: (i) a request by NSCC or a participating clearing entity to a participant for additional collateral, (ii) a request by a participant to NSCC or to a participating clearing entity to return excess collateral, (iii) a request by a participant to NSCC or to a participating clearing entity to use excess cash collateral to satisfy a settlement deficit at the entity where there is such excess cash collateral, (iv) a request by a participant to NSCC or to a participating clearing entity to substitute collateral, and (v) a request by a participant to use excess cash collateral at a participating clearing entity or NSCC to satisfy a clearing fund or margin deficit at another participating clearing entity or NSCC.

NSCC, participating clearing entities, and participating participants will be able to send and receive CMS messages on an automated basis by using CMS message screens. Generally, the CMS message screens will contain fields to identify the requesting entity, the entity or entities receiving the CMS message, the type of request, the request amount, the type of collateral, and the date of the request. CMS will transmit the request to the entity or entities identified in the request. All requests by a participant to NSCC an to participating clearing entities will require approval of the clearing entity.

The proposed rule change will add Procedure XVI to NSCC's rules and procedures to set forth procedures for processing each of the five basic types of CMS messages. First, Procedure XVI will provide that NSCC and participating clearing entities may submit a request for additional collateral to a participant through CMS.[6] The request will be transmitted to the participant identified in the request. Second, Procedure XVI provides that a participant may submit a request for the return of excess collateral to NSCC or to a participating clearing entity through CMS.[7] The requesting participant will receive a message from the clearing entity indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Third, Procedure XVI will provide that a participant may submit a request to NSCC or to a participating clearing entity to use excess cash collateral to satisfy a settlement deficit at the clearing entity where there is such excess cash collateral.[8] The request will be transmitted to the clearing entity identified in the request for approval or rejection. The requesting participant will receive a message indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Fourth, Procedure XVI will provide that a participant may submit a request to NSCC or to a participating clearing entity to substitute collateral.[9] The request will be transmitted to the clearing entity identified in the request for approval or rejection. The requesting participant will receive a message indicating the approval or rejection of the request and, in the case of a rejection, the reason(s) for the rejection.

Fifth, Procedure XVI will provide that a participant may submit a request to use excess cash collateral at one participating clearing entity or NSCC to satisfy a clearing fund or margin deficit at another participating clearing entity or NSCC.[10] The request will be transmitted to both clearing entities identified in the request for approval or rejection. The requesting participant will receive a message from each clearing entity indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Procedure XVI also will provide that requests must be submitted by such times on each processing day as may be established by NSCC and participating clearing entities from time to time. A request by a participant to NSCC or to a participating clearing entity that is not fully approved on the day that it is submitted will not be carried forward to the next processing day. However, CMS provides for ''today for tomorrow'' requests that will pend and be incorporated into the next day's processing if so designated.

Withdrawal of Excess Collateral on a Daily Basis

The proposed rule change also will modify Rule 53 to allow participating participants to request a withdrawal of excess collateral on a daily basis, including an intraday withdrawal of excess cash collateral. This modification is an exception to NSCC's general rule that permits a participant to request the return of excess collateral no more frequently than monthly and is also an exception to the general rule that permits certain participants on surveillance status to request the return

[6] The request must include the identity of the requesting clearing entity, the identity of the participant, the total amount of the request, the type of collateral (*i.e.*, cash, securities, and/or letters of credit), the date of the request, and such other information as may be required or permitted.

[7] The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount of the request, the type of collateral (*i.e.*, cash, securities, and/or letters of credit), the date of the request, and such other information as may be required or permitted.

[8] The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount of the request, the date of the request, and such other information as may be required or permitted.

[9] The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount and type of the collateral (*i.e.*, cash, securities, and/or letters of credit) to be returned to the participant, the total amount and type of collateral (*i.e.*, cash, securities, and/or letters of credit) to be substituted by the participant, the date of the request, and such other information as may be required or permitted.

[10] The request must include the identity of the requesting participant, the identity of the clearing entity from which the excess cash collateral is to be sent, the identity of the clearing entity to which the excess cash collateral is to be sent, the total amount of the request, the date of the request, and such other information as may be required or permitted.

of excess collateral no more frequently than quarterly. As a result, the proposed rule change makes conforming changes to NSCC's rules and procedures to provide for this exception.

Movement of Collateral Based on CMS Messages

The proposed rule change will modify Rule 53 to address the movement of collateral based on CMS messages. The actual movement of collateral based on a CMS message will be made between the appropriate clearing entity and the participant pursuant to the rules and procedures of the appropriate clearing entity. However, under the proposed rule change the movement of collateral based on a participant's request to use excess cash collateral at one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity will be made directly between the clearing entities daily on a bilateral net basis or as otherwise may be determined by the clearing entities.

Currently, an agreement authorizing use of data for CMS (''CMS Agreement'') addresses NSCC's authorization from participating clearing entities to collect and provide clearing fund and margin requirement and deposit information. Under an amendment to the CMS Agreement,[11] NSCC and participating clearing entities will agree to make payments in accordance with their respective rules and procedures based on approved participant requests to use excess cash collateral at one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity daily on a bilateral net basis or as otherwise may be determined by the clearing entities.[12] From the perspective of a participant, excess cash collateral will be treated as moved at the time both clearing entities approve the participant's request or at such other time as the clearing entities may mutually agree.

The proposed rule change will provide that the movement of excess cash collateral from NSCC to an NSCC participant based on a CMS message will be included in NSCC's money settlement process unless the participant requests an intraday wire transfer of funds. The proposed rule change also will make a technical modification to Section 6 of Rule 53 to add references to CMS messages.

NSCC believes that the modifications to CMS will create additional efficiency in the processing of collateral. CMS will enable communications regarding collateral to be processed on an automated basis thereby streamlining the current manually intensive telephonic and facsimile process. CMS will also facilitate the movement of collateral by enabling participants to move excess cash collateral from one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity directly through the clearing entities. The CMS modifications will include additional information regarding participants' collateral in CMS thereby helping participating clearing entities to better monitor their participants' collateral positions.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(f) of the Act[13] because it is designed to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and in general to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, an all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–98–10 and should be submitted by November 6, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27759 Filed 10–15–98; 8:45 am]

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[11] The text of the amendment to the CMS Agreement is attached to NSCC's filing as Exhibit B, which is available for inspection and copying at the Commission's Public Reference Room and through NSCC.

[12] As an example of bilateral netting, assume participant A requests to move $10 million excess cash collateral from NSCC to GSCC, participant B requests to move $5 million excess cash collateral from GSCC to NSCC, participant C requests to move $5 million excess cash collateral from DTC to OCC, and participant D requests to move $1 million excess cash collateral from OCC to DTC. In this example, NSCC would move the net amount of $5 million to GSCC, and DTC would move the net amount of $4 million to OCC.

[13] 15 U.S.C. 78–1(b)(3)(F).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40529; File No. SR–NYSE–98–16]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Margin Requirements for Exempted Borrowers and Good Faith Accounts

October 7, 1998.

I. Introduction

Pursuant to Section 19(b)(1)of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposal to amend NYSE rule 431, ''Margin Requirements,'' to accommodate certain recent changes to the federal margin requirements. In March 1998, the Commission originally approved the proposed changes on a temporary basis until July 27, 1998.[3] The NYSE's current proposal request permanent approval of the changes the Commission approved on a temporary basis in the March Approval Order. On July 24, 1998, the NYSE amended its current proposal to request accelerated approval of the proposal for six months, or until the Commission approves the changes on a permanent basis.[4] On July 27, 1998, the Commission approved the portion of the current proposal that requests accelerated approval of the proposal for six months, until January 22, 1999, or until the Commission approves the changes on a permanent basis, whichever occurs first.[5] The Partial Approval Order, which appeared in the **Federal Register** on August 3, 1998, also solicited comment on the NYSE's request for permanent approval of the proposal. No comments were received regarding the proposal. This order approves the NYSE's proposal on a permanent basis.

II. Description of the Proposal

In January 1998 the FRB amended Regulation T, which governs initial extensions of credit to customers and broker-dealers.[6] Among other things, these amendments established a ''good faith'' account, which can be used for transactions in non-equity securities.[7] Unlike transactions in a cash or margin account, transactions in the good faith account are *not* subject to the requirements of Regulation T with respect to initial margin and payment and liquidation time frames.

Good Faith Accounts

The NYSE believes that transactions in a good faith account raise the same safety and soundness concerns from a maintenance margin perspective as cash and margin account transactions. Accordingly, the NYSE proposes to amend NYSE Rule 431 so that transactions in all accounts of customers (except for cash accounts, as discussed below), including the new good faith account, will be subject to the current applicable maintenance margin requirements of NYSE Rule 431(c).[8] As is currently the case, cash accounts subject to Regulation T will not be the subject to the overall NYSE Rule 431 requirements, but in certain cases will be covered by certain provisions of that rule. In this regard, as the NYSE notes, NYSE Rule 431 requirements will continue to apply to cash account transactions in exempted securities (NYSE Rule 431(e)(2)(F)); for certain options (NYSE Rule 431(f)(2)(M)); and for ''when issued'' and ''when distributed'' securities (NYSE Rule 431(f)(3)(B)).

Exempted Borrowers

In the Regulation T amendments adopted in January 1998, the FRB also established a class of borrowers that is exempt from Regulation T. An ''exempted borrower,'' as defined in Regulation T, is a broker-dealer ''a substantial portion of whose business consists of transactions with persons other than brokers or dealers.''[9] The NYSE historically has not applied the requirements of NYSE Rule 431 to member organization accounts, except for transactions in the proprietary accounts of registered broker-dealers that are carried by a member organization. In this regard, NYSE Rule 431(e)(6) provides that a member organization may carry the proprietary account of another registered broker-dealer upon a margin basis that is satisfactory to both parties, provided the requirements of Regulation T are adhered to and the account is not carried in a deficit equity condition. In addition, NYSE Rule 431(e)(6) requires that the amount of any deficiency between the equity in the proprietary account and the margin required under NYSE Rule 431 be deducted in computing the net capital of the member carrying the proprietary account.

The NYSE believes that exempted borrowers would remain exempt from the requirements of NYSE Rule 431, and the Exchange proposes to amend the definition of ''customer'' in NYSE Rule 431(a)(2) to codify the Exchange's position that such borrowers are exempt from NYSE Rule 431.[10] Specifically, the NYSE proposes to amend NYSE Rule 431(a)(2) to exclude from the definition of ''customer'' an ''exempted borrower'' as defined by Regulation T of the FRB, except for the proprietary account of a broker-dealer carried by a member pursuant to NYSE Rule 431(e)(6).[11]

Under the new Regulation T definition of exempted borrower, the proprietary transactions of an introducing organization that qualifies as an exempted borrower (*i.e.*, an organization that conducts a substantial public business) will not be subject to Regulation T. Accordingly, the requirement in NYSE Rule 431(e)(6) that members adhere to the requirements of Regulation T will not apply to the proprietary accounts of exempted borrowers. However, for safety and soundness purposes, the proprietary accounts of a broker-dealer that are carried or cleared by another broker-dealer member organization will remain

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 39813 (March 27, 1998), 63 FR 16849 (April 6, 1998) (order approving File No. SR–NYSE–98–08) (''March Approval Order'').

[4] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard C. Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 23, 1998 (''Amendment No. 1''). In addition, Amendment No. 1 modifies the proposal to: (1) clarify that the proposal amends the definition of ''customer'' in NYSE Rule 431(a)(2) to codify the Exchange's position that exempted borrowers will remain exempt from the provisions of NYSE Rule 431; and (2) correct a reference in NYSE Rule 431(a)(2) to the Board of Governors of the Federal Reserve System (''FRB'') Subsequently, the NYSE confirmed that the Exchange was seeking to extend the changes to NYSE rule 431 that were approved in the March Approval Order for six months or until the Commission approves the changes on a permanent basis, whichever occurs first. Telephone conversation between Mary Anne Furlong, Attorney, NYSE, and Yvonne Fraticelli, Attorney, Division, Commission, on July 27, 1998.

[5] *See* Securities Exchange Act Release No. 40266 (July 27, 1998), 63 FR 41310 (August 3, 1998) (''Partial Approval Order'').

[6] *See* Docket Nos. R–905, R–0923, and R–0944, 63 FR 2806 (January 16, 1998).

[7] 12 CFR 220.6.

[8] NYSE Rule 431(c), as amended, will specify the margin that must be maintained in all customer accounts, except for cash accounts subject to Regulation T, unless a transaction in a cash account is subject to other provisions of NYSE Rule 431.

[9] 12 CFR 220.2.

[10] *See* Amendment No. 1, *supra* note 4.

[11] Specifically, NYSE Rule 431(a)(2), as amended, excludes from the definition of ''customer'' (a) a broker or dealer from whom a security has been purchased or to whom a security has been sold for the account of the member organization or its customers, or (b) an ''exempted borrower'' as defined by Regulation T, except for the proprietary account of a broker-dealer carried by a member organization pursuant to NYSE Rule 431(e)(6).

subject to the NYSE Rule 431(e)(6) equity requirements, which prohibit a member from carrying a proprietary account in a deficit equity condition and require that the amount of any deficiency between the equity maintained in the proprietary account and the margin required by NYSE Rule 431 be deducted in computing the net capital of the member carrying the proprietary account.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, Section 6(b)(5) of the Act,[12] in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[13]

Specifically, the Commission finds, as it has concluded previously,[14] that it is appropriate for the NYSE to apply the existing maintenance margin requirements of NYSE Rule 431(c) to transactions in the new ''good faith'' account adopted under Regulation T. Although non-equity transactions permitted in the good faith account will not be subject to the initial margin requirements and payment and liquidation time frames of Regulation T, as the NYSE notes, transactions in the good faith account may raise the same safety and soundness concerns with regard to maintenance margin as do transactions in cash and margin accounts. Accordingly, the Commission believes that it is appropriate for the NYSE to apply the existing maintenance margin requirements specified in NYSE Rule 431(c) to transactions in the good faith account. The Commission believes that applying the maintenance margin requirements of NYSE Rule 431(c) to transactions in the good faith account will protect investors and the public interest and help to maintain fair and orderly markets by ensuring that good faith accounts contain adequate margin reserves.

In addition, the Commission believes that it is appropriate for the NYSE to revise the definition of ''customer'' in NYSE Rule 431(a)(2) to codify the Exchange's position that exempt borrowers will remain exempt from the requirements of NYSE Rule 431, except for the proprietary account of a broker-dealer carried by a member pursuant to NYSE Rule 431(e)(6). The Commission believes that it is appropriate for the NYSE to continue to apply the equity requirements of NYSE Rule 431(e)(6) to the proprietary accounts of introducing broker-dealers that qualify as ''exempted borrowers'' under Regulation T if these accounts are carried by another Exchange member. By continuing to apply the equity requirements of NYSE Rule 431(e)(6) to these proprietary accounts, the Commission believes that the proposal will help to ensure that these accounts contain adequate margin, thereby protecting investors and the public interest.

IV. Conclusion

It is therefore, ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–98–16) is approved on a permanent basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27823 Filed 10–15–98; 8:45 am]

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[12] 15 U.S.C. 78f(b)(5).

[13] In approving this portion of the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] *See* March Approval Order, *supra* note 3, and Partial Approval Order, *supra* note 5.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40532; File No. SR–PCX–98–48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend PCX Rule 6 Regarding the Exchange's Dress Code

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 204.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to modify certain rules on Options Floor conduct, including standards of dress and consumption of food and drink on the Trading Floor. The rule change also modifies the current provisions on order tickets that are used on the Floor for options orders. Proposed new language is italicized; proposed deletions are bracketed.

* * * * *

¶4733 Admission to and Conduct on the Options Trading Floor

Rule 6.2(a)–(b)—No change.

(c) *Standards of Dress and Conduct*—No change.

(1) *Standards of Dress*—No change.

(A) Personal attire *must* [shall] be neat, clean and presentable.

(B) Men must wear [dress] shirts *with collars* [and neckties or bow ties tied in a conventional manner and worn under shirt collars; clip bow ties must be clipped to both sides of shirt collars. Golf and Aloha shirts are prohibited for both men and women.]

(C) All persons must wear trading jackets and/or suit or sport coats while present on the Trading Floor.

(D) The following are examples of violations of Trading Floor dress code standards:

(i) Blue jeans that are patched, torn, frayed or faded; tie-dyes; tube tops; overalls; military uniforms or fatigues; sweat suits; or trousers that are frayed or torn.

(ii) Bare or stocking feet or thongs.

(iii) Clothing drawing excessive attention, including costumes of any kind, bare midriffs, halter tops, sheer blouses, miniskirts, T-shirts, hot pants, shorts, or abbreviated clothing of any kind.

(E) [Waiver of the dress code means only that ties and jackets need not be worn]. *The Options Floor Trading Committee may impose additional standards of dress or otherwise modify these standards of dress by means of a written policy that will be distributed to Options Floor Members.*

(2) *Standards of Conduct.*

(A)—No change.

(B) The entry of food or drink *may be permitted at the discretion of the Options Floor Trading Committee.* [of any kind to the Floor during trading hours is prohibited.] Alcoholic beverages may not be consumed on the Trading Floor at any time [unless this prohibition is waived by a majority of the Options Trading Floor Committee. If a quorum of this Committee cannot be

found, a designated Officer of the Exchange may waive the restriction.]

(C)–(F)—No change.

* * * * *

¶5061 Certain Types of Orders Defined

Rule 6.62(a)–(d)—No change.

(e) *Not held order.* A not held order is an order *that is* marked ''not held,'' [,] *''NH,'' ''take time'' or that* [which] bears any qualifying notation giving discretion as to the price or time at which such order is to be executed. *The ''not held'' designation must appear in the ''special instructions'' portion of the order ticket. Orders that merely include a ''not held'' designation as part of the time stamp will not be deemed to be ''not held'' orders.*

(f)(–(j)—No change.

* * * * *

¶5103 Reporting Duties

Rule 6.69(a)–(d)—No change.

Commentary:

.01–.03—No change.

.04 Time stamping on the back of the hard card does not meet the Exchange's time stamp requirements because the hard card is not submitted to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections, A, B and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The PCX is proposing to change the standards of dress on the trading floor (currently set forth in Rule 6.2(c)). The current rule states that men must wear dress shirts with collars and neckties or bow ties tied in a conventional manner and worn under shirt collars; and that clip bow ties must be clipped to both sides of shirt collars. The current rule also states that golf and Aloha shirts are prohibited for both men and women. the rule change eliminates those provisions and replaces them with the requirement that men must wear shirts with collars. The rule change would also adopt a provision stating that the Options Floor Trading Committee (''OFTC'') may impose additional standards of dress or otherwise modify the current standards of dress by means of a written policy that will be distributed to Options Floor Members.

PCX is also proposing to modify the rules on food or drink permitted on the Trading Floor pursuant to Rule 6.2(c)(2)(B). The current rule prohibits food or drink on the Floor during trading hours and prohibits alcoholic beverages at any time unless this prohibition is waived by a majority of the OFTC. The Exchange proposes to change the rule so that it would state that food or drink may be permitted on the Trading Floor at the discretion of the OFTC and by prohibiting the consumption of alcoholic beverages on the Trading Floor at any time.

In addition, PCX is proposing to adopt additional requirements on ''not held'' orders. The current Rule 6.62(e) defines a ''not held'' order as an order marked ''not held'', ''take time'' or which bears any qualifying notation giving discretion as to price or time at which such order is to be executed.[3] The proposed rule change would require that the appropriate designation, ''not held'' or ''take time,'' must appear in the ''special instructions'' portion of the order ticket. The rule change also provides that orders that include a ''not held'' designation as part of the time stamp will not be deemed to be ''not held'' orders.

Finally, the PCX is proposing to adopt a new Rule 6.69.04 specifying that time stamping on the back of the hard card does not meet the Exchange's time stamp requirements. This change is based on the fact that the hard card is not routinely submitted to the Exchange.

Basis

The Exchange believes that the proposal is consistent with Section 6(b)[4] of the Act, in general, and Section 6(b)(5),[5] in particular, in that is designed to promote just and equitable principles of trade, to facilitate transactions in securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)[6] of the Act and paragraph (e)(3) of Rule 19b–4 thereunder[7] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.[8] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–98–48 and should be submitted by November 6, 1998.

[3] *See* PCX Rule 6.62(e).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3).

[7] 17 C.F.R. 240.19b–4.

[8] In reviewing this proposal, the commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27824 Filed 10–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40530; File No. SR–PHLX–98–18]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Auto–X Contra Party Participation (the Wheel)

October 7, 1998.

I. Introduction

On June 5, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Options Floor Procedure Advice F–24 (''Advice F–24'') governing AUTO–X Contra Party Participation (the Wheel). The proposed rule change was published for comment in the **Federal Register** on September 3, 1998.[3] The Commission received no comments regarding the proposal. On September 15, 1998, the Phlx filed with the Commission Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change and is simultaneously approving Amendment No. 1 on an accelerated basis.

I. Description of the Proposal

AUTO–X is the automatic execution feature of the Exchange's Automated Options Market (''AUTOM'') system,[5] which provides customers with automatic executions of eligible option orders at displayed markets. The Wheel is an automated mechanism for assigning floor traders (*i.e.*, specialists and Registered Options Traders (''ROTs'')), on a rotaing basis, as contra-side participants to AUTO–X orders.

In 1994, the Commission approved the Exchange's Wheel provisions as Advice F–24.[6] The purpose of the Wheel is to increase the efficiency and liquidity of order execution through AUTO–X by including certain floor traders in the automated assignment of contra-parties to incoming AUTO–X orders. Thus, the Wheel is intended to make AUTO–X more efficient, as contra-side participation is assigned automatically. Although specialists are required to participate on the Wheel, currently, ROT participation is voluntary, absent extraordinary circumstances.

In its filing, the Phlx proposes that in extraordinary circumstances, to promote liquidity, two Floor Officials may require all ROTs who signed onto the Wheel at any time during the last thirty business days to participate on the Wheel. This proposed amendment to section (d) of Advice F–24 removes the broader ability to require all ROTs to sign on in extraordinary circumstances by limiting the provision to ROTs who have previously signed on. Thus, ROTs who had not signed onto the Wheel in the past thirty days would not be subject to this provision. The purpose of this change is to establish a more equitable sign-on requirement, affecting only those ROTs who have previously participated on the Wheel.

The Phlx also proposes to amend section (c)(iii) of Advice F–24 to require expressly that ROTs sign off the Wheel when leaving the Wheel assignment area for more than a brief interval.[7] The Exchange explains that this change should clarify the obligations of a ROT to sign off the Wheel by incorporating affirmative language into Advice F–24(c)(iii). The proposal is designed to ensure that ROTs are aware of and meet their responsibilities pertaining to the sign-off requirements for the Wheel. Because section (c)(iii) is subject to a fine schedule, the Exchange also proposes to amend its minor rule violation enforcement and reporting plan.[8] Moreover, Amendment No. 1 incorporated language into Advice F–24 that became effective pursuant to a rule filing submitted subsequent to the current proposal.[9]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act. In particular, the Commission believes the proposal is consistent with Section 6(b)(5)[10] of the Act.[11] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As the Commission previously has noted, AUTO–X enhances the Exchange's ability to execute small public customer orders in a timely, accurate, and efficient manner, and the automation of assignments of contra-parties for AUTO–X trades should improve order processing and turnaround time.[12] The Commission agrees with the Exchange that it should be more equitable, in extraordinary circumstances when ROTs are forced onto the Wheel, to limit those ROTs compelled to serve as contra-parties to those who have taken advantage of Wheel participation in the past thirty days. Moreover, given the significance of maintaining orderly Wheel operations, it is sensible to clarify the affirmative responsibility of Wheel participants to sign-off the wheel when they leave the Wheel assignment area

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40374 (August 27, 1998) 63 FR 47078.

[4] In Amendment No. 1, the Exchange noted additional language in Advice F–24 that had become effective pursuant to a separate rule filing. *See* Letter from Linda S. Christie, Counsel, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated September 14, 1998 (''Amendment No. 1'').

[5] AUTOM is an electronic order routing system for option orders. *See* Phlx Rule 1080.

[6] Securities Exchange Act Release No. 35033 (November 30, 1994), 59 FR 63152 (December 7, 1994) (order approving Advice F–24).

[7] The Phlx defines ''brief'' to mean 5 minutes or less, or in matters of a dispute, the amount of time it takes to call in a Floor Official and inform him/her of the issue at hand. *See* Securities Exchange Act Release No. 38881 (July 28, 1997), 62 FR 41986 (August 4, 1997) (order approving changes to Advice F–24). The Exchange has clarified that ROTs who signed off to leave the Wheel assignment area may return and sign back onto the Wheel the same day. Telephone conversation between Linda S. Christie, Counsel, Phlx, and Lisa Henderson, Attorney, Division, Commission (July 23, 1998).

[8] The Phlx's minor rule violation enforcement and reporting plan (''minor rule plan''), codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. Rule 19d–1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary action. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[9] *See* Securities Exchange Act Release No. 40370 (August 27, 1998) 63 FR 47077 (September 3, 1998) (notice of immediate effectiveness of SR–PHLX–98–34).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* Securities Exchange Act Release No. 35033 (November 30, 1994) 59 FR 63152 (December 7, 1994) (order approving SR–PHLX–94–32).

for more than a brief interval and to adjust the Exchange's Minor Rule Violation Plan accordingly.

Finally, the Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Amendment merely updates the proposed Advice F–24 to reflect changes in the Advice made pursuant to a separate rule filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether the proposed Amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–98–18 and should be submitted by November 6, 1998.

Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PHLX–98–18), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27825 Filed 10–15–98; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)912).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3138]

State of Alabama (Amendment #1)

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-numbered Declaration is hereby amended to include Butler and Conecuh Counties, Alabama as a disaster area due to damages caused by Hurricane Georges beginning on September 25, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties may be filed until the specified date at the previously designated location. All counties contiguous to the above-named primary county have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 29, 1998 and for economic injury the termination date is June 30, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–27869 Filed 10–15–98; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3135; Amendment #1]

State of Florida

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-numbered Declaration is hereby amended to include Franklin and Gulf Counties, Florida as a disaster area due to damages caused by Hurricane Georges beginning September 25, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Wakulla in the State of Florida may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named 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 November 27, 1998 and for economic injury the termination date is June 28, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

James Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–27870 Filed 10–15–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3133; Amendment #2]

State of Louisiana

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 September 9, 1998 and continuing through October 4, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 22, 1998 and for economic injury the termination date is June 23, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–27871 Filed 10–15–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3139; Amendment #1]

State of Mississippi

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-numbered Declaration is hereby amended to include Jefferson Davis, Marion, Pike, and Wayne Counties, Mississippi as a disaster area due to damages caused by Hurricane Georges beginning September 25, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Amite, Clarke, Lawrence, Lincoln, Simpson, and Walthall in the State of Mississippi. Any counties contiguous to the above-named 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 November 30, 1998 and for economic injury the termination date is July 1, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

James Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–27868 Filed 10–15–98; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF STATE

[Public Notice 2906]

Office of Foreign Missions; Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collections; DSP–100, Application for Registration (Mission Vehicle), DSP–101, Application for Registration (Personal Vehicle), DSP–102, Application for Title, DSP–104, Application for Replacement Plates.

SUMMARY: The Department of State has submitted the following information collections request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement.

Originating Office: Office of Foreign Missions.

Title of Information Collection: Application for Registration (Mission Vehicle).

Frequency: On occasion.

Form Number: DSP–100.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 2,788.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 1,394.

Type of Request: Reinstatement.

Originating Office: Office of Foreign Missions.

Title of Information Collection: Application for Registration (Personal Vehicle).

Frequency: On occasion.

Form Number: DSP–101.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 9,700.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 4,850.

Type of Request: Reinstatement.

Originating Office: Office of Foreign Missions.

Title of Information Collection: Application for Title.

Frequency: On occasion.

Form Number: DSP–102.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,500.

Type of Request: Reinstatement.

Originating Office: Office of Foreign Missions.

Title of Information Collection: Application for Replacement Plates.

Frequencey: On occasion.

For Number: DSP–104.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 1,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 500.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management, Department of State, Washington, DC 20520, (202) 647–0596. General comments and questions should be directed to Ms. Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: August 31, 1998.

Fernando Burbano,

Chief Information Officer.

[FR Doc. 98–27849 Filed 10–15–98; 8:45 am]

BILLING CODE 4710–44–M

DEPARTMENT OF STATE

[Public Notice No. 2907]

Advisory Committee on International Economic Policy; Notice of Partially Closed Meeting

The Advisory Committee on International Economic Policy will meet from 9:00–1:00 p.m. on Wednesday, October 28, 1998, in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. The Department regrets shorter notice necessitated by last minute conflicts in schedule of senior officials. The meeting will be hosted by Committee Chairman R. Michael Gadbaw and by Assistant Secretary of State for Economic and Business Affairs Alan P. Larson.

The ACIEP will first meet in closed session, which will be devoted to the global financial crisis and economic sanctions. The closed briefings involve discussions of classified information, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552b(c)(1), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B). The open session will focus on OECD Multilateral Agreement on Investment and the Anti-Bribery Convention. Members of the public may attend the open session as seating capacity allows.

As access to the Department of State is controlled, persons wishing to attend the meeting should notify the ACIEP Executive Secretary by Wednesday, October 21, 1998.

Each person must provide his or her name, company or organization affiliation, date of birth, and social security number and a valid photo ID for entrance into the building at the C street diplomatic entrance, to the ACIEP Secretariat at (202) 647–5968 or fax (202) 647–5713 (Attn: Sharon Rogers). A list will be made up for Diplomatic Security and the Reception personnel will direct them to Room 1107.

For further notification or information, contact Sharon Rogers, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520. She may be reached at telephone number (202) 647–5968 or fax number (202) 647–5713.

Dated: October 13, 1998.

Alan Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 98–27918 Filed 10–14–98; 11:31 am]

BILLING CODE 4710–07–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee (TEPAC)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the October 30, 1998, meeting of the Trade and Environment Policy Advisory Committee will be held from 1:00 p.m. to 5:00 p.m. The meeting will be closed to the public from 1:00 p.m. to 4:30 p.m. and open to the public from 4:30 p.m. to 5:00 p.m..

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on October 30, 1998 from 1:00 p.m. to 5:00 p.m. The meeting will be closed to the public from 1:00 p.m. to 4:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 4:30 p.m. to 5:00 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for October 30, 1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the USTR ANNEX Building in Conference Room 2, located at 1724 F Street, NW, Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT:

Bill Daley, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 98–27861 Filed 10–15–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation, Federal Aviation Administration (DOT/FAA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by October 16, 1998, in accordance with 5 CFR 1320.13. The following information describes the nature of the information collection and its expected burden.

SUPPLEMENTARY INFORMATION:

Title: Streamlining Software Aspects of Certification Survey.

Need: The FAA is responsible for approving systems using software for airborne and ground applications. The FAA started the Streamlining Software Aspects of Certification (SSAC) program to identify and eliminate unnecessary costs in software approval. The SSAC survey will collect data from computer software developers on specific concerns about software approval processes. The survey results will be used to develop recommendations for the FAA on ways to streamline the approval process.

Respondents: Approximately 500 members of the businesses who develop software in compliance with the RTCA/DO–178B for airborne and ground applications.

Frequency: One time.

Burden: The one time burden is estimated to be 190 hours.

FOR FURTHER INFORMATION: or to obtain a copy of the request for clearance submitted to OMB, you my contact Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, APF–100, 800 Independence Avenue, SW, Washington, DC 20591.

Issued in Washington, DC, on October 8, 1998.

Steve Hopkins,

Manager, Corporate Information Division, APF–100.

[FR Doc. 98–27797 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Security Advisory Committee

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held October 29, 1998, from 9:30 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, D.C. 20591, telephone 202–267–7622.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held October 29, 1998, at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, D.C. The agenda for the meeting will include: Critical Infrastructure; Reports from Working Groups on Cargo, Public Education, Employee Recognition and Utilization, Airport Categorization, and Universal Access System; and Progress of Civil Aviation Security Initiatives. The October 29, 1998, meeting is open to the public but attendance is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–267–7622.

Issued in Washington, D.C., on October 9, 1998.

Patrick McDonnell,

Acting Deputy Associate Administrator for Civil Aviation Security.

[FR Doc. 98–27802 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and Disapprovals. In September 1998, there were five applications approved. Additionally, five approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: **Lexington-Fayette Urban County Airport Board, Lexington, Kentucky.**

Application Number: 98–04–U–00–LEX.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $329,563.

Charge Effective Date: November 1, 1993.

Estimated Charge Expiration Date: September 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decisions.

Brief Description of Project Approved for Use: Construct deicing agent detention system.

Decision Date: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Wills, Memphis Airports District Office, (901) 544–3495, Ext. 16.

Public Agency: **New Orleans Airport Board, New Orleans, Louisiana.**

Application Number: 98–04–C–00–MSY.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $4,545,516.

Earliest Charge Effective Date: November 1, 2009.

Estimated Charge Expiration Date: March 1, 2010.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled, whole-plane charter operations by air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at New Orleans International Airport.

Brief Description of Project Approved for Collection and Use: LaFon roads and utilities. Upper level roadway canopy.

Brief Description of Project Approved for Use: Terminal improvements.

Decision Date: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: **Texarkana Airport Authority, Texarkana, Arkansas.**

Application Number: 98–02–C–00–TXK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $412,532.

Earliest Charge Effective Date: December 1, 1999.

Estimated Charge Expiration Date: May 1, 2003.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Safety area improvements runway 22. North apron expansion. Runway 4/22 overlay. Security/perimeter fencing. PFC application costs.

Decision Date: September 22, 1998.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: **Hattiesburg-Laurel Regional Airport Authority, Hattiesburg, Mississippi.**

Application Number: 98–02–C–00–PIB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $89,593.

Earliest Charge Effective Date: December 1, 1998.

Estimated Charge Expiration Date: June 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Acquire telescoping walkway. Acquire disabled passenger lift device.

Decision Date: September 23, 1998.

FOR FURTHER INFORMATION CONTACT: Rans D. Black, Jackson Airports District Office, (601) 965–4628.

Public Agency: **Northwest Arkansas Regional Airport Authority, Bentonville, Arkansas.**

Application Number: 98–01–C–00–XNA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $125,025,221.

Earliest Charge Effective Date: December 1, 1998.

Estimated Charge Expiration Date: March 1, 2049.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Feasibility study, site selection, airport master plan, and environmental assessment. Environmental impact statement. Acquire land for development, provide relocation assistance. Phase 1A site preparation for construction of a new airport. Phase 1B site preparation for construction of the Northwest Arkansas Regional Airport (XNA). Phase II mass grading and drainage, site preparation, land acquisition. Phase III—construction of the XNA. Financing and interest for the runway, taxiway, apron, navigational aids, lighting equipment, and water quality portions of the complete development of XNA. Terminal building construction.

Decision Date: September 24, 1998.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approval net PFC revenue	Amendment approval net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–01–C–01–TXK, Texarkans, AR	05/29/98	$414,459	$547,484	01/01/99	12/01/99
92–01–C–02–CAK, Arkon, OH	08/26/98	2,558,851	1,959,155	02/01/03	04/01/02
95–01–C–01–LFT, Lafayette, LA	09/08/98	1,646,300	1,956,300	10/01/99	09/01/98

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No., city, state	Amendment approved date	Original approval net PFC revenue	Amendment approval net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
96–04–C–02–YKM, Yakima, WA	09/10/98	662,515	850,957	02/01/99	12/01/99
97–05–C–01–CLE, Cleveland, OH	09/22/98	40,868,570	41,844,570	07/01/99	11/01/99

Issued in Washington, DC. on October 8, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–27801 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Mobile Regional Airport, Mobile, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to Impose and Use the Revenue From a PFC at Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 16, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 120 North Hanger Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Roger Engstrom, Director of Aviation, Mobile Airport Authority at the following address: Mobile Airport Authority, P.O. Box 88004, Mobile, Alabama 36608–0004.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Mobile Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Program Manager, Jackson Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2206, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 29, 1998, the FAA determined that the application to Impose and Use the revenue from a PFC submitted by Mobile Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 21. 1999.

The following is a brief overview of the application.

PFC Application No.: 98–02–C–00–MOB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1999.

Proposed charge expiration date: August 30, 1999.

Total estimated PFC revenue: $445,000.

Brief description of proposed project(s): Elevator, Baggage claim display; and Terminal seating.

Class or classes of air carriers, which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Mobile Airport Authority.

Issued in Jackson, Mississippi on October 5, 1998.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Regions.

[FR Doc. 98–27526 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Northwest Alabama Regional Airport, Muscle Shoals, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to Impose And Use The Revenue From a PFC at the Northwest Alabama Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 16, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, MD 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John B. Lehrter, AAE, Airport Director of the Northwest Alabama Regional Airport Authority, Inc., at the following address: 1687 Ed Campbell Drive, Suite A, Muscle Shoals, AL 35661–2016.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Northwest Alabama Regional Airport Authority, Inc., under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Roderick T. Nicholson, Program Manager, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, MD 39208–2306, telephone number (601) 965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose

and use the revenue from a PFC at the Northwest Alabama Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public law 101–508) and Par 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 8, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Northwest Alabama Regional Airport Authority, Inc., was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 26, 1999.

The following is a brief overview of the application.

PFC Application No.: 98–03–C–00–MSL.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 1999.

Proposed charge expiration date: September 30, 2003.

Total estimated PFC revenue: $107,600.

Brief description of proposed project(s): Rehabilitate Runway/Taxiway Lighting & Sign Circuits; Extend Taxiway ''B'' & Associated Marking & Lighting; Sealcoat/Crackfill/Mark Taxiways ''B'', ''C'', & ''D'', Sealcoat/Crackfill/Mark East/West Ramps; Perimeter Fencing.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Northwest Alabama Regional Airport.

Issued in Jackson, MS, on October 8, 1998.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 98–27728 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of the August 1998 Revision of the Federal Aviation Administration Change 9 of the Standard Clauses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the August 1998 revision Change 9 of the Standard clauses used in FAA procurement contracts and Screening Information Requests (SIR), as well as the latest versions of the real property and utility clauses.

ADDRESSES: The complete text of the August 1998 revision of the FAA Change 9 of the Standard clauses and the latest versions of the real property and utility clauses are available on the Internet at http://fast.faa.gov/. Use of the Internet World Wide Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System and the current clauses. If Internet service is not available, requests for copies of these documents may be made to the following address: FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Yvonne Joseph, Procurement Management Branch, Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington DC 20591, (202) 267–8638.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an Act, Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA Acquisition Management System went into effect on April 1, 1996 [see notice of availability at 61 FR 15155 (April 4, 1996)].

The Air Traffic Management System Performance Improvement Act of 1996, title II of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996, expanded the procurement reforms previously authorized by the 1996 DOT Appropriations Act. Amendment 01 implements title II and makes other necessary changes to, and clarifications of, the FAA Acquisition Management System.

Issued in Washington, DC, on October 7, 1998.

Gilbert B. Devey, Jr.,

Director of Acquisitions, ASU–1.

[FR Doc. 98–27796 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Chester County, PA

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 highway project in Chester County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Deborah Suciu Smith, Environmental Specialist, Federal Highway Administration, Pennsylvania Division Office, Room 558, 228 Walnut Street, Harrisburg, PA 17101–1720, Telephone: (717) 221–3785 or Michael J. Girman III, P.E., Project Manager, Pennsylvania Department of Transportation, District 6–0, 200 Radnor-Chester Road, St. David's, PA 19087, Telephone: (610) 964–6530.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement (EIS) to identify and evaluate alternatives for transportation improvements to approximately 14.5 kilometers (9 miles) of S.R. 41 from S.R. 926 to the Delaware state line. Improvements in the corridor are considered necessary to address deficient safety, traffic congestion and poor roadway infrastructure. Included in the overall project will be the identification of a range of alternatives that meet the identified project need, and supporting environmental documentation and analysis to recommend a selective alternative for implementation. Through a Congestion Management System analysis, it has been determined that project needs cannot be met without adding significant single occupant vehicle capacity. A complete public involvement program is part of the project. Cooperating agencies for this proposed project are the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.

A study of the project needs was prepared in 1994 and presented to Federal and State regulatory and resource agencies. A Preliminary Alternatives Analysis Report is being prepared to identify and evaluate potential alternatives which would meet the project need. Alternatives under consideration will include: No Build; Widening Alternative (two to four

lanes); Short Alternative (bypass of Avondale Borough only); and Long Alternative (bypass of Avondale Borough and Chatham Village). These alternatives will be the basis for recommendation of alternatives to be carried forward for detailed environmental and engineering studies in the EIS.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Letters describing the proposed actions and 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. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or PennDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 8, 1998.

Deborah Suciu Smith,

FHWA Environmental Specialist, Harrisburg, PA.

[FR Doc. 98–27858 Filed 10–15–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board [1]

[STB Finance Docket No. 33669]

The Indiana Rail Road Company; Trackage Rights Exemption; Monon Rail Preservation Corporation

Monon Rail Preservation Corporation (Monon), a Class III rail carrier, has agreed to grant local trackage rights to The Indiana Rail Road Company (INRD), a Class III rail carrier, over its rail line between milepost Q217.67 at Hunters, IN, and MP Q213.41 at Ellettsville, IN, a distance of 4.26 miles.

The transaction is scheduled to become effective immediately upon consummation of the transaction in STB Finance Docket No. 33668, which is scheduled to take place on or after October 9, 1998.

The purpose of the trackage rights will permit INDR to ensure continuity of service to the shipper on the line pending consummation of the operating agreement.

Upon 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protest the interests of its employees. Section 11326(c), however, does not provide for labor protection for transaction under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33669, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John Broadley, Jenner & Block, 601 13th Street N.W., 12th floor, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 8, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–27865 Filed 10–15–98; 8:45 am]

BILLING CODE 4915–00–P

[1] See *Monon Rail Preservation Corporation—Acquisition Exemption—Lines of CSX Transportation, Inc.*, STB Finance Docket No. 33668 (STB served Oct. 16, 1998), in which Monon has invoked the class exemption at 49 CFR 1150.31 to permit to acquire the line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33668]

Monon Rail Preservation Corporation; Acquisition Exemption; Lines of CSX Transportation, Inc., in Monroe County, IN

Monon Rail Preservation Corporation (Monon), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire 4.26 miles of rail line from CSX Transportation, Inc. (CSXT), between milepost Q217.67 at Hunters, IN, and milepost Q213.41 at Ellettsville, IN.[1]

The transaction is scheduled to be consummated on or shortly after October 9, 1998.

This transaction is related to STB Finance Docket No. 33669, *The Indiana Rail Road Company—Trackage Rights Exemption—Monon Rail Preservation Corporation*, wherein The Indiana Rail Company will enter into a trackage rights agreement with Monon for the operation of the line being acquired by Monon from CSXT.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33668, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Theodore J. Ferguson, Esq., Ferguson & Ferguson, 403 East Sixth Street, Bloomington, IN 47408–4098.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 8, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–27864 Filed 10–15–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Monon certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier.

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 11, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 16, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: IRS Form 8812.

Type of Review: New collection.

Title: Additional Child Tax Credit.

Description: Section 24 of the Internal Revenue Code allows for taxpayers a credit for each of their dependent children who is under age 17 at the close of the taxpayer's tax year. The credit is advantageous to taxpayers as it directly reduces the tax liability for the year and, if the taxpayer has three or more children, may result in a refundable amount of credit.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 3,500,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 min.

Learning about the law or the form—5 min.

Preparing the form—18 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 2,905,000 hours.

OMB Number: 1545–1609.

Form Number: IRS Form 12040.

Type of Review: Extension.

Title: Order Blank for Charities Conducting Fund Raising Events.

Description: The data collected on Form 12040 provides the charities a source to obtain the necessary tax material needed for recordkeeping and filing their returns.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–27756 Filed 10–15–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 11, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 16, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: IRS Form 8862.

Type of Review: New collection.

Title: Information to Claim Earned Income Credit After Disallowance.

Description: Section 32 of the Internal Revenue Code allows taxpayers an earned income credit (EIC) for each of their qualifying children. Section 32(k), as enacted by section 1085(a)(1) of Pub. L. 105–34, disallows the EIC for a statutory period if a taxpayer improperly claimed it in a prior year. Form 8862 helps taxpayers reestablish their eligibility to claim the EIC.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.

Learning about the law or the form—7 min.

Preparing the form—59 min.

Copying, assembling, and sending the form to the IRS—28 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 2,430,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–27757 Filed 10–15–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–83]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Parts 111.52 and 111.74 of the Customs Regulations, as amended (19 CFR 111.52 and 111.74), is canceling the following Customs broker licenses without prejudice.

Port and Individual	License No.
New York:	
All Points, Inc.	14644
Sumitrans Corporation	09839
Fast Cargo U.S., Inc.	10026
Kenney Transport, Inc.	05291
Alexander Zadroga	06263
Nogales: T & C Customs. Broker & Associates	16444
Seattle: Peter A. Hugins	14426

Dated: October 9, 1998.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 98–27857 Filed 10–15–98; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit ''Art from Russia's Turning Point: Isaak Brodsky and His Collection, 1870–1932,'' imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Yellowstone Art Museum, Billings, Montana, from on or about October 31, 1998, to on or about December 31, 1998, is in the

national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th St., S.W., Washington, D.C. 20547–0001.

Dated: October 13, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–27913 Filed 10–15–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Friday
October 16, 1998

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 2, 153, 157, etc.

Revision of the Commission's Regulations Under the Natural Gas Act; Proposed Rule

18 CFR Part 380

Landowner Notification, Residential Area Designation, and Other Environmental Filing Requirements; Technical Conference; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 153, 157, 284, 375, 380, and 385

[Docket No. RM98–9–000]

Revision of the Commission's Regulations Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend the regulations codifying the Commission's responsibilities under the Natural Gas Act and Executive Order 10485, as amended. The Commission proposes to update its regulations governing the filing of applications for the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act. The proposed changes are necessary to conform the Commission's regulations to the Commission's current policies.

DATES: Comments are due on December 1, 1998.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael J. McGehee, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 208–2257

Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2246

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, NE., Room 2A, Washington, DC 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, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

In the matter of: Revision of the Commission's Regulations Under the Natural Gas Act; Docket No. RM98–9–000.

Notice of Proposed Rulemaking

September 30, 1998.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing the filing of applications for certificates of public convenience and necessity authorizing the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act (NGA),[1] and to amend the blanket certificate under Subpart F of Part 157. The Commission has determined that portions of its regulations need to be revised and/or eliminated in order to reflect the current regulatory environment of unbundled pipeline sales and open-access transportation of natural gas. The proposed revisions would: (1) bring the existing regulations up-to-date to match current policies; (2) eliminate ambiguities and obsolete language; and (3) make the regulations more germane, and less cumbersome.

Additionally, the Commission proposes to consolidate and clarify its current practice concerning the reporting requirements needed for its environmental review of pipeline construction projects. Generally, the Commission's requirements concerning its environmental review process are either outdated, found in several different parts of the Commission's regulations, or replaced by current practice with a preferred format that is not in the Commission's regulations, but has been used routinely by jurisdictional companies. The proposed regulations would provide better guidance to the regulated industry concerning what particular information the Commission needs to conduct a timely environmental analysis.

II. Information Collection Statement

The proposed rule, if adopted, would establish new reporting requirements, modify existing reporting requirements and eliminate those requirements that are now obsolete. The Commission seeks to simplify and streamline its requirements to reduce the burden on pipelines. The current public reporting burden for these information collections is estimated to average the following number of hours per response: FERC–537[2]—146,160 hours for the 50 gas companies that complete a filing; FERC–539[3]—2400 hours for the 12 gas companies that complete a filing; FERC–577[4]—181,794 hours for the 55 companies that complete a filing. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The overall burden of filing will be reduced based on the elimination of certain filings by the rule. Further, the burden will be reduced by the elimination of the requirement to report all but cost information for prior notice activity in the annual report. On the whole, the Commission estimates that the revised reporting schedule will reduce the existing reporting burden by a total of 8,284 hours.

On balance, therefore, the Commission believes the overall burden on the industry will be lessened over time by the proposed changes. To consider the impact on the persons affected by this rulemaking, the Commission would like specific comments on the impact of this rule on individual natural gas companies. Both estimates of current burden and impact

[1] 15 U.S.C. 717b.

[2] Gas Pipeline Certificates: Construction, Acquisition, and Abandonment.

[3] Gas Pipeline Certificate: Import/Export Related.

[4] Environmental Impact Statement (Pipeline Certificate).

should be in work hours and dollar costs in sufficient detail to demonstrate methodology and assumptions.

The burden estimates for complying with this proposed rule are as follows:

Public Reporting Burden: Estimated Annual Burden.

Data collection	Number of respondents	Number of responses	Hours of response	Total annual hours
FERC–537	50	11.2	245.82	137,660
FERC–539	12	1	218	2,616
FERC–577	70	16.8	154	181,720

Total Annual Hours for collections
(Reporting + Record keeping, (if appropriate)) = 321,996

Based on the Commission's experience with processing applications for construction and acquisition of pipeline facilities over the last three fiscal years (FY95–FY97), it is estimated that 1754.5 filings per year will be made over the next three years at a burden of 183 hours per filing, for a total annual burden of 321,996 hours under the proposed regulations.

Information Collection costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Data collection	Annualized capital/start-up costs	Annualized costs (Operations & Maintenance)	Total annualized costs
FERC–537	$30,000	$7,189,717	$7,219,717
FERC–539	7,200	136,639	143,829
FERC–577	0	9,494,751	9,494,751

The Office of Management of Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[5] Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collections to OMB.

The following collections of information contained in this proposed rule are being submitted to the OMB for review under Section 3507(d) of the Paperwork Reduction Act of 1995.[6] FERC identifies the information provided under Parts 2, 153, 157 and 284 as FERC Nos. 537, 539, and 577. The information submitted in response to these requirements is mandatory.

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Title: FERC–537 ''Gas Pipeline Certificates: Construction, Acquisition, and Abandonment''; FERC–539 ''Gas Pipeline Certificate: Import/Export Related'' and FERC–577 ''Environmental Impact Statement (Pipeline Certificate).

Action: Proposed Data Collections.

OMB Control No.: 1902–0060; 1902–0062; 1902–0128.

Applicants shall not be penalized for failure to respond to these collections of information unless the collections of information display a valid OMB control number.

Respondents: Businesses or other for profit.

Frequency of Responses: On occasion.

Necessity of Information: The proposed rule revises the Commission's regulations governing the filing of applications for the construction and operation of pipeline facilities to provide service or to abandon facilities or service under section 7 of the NGA. Section 7 of the NGA requires the Commission to issue certificates of public convenience and necessity for all interstate sales and transportation of natural gas, the construction and operation of natural gas facilities used for those interstate sales and transportation and prior Commission approval of abandonment of jurisdictional facilities or services. The Commission has determined that portions of its regulations need to be revised to reflect recent regulatory changes, in particular, implementation of pipeline restructuring under Order No. 636,[7] which have rendered certain regulations implementing Section 7 needless or outdated.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The Commission's Office of Pipeline Regulation (OPR) will use the data included in applications to determine whether proposed facilities are in the public interest and general industry oversight. This determination involves, among other things, an examination of adequacy of design, costs, reliability, redundancy, safety, and environmental acceptability of the proposed facilities. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

For information on the requirements, submitting comments concerning the collection of information and the associated burden estimates, including suggestions for reducing this burden, please send your comments to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 273–0873, e-mail: michael.miller@ferc.fed.us]. In addition, comments on reducing the burden and/or improving the collections of information should also be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk

[5] 5 CFR 1320.11 (1997).

[6] 44 U.S.C. 3507(d).

[7] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992) FERC Stats. & Regs. ¶ 30,939 (April 8, 1992).

Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW, Washington, D.C. 20503, phone (202)395–3087, fax: (202)395–7285.

III. Background and Proposal

Since the enactment of the Natural Gas Policy Act of 1978 (NGPA)[8] and the Natural Gas Wellhead Decontrol Act of 1989 (Decontrol Act),[9] the natural gas industry has undergone significant changes. Historically, the Commission regulated natural gas producers and wellhead prices and interstate pipelines served as gas merchants. Pipelines now generally only provide open-access transportation services and the Commission no longer regulates producers and wellhead prices. The Commission implemented these changes through its rulemaking process[10] and through issuing policy statements.[11] Generally, the Notice of Proposed Rulemaking (NOPR) proposes to amend the Commission's regulations to conform them to its existing policies and procedures. Additionally, in response to the natural gas industries' request,[12] the NOPR proposes to modify certain aspects of the Commission's current regulations to help expedite the certificate process. We note that this is one of many initiatives the Commission is implementing to improve upon the current regulatory structure for natural gas transportation service.[13] Moreover, concurrent with the issuance of this NOPR, the Commission is issuing another NOPR, in Docket No. RM98–16–000, which proposes that pipelines use a collaborative process to resolve significant issues prior to filing an application to construct facilities. Additionally, the Commission is issuing a Notice of Technical Conference, in Docket No. RM98–17–000, to address its concerns regarding its present landowner notification policies and its present environmental classification of residential areas.

The NOPR serves 5 basic purposes: (1) It eliminates certain obsolete regulations and outdated or unnecessary filing requirements and reports; (2) it clarifies and updates certain regulations to conform to the Commission's present policies; (3) it modifies certain existing regulations to help expedite the certificate process; (4) it replaces certain outdated environmental filing procedures with the more commonly followed industry practice; and (5) it makes minor modifications to the existing electronic filing requirements.

A. Eliminating Obsolete Regulations and Outdated or Unnecessary Filing Requirements and Reports

The Commission proposes to remove certain regulations that are outdated and obsolete including, among other things, regulations that pertain to producer related activities made obsolete by the Decontrol Act and regulations that pertain to a pipeline's merchant function. Additionally, the Commission proposes to remove various regulations that pertain to certain activities that were performed under the blanket certificate issued in Subpart F of Part 157 that are now performed under Part 284 of the Commission's regulations. For example, section 157.213 grants authorization for the certificate holder to provide contract storage service. Pipelines now provide storage service under their Part 284 blanket transportation certificate. Section 157.217 grants the certificate holder automatic authorization to permit an existing customer to change from one rate schedule to another. Rate schedules are now offered under Part 284.

The Commission also proposes: (1) to remove references to filing fees eliminated by Order No. 548;[14] and (2) to change outdated references to the Office of Pipeline and Producer Regulation to Office of Pipeline Regulation (OPR), and change outdated references to the Environmental Evaluation Branch to the Environmental Staff of OPR.

The Commission proposes to remove certain outdated and/or unnecessary filing requirements and reports. For example, the Commission proposes to remove certain information in the exhibits filed with a NGA section 7 certificate application including, among other things, Exhibit J which requires that pipelines provide studies regarding any impacts related to potential direct industrial customers converting from other fuels to natural gas, and Exhibit L which requires that pipelines file certain financial information that the Commission no longer needs with a certificate application.

The Commission also proposes to remove certain blanket certificate filing requirements including, among other things, information concerning outdated budget-type certificates and rate schedules for sales for resale and for storage services. The Commission also proposes to remove the prior notice reporting requirements which require that pipelines file certain gas supply information and the names of the independent producers or other sellers.

B. Clarifying and Updating Regulations to Conform to the Commission's Present Policies

The Commission proposes to clarify certain aspects of the regulations. For example, the NOPR clarifies that auxiliary facilities installed at the same time and related to newly proposed jurisdictional facilities do not qualify for exemption under section 2.55(a), since the exemption is limited to installations which are designed specifically to improve the operation of an existing transmission system. The Commission also proposes to amend section 157.10 to clarify that pipelines do not have to serve voluminous or difficult to reproduce materials, such as copies of environmental information, upon all parties in a proceeding, except as specifically requested. This procedure is consistent with our requirements for

[8] 15 U.S.C. 3301–3432 (1978).

[9] Public Law No. 101–60, 103 Stat. 157 (1989).

[10] *See* Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42408 (November 5, 1985) FERC Stats. and Regs. ¶ 30,665 (October 9, 1985)(Order No. 436 instituted open-access, non-discriminatory transportation to permit downstream gas users to buy gas directly in the production area and to ship that gas via interstate pipelines); Order Implementing the Natural Gas Wellhead Decontrol Act of 1989, Order No. 523, 55 FR 17425 (April 25, 1990) FERC Stats. and Regs. ¶ 30,887 (April 18, 1990) and Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production, Order No. 567, 59 FR 40240 (August 8, 1994) FERC Stats. and Regs. ¶ 30,999 (July 28, 1994) (in Order Nos. 523 and 567, the Commission generally amended its regulations to delete those pertaining to its jurisdiction over the sale of natural gas production); and Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992) FERC Stats. & Regs. ¶ 30,939 (April 8, 1992) (in Order No. 636, the Commission adopted regulatory changes to finally complete the evolution to competition in the natural gas industry by mandating the unbundling of interstate natural gas sales service from transportation service, requiring that those services be sold separately to natural gas purchasers).

[11] Pricing Policy For New and Existing Facilities Constructed by Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

[12] As a result of the changes in the industry, the Commission convened a public conference on May 29 and 30, 1997 (May conference), to conduct a broad inquiry into the important issues facing the natural gas industry today. Various participants at the May conference raised concerns regarding the Commission's certificate process in the post-Order No. 636 era. Generally, the participants requested that the Commission focus on expediting the approval process for construction certificates to enhance the pipeline's ability to respond more quickly to accommodate new and changing market conditions.

[13] *See* Public Access to Information and Electronic Filing, Docket No. PL98–1–000, 63 FR 27,529 (May 19, 1998), Regulations of Short-Term Natural Gas Transportation Services, Docket No. RM98–10–000, 63 FR 42,982 (Aug. 11, 1998) and Regulation of Interstate Natural Gas Transportation Service, Docket No. RM98–12–000, 63 FR 42,973 (Aug. 11, 1998).

[14] Elimination of Filing Fees, Order No. 548, 58 FR 2968 (January 7, 1993) FERC Stats. and Regs. ¶ 30,960 (January 4, 1993).

pipelines filing rate schedules and tariffs under Part 154. However, we expect pipelines to make all such information readily available in the project area.

The Commission proposes to replace the term ''small-diameter lateral'' with ''small diameter supply or delivery lateral'' to provide a more objective description of facilities the Commission will not consider to be mainline facilities. The Commission also proposes to add an introductory sentence in section 157.206(d) that explains that the environmental conditions contained in that section apply only to activities under the blanket certificate that involve ground disturbance or changes to operational air and noise emissions.

The Commission proposes, among other things, to amend section 2.55(b) consistent with the Commission's order in *Arkla Energy Resources Co.* (*Arkla*) [15] by requiring that replacement facilities constructed under section 2.55 must be constructed in the existing right-of-way. The Commission also proposes to amend sections 157.20(b) and 157.206(f) to state that the facilities must be completed and available for service within one year instead of in actual operation within one year. This would address concerns that events outside a pipeline's control could prevent facilities from being placed in operation within the specified time frame, i.e., a shipper does not actually flow gas on time.

The Commission intends to revise section 157.202(b)(2)(i) to clarify that it includes receipt points in the definition of eligible facilities consistent with our regulations under Part 284 which recognize that a pipeline can construct any eligible facility under its Part 157 blanket certificate to provide Part 284 service to use existing capacity, including receipt points. The Commission also proposes to add a new section 157.6(b)(8), which requires that pipelines file the necessary information for the Commission to make an upfront determination of the rate treatment of the proposed construction project in accordance with the Commission's Pricing Policy Statement.[16]

C. Modifying Existing Regulations To Expedite the Certificate Process

As stated, the industry requested that the Commission focus on expediting the approval process for construction project certificates to enhance the pipeline's ability to respond more quickly to accommodate new and changing market conditions. The Commission proposes several changes to the regulations that would expedite its procedures or construction of certain facilities while at the same time comply with its mandate under the National Environmental Policy Act of 1969 (NEPA).[17] For example, the Commission proposes to expand the scope of the blanket certificate under Subpart F of Part 157 to include new categories of facilities eligible for construction under automatic and prior notice authorization, revise the prior notice procedures, and expand automatic and prior notice abandonment opportunities. These proposed changes are designed to allow pipelines to construct, operate, rearrange, replace and abandon more facilities than are currently covered by the blanket certificate. We propose to amend section 157.202(b)(2)(i) (Eligible Facilities) to include mainline and lateral replacement facilities that do not currently qualify under section 2.55(b) as eligible facilities. These replacements would result in increased line capacity because they generally would involve an incrementally larger replacement pipe than the original.

The Commission proposes to allow pipelines to construct and operate temporary compression facilities under their subpart F blanket certificate in new section 157.209, in the same manner we have issued separate blanket temporary compression certificates to Transwestern Pipeline Company and Northwest Pipeline Corporation.[18]

The Commission proposes to amend section 157.211 to include both the existing sales taps, as well as delivery taps currently authorized under section 157.212. We propose to remove section 157.212 as obsolete. Amended section 157.211 will provide for both automatic and prior notice authority under the blanket certificate. Currently, delivery taps are limited to the prior notice procedures under section 157.212.

In order to help expedite the processing of prior notice requests, the Commission proposes to amend section 157.205(e) to require the issuance of a notice within 10 days of a prior notice application being filed. Likewise, we propose to amend section 157.205(g) to allow the Director of OPR to dismiss protests that do not raise a substantive issue and fail to provide any specific detailed reason or rationale for the objection, so as not to impede processing of legitimate filings.

The Commission also proposes to amend section 375.307(a)(1) to increase the spending limits for orders delegated to the Director of OPR to match the prior notice limits set forth in section 157.208(d). The Commission believes that adjusting the spending limit in this section will provide more flexibility and a faster regulatory track to pipelines that want to construct facilities that are not ''eligible'' for prior notice treatment but are the subject of applications not formally protested, and whose costs exceed the current $5,000,000 cost limit in this section. The 1998 prior notice limits are $19.6 million for eligible facilities and $4.5 million for storage testing.

D. Replacing Outdated Environmental Filing Procedures With Industry Practice

Under section 380.3 of the Commission's current regulations, any application filed under the NGA for a project that requires the preparation of an environmental assessment or environmental impact statement must contain the information identified in Appendix A to Part 380. However, in 1988 in the *Northeast U.S. Pipeline Project* (*Northeast*) order,[19] the Commission established additional guidelines for the environmental filings for the competing projects in that proceeding to facilitate its review and analysis of those projects. The guidelines included environmental resource reports that covered specific environmental resource areas. The Commission explained that if all the pipelines followed the same format when filing the necessary information it would expedite the Commission's review and processing of the environmental reports.

In 1989, the Commission's staff compiled a report entitled ''Natural Gas Pipeline Company Certificate Filing'' (Certificate Manual) which defined how applications should be filed electronically. Appendix G to that document lists 12 resource reports similar to the ones in the *Northeast* proceeding. Each resource report described specific areas and topics that a pipeline needs to address to meet the environmental filing requirements. The resource reports were described as an alternative method to meeting the requirement of Appendix A to Part 380 of the Commission's regulations. Since that time, the industry has generally followed the resource report guideline in the Certificate Manual instead of the guidelines listed in Appendix A to Part

[15] 67 FERC ¶ 61,173, at 61,516 (1994).

[16] Pricing Policy For New and Existing Facilities Constructed By Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

[17] 42 U.S.C. 4321–4307a.

[18] Transwestern Pipeline Co., 76 FERC ¶ 61,211 (1996), Northwestern Pipeline Corp., 67 FERC ¶ 61,289 (1994).

[19] 44 FERC ¶ 61,149 (1988).

380. Appendix G served as the template for the industry outreach training sessions we have been conducting since 1995, to assist the industry in preparing Environmental Reports. Accordingly, the NOPR proposes to replace the current Appendix A with the resource reports, slightly modified, from the Certificate Manual.

We note that, generally, conducting the environmental review is the most time consuming part of the certificate process. The Commission believes this is the result of several factors. First, too often pipelines are filing minimal information with the intention of filing the missing information at some later date. Accepting such filings raises unreasonable expectations on the part of those who use the date of filing as a measure of how much time it takes the Commission and its staff to review projects. Further, applicants may be unsure of what is needed because many of the Commission's environmental regulations dealing with pipeline projects are either outdated, found in several parts of the CFR, or, in the case of the environmental report, as stated, replaced in current practice by a preferred format that does not appear anywhere in the regulations.

An incomplete filing necessitates time consuming staff data requests. However, the more complete the environmental information is at the time of filing, the more expeditiously the Commission can process the application.

While the resource reports may seem to represent a large amount of material, they are written in an attempt to cover all types of possible applications. They include specifications for what details are needed based on project specifics. Indeed, the proposed regulation makes it clear that some projects do not require some individual resource reports at all. Finally, each resource report must be only as detailed as required by the complexity of the proposal and its potential for environmental impact.

To further improve the efficiency of the certificate process, we are proposing to add a checklist at Appendix A to this section specifying the minimum content of an acceptable environmental report. Failure to provide at least the checklist items will result in rejection of the application. This will ensure the staff has the minimum reasonable environmental filing to begin its review.

Further, there are certain important mitigation measures that need to be addressed for every construction filing. If each filing can be measured against the same yardsticks, review can be completed faster. Therefore, in addition to replacing Appendix A, as discussed above, the NOPR proposes that pipelines describe how their project compares to two staff guidance documents, the ''Upland Erosion Control, Revegetation, and Maintenance Plan'' and ''Wetland and Waterbody Construction and Mitigation Procedures,'' and describe in detail what measures they propose to provide equal or greater protection to the environment.

A third guidance document, ''Guidance for Reporting on Cultural Resources Investigations,'' is referenced to assist applicants in preparation of the material required by the cultural resources portion of section 380.12. All of these guidance documents have been the subject of extensive outreach training. Since 1992, the staff has conducted training sessions in an effort to assist the industry in understanding the procedures that are specified in these documents. The response has been very positive.

Finally, we propose to add two new regulations in sections 380.13 and 380.14 that instruct applicants on how to assist the Commission in demonstrating its compliance with the Endangered Species Act[20] and the National Historic Preservation Act.[21] Both of these sections outline the current process that applicants need to follow in order to prepare the information the Commission needs for these acts. These processes have been part of the training sessions mentioned above, although in the case of section 380.13 there is currently no guideline for the endangered species process. Nevertheless, we are simply proposing that the Commission codify what is current practice to assist applicants in knowing what is required of them, thereby reducing the potential for extensive time-consuming data requests and the need to consult with other agencies during the Commission's review process. Once again, the more consultation that can be accomplished early on in the proceeding the faster the environmental review can be completed.

A few of the proposed changes are to provide specific guidance where none currently exists, thereby making it easier to prepare complete filings and otherwise comply with the existing regulatory requirements. In some cases, the proposed regulation will result in faster preparation of complete environmental filings, which should, in turn, facilitate faster review. The Commission's intent is to provide the easiest, fastest route for the consideration of proposed pipeline projects. Adherence to the proposed regulations will minimize extensive and repeated environmental data requests that result from incomplete applications and contribute to delaying the process.

We note that the proposed changes to the environmental regulations discussed above do not change the filing requirements burden on the pipeline. They simply codify existing standard practice to help expedite the environmental review process.

E. Modifying Electronic Filing Requirements

The Commission currently requires that an electronic filing consists of three parts, File1, a structured ASCII record, File2, a footnote record applicable to material filed in File1, and File3, an unstructured ASCII record. To reduce the burden of the current filing requirements, effective upon issuance of this NOPR, the Commission will only require that material currently submitted electronically be submitted in File3, the unstructured ASCII format. Further, the header and trailer records formerly required for File3 can also be eliminated. Any further changes to the Commission's electronic filing requirements will be discussed at the electronic filing technical conference to be held in Docket No. PL98–1–000 on October 22, 1998.

IV. Discussion

A. Part 2—General Policy and Interpretations

Part 2 contains the Commission's statements of general policy and interpretations regarding the NGA, NEPA, the Economic Stabilization Act of 1970 and Executive Orders 11615 and 11627, the NGPA and the Public Utility Regulatory Policies Act of 1978.

Section 2.1—Initial Notices; Service; and Information Copies of Formal Documents

Section 2.1 describes the Commission's policy for publishing notice in the **Federal Register** upon the institution of certain proceedings before the Commission. Section 2.1(a)(1)(viii)(A) through (D) provides that notice shall be published in the **Federal Register** of certain proceedings pertaining to independent producers. This section will be removed, since the Commission no longer regulates producer functions.

Section 2.55—Definition of Terms Used in NGA Section 7(c)

Section 2.55 defines facilities that are excluded from the requirements of section 7(c) of the NGA and may, therefore, be constructed without

[20] 16 U.S.C. 1531–1544.

[21] 16 U.S.C. 470h–2.

additional certificate authority. Section 2.55(a) exempts auxiliary facilities from NGA section 7(c) authority. These facilities include valves, drips, yard and station piping, cathodic protection equipment, gas cleaning, cooling, and dehydration equipment, which are merely auxiliary or appurtenant to an existing transmission pipeline system and which are installed only for the purpose of obtaining more efficient or more economical operation of authorized transmission facilities. The Commission clarifies that auxiliary facilities installed at the same time and related to newly proposed jurisdictional facilities do not qualify for the exemption under section 2.55(a). Facilities constructed along with new transmission facilities do not qualify as auxiliary under section 2.55(a) since the exemption is limited to installations which are designed specifically to improve the operation of an existing transmission system.

The Commission proposes to revise section 2.55(b)(1)(ii), concerning the replacement of existing facilities, to clarify that this section only applies to replacements that involve construction within the certificated right-of-way. This is consistent with the Commission's finding in *NorAm Energy Corporation*,[22] that eminent domain authority does not apply to replacement activities which are not within the certificated facility footprint, since eminent domain is an adjunct to the certificate itself.

Currently, section 2.55(d) exempts from section 7(c) of the NGA taps that a pipeline constructs in order to take deliveries of natural gas from independent producers. The Commission proposes to remove this section as duplicative of the authority we propose to be available under section 157.211, which will cover the construction of all delivery points.

Section 2.69—Guidelines To Be Followed by Natural Gas Pipeline Companies in the Planning, Location, Clearing and Maintenance of Rights-of-Way and the Construction of Aboveground Facilities

The Commission proposes to move the current section 2.69, which provides generic facility siting guidelines to part 380. Section 2.69 was promulgated at the same time as the Commission's initial NEPA regulations in 1970. Since the current NEPA regulations are found at part 380, the Commission proposes that it would be more appropriate to move the section 2.69 material so that it would be located with the other NEPA regulations. The Commission proposes to remove section 2.69 and replace it with a new section 380.15.

Section 2.102—Policy Respecting Production-Related Activities Performed by an Interstate Pipeline

Section 2.102 sets forth the Commission's policy respecting production-related activities performed by interstates pipelines. Production-related activities were relevant from a regulatory standpoint when the Commission regulated first sales of natural gas and considered whether to add such costs to the maximum lawful price for a particular sale of gas. However, the Decontrol Act deregulated all wellhead price controls and provided that all first sales of natural gas are no longer subject to federal regulation. In response to the Decontrol Act, the Commission issued Order No. 567, which removed regulations pertaining to the sales of natural gas production. Thus, we propose to remove this section as outdated, since the Commission no longer regulates wellhead sales.

Appendix A—Guidance for Determining the Acceptable Construction Area for Replacements

The Commission also proposes to add new Appendix A to Part 2 which provides the guidance for determining the acceptable construction area, including temporary work space, for replacement pipeline facilities under section 2.55.

B. Part 153—Application for Authorization to Export or Import Natural Gas

Part 153 sets forth the regulations for siting, construction and operation of facilities for the import and export of natural gas between the United States and a foreign country. The Commission recently updated this part in Docket No. RM97–1–000.[23] That order also provided for an environmental report to accompany all applications filed under Part 153.

Section 153.8—Required Exhibits

The Commission believes that section 153.8 should comport with the proposed changes to the environmental report requirement proposed in part 157. Therefore, the Commission proposes to revise section 153.8(a)(7) to track the proposed wording of Exhibit F–I in section 157.14(a)(6–a) of part 157.

Section 153.21—Conformity with Requirements

Section 153.21(b) sets forth the criteria for the rejection of filings made under this subpart. The Commission proposes to revise this section to authorize the Director of OPR to reject applications that do not conform to the requirements of this part within 10 days of filing, without prejudice to the applicant's refiling a complete application. Currently, the Director must notify the applicant of all deficiencies and provide at least 20 days for the applicant to amend the application and submit the omitted information. The proposed revision is consistent with the existing authority the Director of OPR has to reject tariff or rate schedule filings as well as prior notice filings pursuant to the authority delegated to the Director by the Commission in sections 375.307 (b)(2) and (e)(6), respectively, of the Commission's regulations.

C. Part 157—Applications for Certificate of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act

The Commission's regulations under Part 157 specify the eligibility requirements for both individual, blanket and optional certificates under NGA section 7(c), as well as detail the contents required for applications to request such certificates. In addition, Part 157 specifies the requirements necessary for orders permitting and approving abandonment under NGA section 7(b) and presently provides a blanket certificate for pipeline sales of natural gas.

In Order No. 636, interstate pipelines were issued blanket sales certificates, covered under section 284.284 of the regulations, which obviates the need for any blanket pipeline sales authorization under part 157. The Commission proposes to amend its regulations in Subpart F of part 157 to remove blanket sales authorization. However, pipelines that have not yet become subject to Order No. 636 will still be able to seek individual NGA section 7(c) authorization to perform sales service in accordance with part 157.

References to producer sales in Part 157 have been removed, since Subpart B of Part 157, which concerned filings by producers and jurisdictional gatherers for certificates under NGA section 7 was removed by Order No. 567 in response to the Decontrol Act.

[22] 67 FERC ¶ 61,173 (1994).

[23] Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas, Order No. 595, 62 FR 30435 (June 4, 1997) FERC Stats. and Regs. ¶ 31,054 (May 28, 1997).

Section 157.6—Applications; General Requirements

This section sets forth the general requirements for applications to construct and operate facilities, provide service or abandon facilities filed under NGA section 7. The Commission proposes to amend section 157.6(a)(1) to remove as outdated the reference to the initial date the Commission implemented its electronic filing requirements. The Commission also proposes to amend section 157.6(a)(1)–(4) to simplify the requirements. We also propose to redesignate existing section 157.6(a)(4) as new section 157.6(a)(5).

In addition, it is not clear that the regulations currently require the same exhibits for both NGA sections 7(b) and 7(c). Therefore, redesignated section 157.6(a)(5) and existing section 157.18 will state that applications under sections 7 (b) and(c) must conform to the requirements of section 157.5 through section 157.14. We also intend to clarify that applications filed under NGA section 7(b) must also conform to the additional requirements set forth in section 157.18.

Section 157.6(b) details the information required to be included in a filing made under this subpart as well as the applicable fees. The Commission proposes to amend this section to remove ''filing fee'' from the heading and any reference to filing fees in the section. Filing fees for such applications were removed by Order No. 548.[24]

The Commission also proposes to add a new section 157.6(b)(8), which will require pipelines to file the information necessary to make an upfront determination on the rate treatment of new construction projects in accordance with the Commission's Statement of Policy in Docket No. PL94–4–000.[25] This proposed addition will serve to put pipelines on notice that they must provide justification for their pricing of a particular construction project at the time an application is filed.

Section 157.8—Acceptance for filing or rejection of applications

This section sets forth the criteria for acceptance or rejection of filings made under this subpart. The Commission proposes to revise this section to refer to the ''Office of Pipeline and Producer Regulation'' as the ''Office of Pipeline Regulation.'' The Commission is also proposing to amend this section to authorize the Director of OPR to reject applications that do not conform to the requirements of this part within 10 days of filing, without prejudice to the applicant's refiling a complete application. Currently, the Director must notify the applicant of all deficiencies and provide at least 20 days for the applicant to supplement the application and submit the omitted information. Revising this regulation is consistent with the existing authority the Director of OPR has to reject tariff or rate schedule filings as well as prior notice filings under the Subpart F blanket construction certificate pursuant to the authority delegated to the Director by the Commission in sections 375.307(b)(2) and (e)(6), respectively, of the Commission's regulations. However, we do not intend to reject applications that do not initially contain or include complete environmental reports because the pipeline has not been allowed access to the proposed route by the affected landowners to perform the necessary surveys. The Commission also proposes to amend section 385.2001(b) consistent with this proposed change.

Section 157.9—Notice of application

This section details the notice requirements for applications. In order to help expedite the processing time for applications, we propose to issue a notice within 10 days of filing.

Section 157.10—Interventions and Protests

This section details the requirements for intervening in Commission proceedings, including the filing of protests and requests for formal hearing. The Commission has determined that allowing interventions in response to Draft Environmental Impact Statements is also appropriate.

In addition, we propose to amend section 157.10 to clarify that pipelines do not have to serve voluminous or difficult to reproduce materials, such as copies of environmental information, upon all parties in a proceeding, except as specifically requested. This procedure is consistent with our requirements for pipelines filing rate schedules and tariffs under part 154. Therefore, pipelines must serve a full copy of an application upon any party that requests such service within two business days. In addition, pipelines will be required to keep any voluminous or difficult to reproduce material, such as complete sets of environmental information, on file with the Commission and make such information available for inspection in the project area. The Commission intends for pipelines to make such information available in appropriate project areas, such as central locations along a proposed route. Because the scope of projects vary, we will not set forth specific locations for the placement of such information. However, we expect pipelines to make all such information readily available in the project area.

Section 157.14—Exhibits

This section sets forth the exhibits that are required to be attached to each application filed under this subpart. The Commission proposes to amend section 157.14(a) to remove as outdated the reference to the initial date the Commission implemented its electronic filing requirements.

In addition, existing section 157.14(a)(6–a)–(6–c), Exhibits F–I through F–III should be removed as outdated. The Commission proposes to replace those sections with a revised section 157.14(a)(6–a) Exhibit F–I, which will be created from the environmental report required in new sections 380.12 through 380.14. These sections will replace the current Appendix A to part 380. This change is designed to expedite preparation and review of the environmental report since it will give better guidance than the current appendix and will standardize the format of the environment report, making it easier for the staff to find specific information. As stated, new section 380.12 is derived from the current optional format for the environmental report that is contained in the manual for electronic filing of applications. Many regulated companies already use this format. For a more detailed discussion of the proposed changes, see the section of this NOPR on part 380.

Section 157.14(a)(11) currently requires pipelines to file detailed information pertaining to system-wide annual and peak day gas requirements, various historical residential commercial and industrial load requirements and related future estimates, historical supply curtailment information, transportation agreements, market surveys and a system supply life-index. The Commission recognizes that some of these requirements are outdated. The Commission is reviewing its policies concerning market need in the pending rulemaking in Docket No. RM98–10–000. Therefore, the Commission is not proposing any changes in this proceeding.

Section 157.14(a)(12) currently requires pipelines to provide studies regarding any impacts related to potential direct industrial customers converting from other fuels to natural gas.

[24] Elimination of Certain Filing Fees, Order No. 548, 58 FR 2968 (Jan. 7, 1993).

[25] Pricing Policy For New And Existing Facilities constructed By Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

This section was primarily used at times when pipelines performed a bundled merchant function and when priorities for natural gas use were relevant. Continuing to require the detailed information in this exhibit is no longer necessary, since the Commission's emphasis is on unbundled, open-access transportation, not bundled sales. End use priorities are irrelevant when adequate supply is available for all users. Thus, the Commission proposes to remove section 157.14(a)(12).

Section 157.14(a)(14) requires an applicant to provide a plan for financing the proposed facilities. The Commission believes that some of the existing financial information is no longer needed. The Commission proposes to revise section 157.14(a)(14)(i)–(iv) to require, among other things, only the information the Commission needs to make a financial determination.

The Commission also proposes to revise section 157.14(a)(14)(vi) to require that applicants state how they will determine the Allowance for Funds Used During Construction when the applicant is a pre-operational new entity or proposes incremental rates for services from the facilities covered by the application. The Commission proposes to add this requirement because the AFUDC rate formula contained in our accounting regulations contemplates rolled-in embedded cost ratemaking for entities with existing pipeline operations. [26] Depending on the specific facts and circumstances, use of the AFUDC rate formula may not be appropriate for newly formed entities or where rates for services from new facilities are to be determined on an incremental basis. The Commission also proposes to remove paragraphs (vii)–(xii) of section 154.14(a)(14).

Section 157.16—Exhibits Relating to Acquisitions

This section details the exhibits, in addition to those required in section 157.14, that must be filed for applications involving the acquisition of facilities. Specifically, the Commission proposes to revise section 157.16(c)(1) to require the pipeline to include a brief statement explaining the basis or methods used to derive the related depreciation, depletion and amortization reserves.

[26] 18 CFR part 201, Gas Plant Instruction No. 3(17).

Section 157.17—Applications for Temporary Certificates in Cases of Emergency

This section sets forth the criteria for seeking temporary certificate authorization to construct facilities or provide service in an emergency situation. The Commission proposes to amend sections 157.17 (a) and (b) to remove as outdated the reference to the date the Commission initiated its electronic filing requirements.

Section 157.18—Applications to Abandon Facilities or Services; Exhibits

This section details the requirements necessary for seeking abandonment authorization for facilities or service. In line with the discussion of the proposed clarification of section 157.6, the Commission proposes to add an explicit statement that makes it clear that an environmental report is required for certain kinds of abandonments as specified in section 380.3(c)(2).

The Commission also proposes to amend section 157.18(f) (2) and (3) to provide information related to property abandoned by sale, including a brief statement explaining the basis or methods used to derive the accumulated depreciation related to the property to be disposed of, as well as the tax basis of such property.

Section 157.20—General Conditions Applicable to Certificates

This section details terms and conditions that the Commission attaches to the issuance of each certificate. The Commission proposes to revise section 157.20(b) to allow for facilities to be completed ''and made available for service'' instead of ''in actual operation'' within the period of time specified in a particular order. This proposed change is meant to address concerns that events outside a pipeline's control could prevent facilities from being placed in operation within the specified time frame, e.g., a shipper does not actually flow gas on time. Since this change will still require a pipeline to construct facilities and have them completed and ''available'' within the time frame specified in the certificate order, the current intent of the regulations will not be frustrated. In order to ensure that pipelines have a legitimate reason for not commencing service on time, the Commission proposes to require the pipeline to provide notification of the reason service cannot commence, for example, that the end-user/shipper is unable to meet the imposed timetable. We also propose that section 157.20(c) and (d) be amended to remove as outdated the references to the date the Commission initially implemented its electronic filing requirements. In addition, section 157.20(f) should be removed as obsolete since it refers to fees prescribed in section 159.2, which was removed from the regulations by Order No. 542 [27]. As a result, section 157.20(g) will be redesignated section 157.20(f).

Section 157.21—Abandonment of Purchases

This section concerns the abandonment of purchases of natural gas by producers, as well as purchases under expired contracts between pipelines. The Decontrol Act deregulated all first sales of natural gas as of January 1, 1993. Additionally, Order No. 636 removed the section's applicability to pipeline sales, since Part 284 was amended to issue pipelines a blanket certificate for unbundled sales, along with pregranted abandonment. Abandonment of producer and pipeline purchases no longer require separate coverage under Part 157. Therefore, the Commission proposes to remove section 157.21 as obsolete.

Section 157.102—Contents of Application and Other Pleadings

This section sets forth the contents required for applications, amendments, exhibits and other submissions made under this subpart. The Commission proposes to amend section 157.102(a)(1) to remove the last sentence, which refers to filing fees for applications filed under this subpart. Filing fees for such applications were removed by Order No. 548.

In addition, the Commission also proposes to amend the reference at section 157.102(b)(1)(v) to the currently required environmental report to comport with the revised wording at section 157.14(a)(6–a).

Section 157.103—Terms and Conditions; Other Requirements

The section details the terms and conditions applicable to filings made under this subpart. The Commission proposes to amend section 157.103(j) to remove the words ''and Producer'' from the reference to the ''Office of Pipeline and Producer Regulation.''

[27] Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, Order No. 542, 57 FR 21891 (May 26, 1992), FERC Stats. and Regs. ¶ 30,945 (May 1, 1992).

Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment

Subpart F implements Order No. 234 [28] and allows interstate pipelines to obtain blanket certificate authorization to conduct certain NGA section 7 transactions, including making sales for resale in interstate commerce. However, as part of the unbundling mandated by Order No. 636, interstate pipelines were issued blanket, unbundled sales certificates in accordance with Section 284.284. The Commission proposes to remove all references to blanket pipeline sales in subpart F of Part 157 as outdated.

This proposed action will not take away any blanket authority previously issued to interstate pipelines who have not restructured. Rather, it will conform the existing regulations to the current regulatory climate by requiring pipeline sales to be performed under Part 284.

Nevertheless, interstate pipelines that do not have Subpart F blanket certificates and are not currently covered under Order No. 636 can still seek individual NGA section 7(c) certificate authorization under Subpart A of Part 157 to make interstate sales of natural gas.

In addition, the Commission proposes to revise various other sections in Subpart F in order to bring the existing regulations up to date to match current policies. These proposed changes will include removing obsolete language, eliminating ambiguities, and consolidating regulations.

Section 157.201—Applicability

This section details the scope of the authority of this subpart. The Commission proposes to amend section 157.201(a) to remove reference to ''sales arrangements'' in the scope of the blanket certificate as obsolete.

Section 157.202—Definitions

Section 157.202 defines the terms applicable to blanket certificate transactions under subpart F. In addition to making housekeeping-type changes, the Commission proposes to expand the definition of ''eligible facility'' contained in section 157.202(b)(2)(i). Currently, there are various types of facilities, most notably mainline and compression facilities, that are not eligible for automatic or prior notice treatment under the Subpart F blanket certificate. As previously described, the Commission proposes to allow pipelines to construct, operate, rearrange, replace and abandon more facilities than are currently covered under the blanket certificate, as more fully described below.

In order to allow more flexibility under the blanket certificate, the Commission proposes to allow pipelines to construct, as eligible facilities, mainline and lateral replacements that do not currently qualify under section 2.55(b) because they will have an impact on the capacity of the mainline facilities. This proposal is meant to address the problem being faced by pipelines trying to replace, for example, a deteriorated or obsolete 40-year old 17-inch or 22-inch pipeline with like-sized pipe, or a section of deteriorated or obsolete 18-inch pipe located between existing 20-inch sections of pipe for continuity and/or pigging purposes. To the extent that odd-sized replacement pipe is not available, or continuity in line size is operationally necessary, a pipeline should be able to go up to the next available standard size in order to complete the replacement. Such replacements must be done for sound engineering reasons and not for the purpose of creating additional mainline capacity. These replacement facilities will still be subject to the spending limits in section 157.208 and the environmental requirements of section 157.206(d). In light of this change, we seek comment on the impact of this proposal as well as on whether or not to further expand the scope of the Subpart F blanket certificate.

The Commission proposes to revise section 157.202(b) to add a new category under the blanket certificate titled ''Temporary Compression.'' [29] This is intended to allow pipelines to install temporary compression facilities to maintain certificated volumes during maintenance or repair of permanent compression facilities. This proposal is consistent with our issuance of blanket certificates for temporary compression,[30] and is intended to extend such authorization to all Subpart F blanket certificate holders. The Commission proposes to implement this change by creating new section 157.209 Temporary compression facilities.

The Commission also proposes to revise section 157.202(b)(2)(i) in order to reconcile an ambiguity between the Subpart F blanket construction authority and the regulations implementing the Part 284 blanket transportation certificates. We propose to specifically include receipt points as eligible facilities. In describing part 284 flexible receipt point authority, section 284.221(g)(3) includes, as receipt points to which natural gas volumes may be reassigned, eligible facilities under section 157.208 that are authorized to be constructed under the Subpart F blanket certificate. However, receipt points are not specifically included in the section 157.202 definition of eligible facilities. Therefore, the Commission proposes to revise section 157.202(b)(2)(i) to clarify that it includes receipt points (''any facility, including receipt points, needed by the certificate holder to receive gas into its system'') as facilities eligible for construction under Subpart F. This clarification is consistent with an order issued in *Texas Eastern Transmission Corporation*,[31] where the Commission recognized that Texas Eastern could rely on its part 157 blanket construction certificate to construct receipt point facilities and other eligible facilities to provide transportation service for its open-access shippers.

We also propose to clarify that the reference in section 157.202(b)(2)(i) to ''interconnecting points between transporters'' is intended to include only interconnecting facilities such as the tap, metering, M&R facilities and minor related piping as eligible facilities.

Section 157.202(b)(2)(ii) sets forth the facilities that are not included as an ''eligible facility.'' These include mainlines or extensions of mainlines, compressors and looping that alter mainline capacity, storage facilities, and sales taps. Consistent with the proposed inclusion of the replacement facilities described above as eligible facilities, the Commission proposes to revise this section to recognize that these replacements are no longer excluded.

The Commission also proposes to amend section 157.202(b)(2)(ii)(E) to remove the words ''Sales Tap'' and add, in their place, the words ''Delivery points under section 157.211.'' In section 157.202(b)(10), we propose to remove the words ''Sales tap(s)'' and add in their place, the words ''Delivery points.'' This is intended to reflect the post-restructuring unbundling of sales service. Sales tap is defined as a facility necessary to deliver gas to a distribution or end-use customer. The sales tap regulations were promulgated at a time when pipelines generally made sales for

[28] Interstate Pipeline Certificates for Routine Transactions, Order No. 234, 47 FR 24254 (June 4, 1982), FERC Stats. and Regs. ¶ 30,368 (May 28, 1982).

[29] We propose to replace § 157.202(b)(4) ''Gas supply facility'' with ''Temporary compression'' as further discussed herein. Removal of the definition will not change the status of a gas supply facility as an eligible facility.

[30] *See* Northwest Pipeline Corporation, 67 FERC ¶ 61,289 (1994) and Transwestern Pipeline Company, 76 FERC ¶ 61,211 (1996).

[31] 62 FERC ¶ 61,196, at 62,390 (1993).

resale from their own system supplies, rather than transport shipper/user-owned gas. Delivery points, at the time, were used for direct sales. However, pipeline sales now occur at the unbundling point, which is located upstream of the general market area and no longer at the city-gate. Thus, facilities constructed to deliver gas to shipper/end-users would now be considered delivery facilities and not sales taps. Delivery facilities include only the tap, M&R facilities and minor related piping.

The Commission proposes to implement the change to section 157.202(b)(2)(ii)(E) and section 157.202(b)(10) by removing existing section 157.212—Changes in delivery points—and revising section 157.211—Sales taps—to become new section 157.211—Delivery points. This new section will provide for automatic and prior notice authorization to construct, replace, modify or operate any delivery point. The term modified would cover the conversion of receipt points to delivery points and vice versa. As proposed, pipelines will be able to construct facilities to attach new customers without going through the existing prior notice procedure, to the extent that the new delivery point does not involve bypass. The Commission proposes to retain the prior notice requirement in instances associated with bypass. In addition, taps currently constructed under section 2.55(d), which we propose to remove, will be covered by the automatic authority of section 157.211. Thus, pipelines holding blanket construction certificates will be able to automatically construct taps in order to either deliver gas to or take gas from independent producers.

The Commission proposes to revise section 157.202(b)(2)(ii)(D), which excludes various storage facilities from the definition of ''Eligible facility.'' We propose to combine sections 157.202(b)(2)(ii)(D) and (G) and extend the blanket authority for tests or other minor storage operations which do not increase certificated, including grandfathered, storage capacity, provided the operation is otherwise able to meet the terms of section 157.208.

Existing section 157.202(b)(4) defines a ''Gas supply facility''. We propose to remove the definition to reflect that gas attached is no longer exclusively destined for the merchant function of an interstate pipeline company. The phrase is commonly accepted and its removal should not cause any confusion. We propose to rename Section 157.202(b)(4) ''Temporary compression'', which, as described above, means compressors installed for the limited purpose of maintenance or repair of existing permanent compressor unit(s).

The Commission proposes to revise section 157.202(b)(5) to provide a more objective description of main line facilities. We propose to remove the phrase ''small diameter lateral'' and add, in their place, the words ''small diameter supply or delivery lateral'' to further clarify what facilities are not considered main line facilities.

In order to clear up another ambiguity, we propose to revise section 157.202(b)(7), which defines the word ''Project'', to remove the phrase ''without any further construction of facilities.'' This phrase seems to preclude facilities that are jointly constructed. Since section 157.202(b)(8), which defines ''Project cost'', states, in part, ''* * * In the case of a project constructed jointly * * *,'' this proposed change will recognize that jointly constructed facilities are contemplated under the Subpart F blanket certificate. However, the same total project cost limits apply to individual or jointly constructed facilities.

The Commission proposes to remove section 157.202(b)(12) ''Storage service'' since storage is now provided under Subpart G of Part 284 as part of a pipeline's transportation blanket certificate. Consistent with this proposal, we intend to also remove section 157.213, as detailed below, which provides pipelines with blanket authority under Subpart F of Part 157 to provide storage services.

The Commission proposes to remove sections 157.202(b)(13) and (b)(14) dealing with high priority end-use, because they relate to sales curtailment situations. These references are no longer relevant under the Subpart F blanket certificate. All existing sales service occurs under individual NGA section 7 authorization or under Subpart J of Part 284.

The Commission also proposes certain other changes to the definitions contained in section 157.202. Those proposed changes are described in detail below, in the discussion of various other sections in Subpart F.

Section 157.203—Blanket Certification

This section provides for blanket certificate coverage for the activities authorized by this subpart. We propose to amend this section to make conforming changes based on the proposals herein. The Commission proposes to remove references made in various parts of this section to sections 157.210 and 157.213, which provide for blanket sales and contract storage service. Both of these services are now covered by the blanket transportation and sales certificates issued under Part 284. We also propose to remove reference throughout this section to section 157.212, since it will be removed and replaced with section 157.211. The Commission proposes to add a reference in section 157.203(b) to recognize that the blanket certificate is proposed to cover temporary compression facilities in new section 157.209(a). The Commission further proposes to amend section 157.203(b) to remove reference to section 157.217, which allows pipelines to permit customers to change rate schedules. Rate schedules are offered under Part 284 and may no longer need to be referenced in Subpart F. However, we recognize that there could be existing customers with NGA section 7(c) individually certificated services that may, in the future, seek to use the existing authority in section 157.217. Therefore, we seek comment on our proposal to remove this section. In addition, we propose to amend section 157.203(c) to remove the references to section 157.210,[32] section 157.212 and section 157.213(b).

Section 157.204—Application Procedures

This section details the procedures for interstate pipelines to apply for the blanket certificate authority available under this subpart. The Commission proposes to remove: (1) Section 157.204(d)(2), which refers to outdated budget-type certificates; (2) section 157.202(d)(4) which requires filing a list of rate schedules under which sales or storage service is provided; and (3) section 157.204(d)(5), which requires filing a list of storage field tests commenced under budget-type certificates. These sections are obsolete. The budget-type certificates have been completely replaced by the Subpart F blanket certificates and need not be referenced any longer. As a result, section 157.204(d)(3) will be redesignated section 157.204(d)(2). Pipeline sales and storage service are provided under case-specific NGA section 7(c) certificates or under Part 284 and will no longer be covered under Subpart F. We also propose to remove section 157.204(e), which refers to filing fees for applications for blanket certificates filed under this subpart. Filing fees for such applications were removed by Order No. 548.

[32] We note that the 18 CFR Chapter I regulations contains a typographical error in § 157.203(c) misidentifying the reference to § 157.210 as § 157.211 and § 157.211(a)(2) as § 157.211(b).

Section 157.205—Notice Procedures

Section 157.205 sets forth the notice procedure requirements applicable to activities under this subpart that do not qualify for automatic authorization. Section 157.205(a) provides that no blanket certificate activity shall be undertaken unless the notice procedures have been fulfilled and there are no active protests. The Commission proposes to amend section 157.205(a) to remove: (1) The reference to blanket sales and storage in sections 157.210 and 157.213(b) respectively, since those services are now covered under Part 284; (2) the reference to section 157.212, since, as described above, section 157.212 will also be removed; and (3) the reference to section 284.223(b) and the language ''or by Part 284'', because blanket transportation services under Part 284 were removed from the scope of the prior notice and protest procedures by Order No. 537.[33]

Section 157.205(b) details the contents required for applications filed under the prior notice procedures. This section currently requires pipelines to file an original and fifteen copies of all prior notice applications. The Commission proposes to reduce the number of copies of applications that must be filed from fifteen to seven, which corresponds to the number of copies that are filed for applications under Subpart A of this chapter. We have determined that fifteen copies are not necessary for the Commission to process prior notice applications in a timely manner. Therefore, section 157.205(b) should be amended to remove the word ''fifteen'' and add, in its place ''seven.'' In addition, section 157.205(b) should be amended to remove an obsolete reference to filing fees and outdated references to ''October 31, 1989.'' In the same manner, section 157.205(c) should be removed in its entirety since it prescribes fees that have been removed by Order No. 548. As a result, paragraphs (d) through (i) should be redesignated (c) through (h).

Redesignated sections 157.205(c) and (f) should also be amended to remove the words ''and Producer'' from the reference to the ''Office of Pipeline and Producer Regulation.''

The Commission further proposes to amend redesignated section 157.205(c) to add that deficient applications will be rejected within 10 days of filing, without prejudice to the pipeline's refiling a complete application.

In order to reduce the time it takes to process a prior notice filing, the Commission proposes to amend redesignated section 157.205(d) to add that a notice be issued within 10 days of the date of filing, and to remove the current vague requirement ''as soon as it is practicable.''

We are concerned that the existing regulation in redesignated section 157.205(e)(2) does not require parties to set forth specific and substantial reasons for protesting a prior notice filing. Therefore, we propose to amend section 157.205(e)(2) to add that protestors specifically set out the reasons and rationale for their protest.

The Commission proposes to allow the Director of OPR to make a determination whether protests raise a substantive issue and provide any specific detailed reason or rationale for the objection, and if not, to dismiss them. We propose that redesignated sections 157.205(f), (g), and (h) include language authorizing the Director of OPR to dismiss such protests.

Concurrently, we are proposing to amend the delegation of authority regulations by adding new section 375.307(a)(13), which will be redesignated section 375.307(a)(11), to allow the Director of OPR to dismiss such protests.

Section 157.206—Standard Conditions

This section imposes certain conditions upon any activity a pipeline undertakes under its blanket certificate. We propose to remove section 157.206(b)—Production-related costs—because the Decontrol Act deregulated all wellhead price controls and Order No. 567 removed regulations pertaining to the sales of natural gas production. Since the Commission no longer regulates the sales price of natural gas, add-ons to maximum lawful prices for such sales are no longer relevant.

Section 157.206(c) states that the proper apportionment of costs related to transportation of liquids and liquefiables and natural gas will be determined in a rate proceeding. The revenue received from the transportation of liquids and liquefiables is currently reported in section 154.312(j)(2)(v)(C) [Schedule G–5. Other Revenues], and must be included when a pipeline files for a change in its rates or charges, except for a minor rate change. The revenue treatment is related to transportation performed under Part 284, and no longer needs to be in Subpart F. Therefore, we propose to remove section 157.206(c).

The Commission proposes to create a lead-in to the environmental conditions of subpart F in section 157.206(d) to indicate that the conditions apply only to activities under the blanket certificate that involve ground disturbance or changes to operational air and noise emissions. This will avoid uncertainty about their applicability to sections of Subpart F that clearly have no potential for environmental impact.

We propose to amend section 157.206(d)(1) to remove the reference to old section 2.69 and to replace it with a new section 380.15.

The Commission also proposes to revise section 157.206(d)(5) to bring it into line with current usage concerning limitations on compressor station noise levels. This proposal parallels the proposed modification for the new environmental report for NGA section 7 filings. (See the discussion of changes to Part 380.)

The Commission proposes to remove existing section 157.206(e) as obsolete because budget-type certificates have been replaced by the Subpart F blanket certificates.

The Commission proposes to revise existing section 157.206(f) to allow for facilities to be completed ''and made available for service'' instead of ''in actual operation'' within one year of authorization. See the related discussion of a similar change in section 157.20(b). In addition, we propose to amend section 157.206(e) to remove an obsolete reference to pipeline blanket sales and to remove the words ''and Producer'' from the reference to the ''Office of Pipeline and Producer Regulation.''

In addition, section 157.206(g) should be removed as obsolete since the section refers to old PGA accounts and accounting which are no longer necessary under Subpart F.

As a result of the proposed removal of sections 157.206(b),(c), (e), and (g), remaining sections 157.206(d),(f), and (g) should be redesignated as (b)–(d).

Section 157.207 General Reporting Requirements

This section imposes certain reporting requirements on all interstate pipelines that accept a blanket certificate under Subpart F. The Commission proposes to revise section 157.207(b), regarding reporting information related to the construction of sales taps. We propose to make this change consistent with the previous discussion removing sales taps

[33] Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates, Order No. 537, 56 FR 50235 (Oct. 4, 1991), FERC Stats. & Regs. ¶ 30,927 (Sept. 20, 1991). Order No. 436 provided blanket transportation under § 284.223(b), subject to the prior notice requirement under Subpart F. In Order No. 537, we removed this requirement to eliminate the incentive for pipelines to rely on NGPA section 311 transportation authority rather than their Part 284 blanket transportation certificates.

from the definitions under Subpart F and replacing them with delivery taps.[34]

Storage is now considered transportation under Order No. 636 and covered under the blanket transportation certificate issued in section 284.221. As discussed below, the Commission is proposing to remove the blanket authorization for storage services currently set forth in section 157.213. Reports on storage operations by interstate pipelines are included under the Part 284 reporting requirements. Because storage will no longer be covered under Subpart F, section 157.207(c) is obsolete. However, because we are adding new section 157.209 Temporary compression facilities, we propose to amend section 157.207(c) to include a report on such facilities.

We propose to remove section 157.207(f) related to reports filed for changes in rates schedules authorized under section 157.217, since we are also proposing to remove section 157.217. Rate schedules are offered under Part 284 and no longer need to be referenced in Subpart F.

Section 157.208—Construction, Acquisition, Operation, and Miscellaneous Rearrangement of Facilities

This section details the criteria necessary to construct, acquire, and operate any eligible facility and make miscellaneous rearrangement of any facility. Currently, this section authorizes a blanket certificate holder to perform certain activities on both an automatic and prior notice basis.

Consistent with our proposed change to the definition of an eligible facility in section 157.202(b)(i), we clarify that sections 157.208 (a) and (b) will now include certain replacement facilities that do not qualify under section 2.55(b), e.g., replacements made in conjunction with highway relocations where the replaced facilities are not identical to the original. These facilities will also include mainline replacements of different sizes that are necessary to match other line sizes for continuity and/or pigging and could result in increases in mainline capacity. Therefore, we intend to add the word ''replacement'' in the title of section 157.208. We note that facilities eligible for automatic and prior notice authorization in this manner will still be subject to the cost limitations in section 157.208 and the environmental conditions in redesignated section 157.206(b).

Section 157.208(c)(6) requires the certificate holder to provide gas supply, market data or studies that support the need for proposed facilities. This provision was required at a time when pipeline sales were provided under individual NGA section 7 transactions or under the Subpart F blanket certificate. Since pipelines no longer make bundled sales after implementation of open access transportation under Order Nos. 436 and 636, the construction of facilities under Subpart F support transportation services, not sales, authorized under Part 284. Thus, requiring gas supply or market data under Subpart F is no longer meaningful and we propose to remove section 157.208(c)(6).

Section 157.208(c)(8) requires a statement showing the effect of the facilities to be constructed on the certificate holder's operating expenses and revenues. As reasoned above, since prior notice construction activities support already authorized Part 284 transportation services, this section is no longer meaningful and should be removed.

The existing section 157.208(c)(11), which will be redesignated as section 157.208(c)(9), sets forth the content of the environmental filing for construction under the blanket certificate. The Commission proposes to amend this section to add the specification that a copy of consultations for the Endangered Species Act, the National Historic Preservation Act, and the Coastal Zone Management Act be included in any prior notice filing made under this section. While this will increase the amount of paper filed, it will ensure proper compliance with the existing regulation and speed up review since currently this material is often the subject of data requests and sometimes protests.

Section 157.208(d) sets the spending limits and inflation adjustment for automatic and prior notice activities under section 157.208. The spending limits in this section are currently adjusted each calendar year to reflect the Gross National Product (GNP) implicit price deflator published by the Department of Commerce for the previous calendar year. For the past few years, we have based the inflation adjustments on the Gross Domestic Product (GDP) implicit price deflator rather than the GNP implicit price deflator, which was not published at the time we issued the orders adjusting the spending limits. We used the GDP instead of the GNP because the Commerce Department advised that in recent years the annual change has been virtually the same for both indices. Therefore, we propose to amend section 157.208(d) to remove the reference to the ''GNP implicit price deflator'' and add, in its place, a reference to the ''GDP implicit price deflator.'' We also propose to amend this section to remove the words ''and Producer'' from the reference to the ''Office of Pipeline and Producer Regulation and to correct an erroneous reference from ''section 375.307(t)'' to ''section 375.307(d)''.

Section 157.208(e) details the annual reporting requirements for facilities completed under this section. The Commission proposes to revise this section to require complete reports only for facilities constructed under the automatic authority conferred by section 157.208(a). This change will recognize that the annual report will no longer include any information, except cost information, for construction prior notices authorized in section 157.208(b), because the required environmental information is already filed with the prior notice application. The effect will be to eliminate a duplicate filing.

The Commission also proposes in section 157.208(e)(2) that the annual report indicate the date when construction began. This is critical since the Commission's compliance with the Endangered Species Act and National Historic Preservation Act depends on the required consultations occurring before construction begins. It is not common, but we have received a few reports indicating that this occurred after the fact. Requiring the date of construction to be provided may raise the industry's awareness of this important compliance issue.

Currently, sections 157.208(e)(4)–(7) require pipelines to provide gas supply information and the names of the independent producers or other sellers from whom the gas is being received, along with gas sales or transportation contract information and FERC rate schedule designations. These sections were germane when pipelines primarily performed a merchant function and tracking of gas purchase costs was required. The information required here is no longer needed and we propose to remove these sections. These proposed changes will require redesignating section 157.208(e) so that existing sections (e)(8) and (e)(9) become (e)(4) and (e)(5), respectively.

In addition, section 157.208(g) should be amended to remove the words ''and Producer'' from the reference to the ''Office of Pipeline and Producer Regulation.''

[34] See discussion of § 157.202(b)(2)(E) and (b)(10).

Section 157.209—Temporary Compression Facilities

This new section is discussed in detail in our discussion of section 157.202(b) above.

Section 157.210—Sales for Resale

This section was promulgated to authorize interstate pipelines to make off-system sales to other interstate pipelines. This section is now obsolete and should be removed from the regulations.

Section 157.211—Sales Taps

This section provides for pipelines to construct and operate sales taps for delivery of gas to right-of-way grantors and end-users served by a pipeline's system supply. See the detailed discussion of section 157.202(b)(2)(ii)(E) and section 157.202(b)(10), where we propose to replace ''Sales tap(s)'' with ''Delivery points'' and redefine section 157.211 as Delivery points.

Section 157.212—Changes in Delivery Points

The Commission proposes to remove this section as detailed in our discussion of section 157.202(b)(2)(ii)(E) and section 157.202(b)(10).

Section 157.213—Storage Services

This section provides blanket certificate authorization for contract storage service and related incidental transportation. However, Order No. 636 redefined storage as transportation under section 284.1. The blanket transportation certificate issued in section 284.221 now covers pipeline storage service as well. In the same manner that blanket pipeline sales are proposed to be removed from subpart F, section 157.213 should also be removed as obsolete. The current reporting requirements in section 284.106, which covers transactions under section 284.221, will provide the Commission with the information necessary to continue to monitor pipelines performing storage service.

This proposed revision will grandfather all existing pipeline Subpart F blanket storage services and will only serve to remove the regulations prospectively.

Section 157.215—Underground Storage Testing and Development

This section provides for automatic authorization, subject to certain conditions, for the construction and operation of pipeline and compression facilities to be used for the testing and development of underground reservoirs for the possible storage of gas.

Consistent with the discussion of the modification of section 157.208(e)(2), the Commission is proposing to require the certificate holder to identify the date construction began in revised section 157.215(b)(1)(iii).

Section 157.216—Abandonment

This section sets forth the requirements for automatic abandonment of gas supply facilities in section 157.216(a), as well as the prior notice requirements necessary to abandon sales taps, laterals and related facilities and service in section 157.216(b). The Commission proposes to remove the existing sections 157.216(a)(1) and (a)(2), which requires abandonment by the gas supplier, as obsolete. While pipelines may still need to construct and abandon gas supply facilities under their Subpart F blanket certificate, they no longer need any related supplier abandonment as a prerequisite.[35] Therefore, sections 157.216(a)(1) and (a)(2) will be removed.

The Commission proposes a new section 157.216(a)(1) to specifically reference that receipt point facilities are eligible for automatic abandonment authorization under the subpart F blanket certificate. The Commission is proposing this clarification in order to eliminate any ambiguity regarding the eligibility of transportation receipt points for abandonment under the blanket certificate procedures.

The Commission proposes to expand the automatic authority under section 157.216 to allow abandonment of firm and interruptible delivery points. The Commission proposes that interruptible delivery points that have not been used for transportation service during the prior year be eligible for automatic abandonment. However, the Commission does not propose to permit blanket certificate holders to abandon automatically firm delivery points under contracts that are in force and effect. Parties paying demand charges for primary points, whether in use or not, should retain the availability of those points. The Commission recognizes that there are other circumstances where abandonment of delivery points may be appropriate. Therefore, it proposes that firm delivery points no longer under contract and not in use during the preceding 12 months qualify for automatic abandonment. In order for a blanket certificate holder to abandon either interruptible delivery points or firm delivery points not under contract that have been in use during the prior year, it must proceed under the prior notice requirements set forth below.

In addition, the Commission proposes to allow automatic authorization for abandonment of any eligible facility, subject to the pipeline's receiving written customer consent for specific facility abandonments. Consent is required from customers that have received service during the immediate past 12 month period. The Commission proposes the consent feature as a customer protection against unwarranted abandonment of facilities constructed to serve particular customers.

In the past, the Commission has often found it difficult to review filings to abandon facilities under this section expeditiously, since there is currently no explicit requirement to describe the facilities to be abandoned, how they would be abandoned or where they are located. Therefore, the Commission proposes to include such a requirement at new section 157.216(c)(5).

The Commission also proposes to amend the reporting requirement related to abandonments in section 157.216(d)(2) to remove reference to ''the sale of gas and'' as outdated.

At section 157.216(d)(4) and new section 157.216(d)(5) the Commission proposes to require that pipelines supply: (1) The date earth disturbance related to an abandonment began, and (2) the date clearances were actually received under the Endangered Species Act, the National Historic Preservation Act, and the Coastal Zone Management Act. This is for the same reasons, i.e., work processing improvement, discussed with respect to section 157.208(e).

Section 157.217—Changes in Rate Schedules

The Commission proposes to remove this section, which provides pipelines with automatic authority to permit customers to change rate schedules. Rate schedules are offered under Part 284 and may no longer need to be referenced in Subpart F. However, the Commission recognizes that there could be existing customers with NGA section 7(c) individually certificated services that may, in the future, seek to use this authority. Therefore, the Commission

[35] These sections authorize abandonment of gas supply facilities and service if the seller has been authorized to abandon the sale, or the sale has ceased and been removed from the Commission's jurisdiction by operation of section 601(a)(1) of the NGPA, respectively. After the Decontrol Act deregulated all first sales of natural gas as of January 1, 1993, the Commission issued Order No. 567. Order No. 567, among other things, recognized that first sales have been decontrolled and removed section 157.30, which governed the abandonment of sales by independent producers and first sellers, from the regulations. Thus, producers are no longer required to make certificate or abandonment filings related to their sales of natural gas.

seeks comment on our proposal to remove this section.

Section 157.218—Changes in Customer Name

The Commission proposes to revise this section. Under Part 284 there is automatic authorization for name changes, subject to the filing of an updated Index of Customers. Therefore, any remaining need for this provision is limited to name changes related to individually certificated agreements.

Appendix I to Subpart F—Procedures for Compliance With the Endangered Species Act of 1973 Under Section 157.206(d)(3)(i)

This appendix sets forth procedures that apply to blanket certificate holders that undertake projects subject to the environmental compliance requirements of current section 157.206(d). The Commission proposes to revise the appendix to reflect that the U.S. Fish and Wildlife Service (FWS) need only determine either (1) the project will not affect the listed species or critical habitat; (2) the project is not likely to aversely affect a listed species or critical habitat; or (3) no further consultation is needed. This change should remove any ambiguity regarding whether the current regulations require specific wording in the concurrence. In addition, this section also needs to be revised to make minor changes to correct typographical errors. The Commission proposes to change the reference in the title to ''section 157.206(d)(3)(i)'' to read ''section 157.206(b)(3)(i)'' and to change all references to ''section 157.206(d)(2)(vii)'' to read ''section 157.206(b)(2)(vi).'' These references are in the introduction and paragraphs 2, 3, and 4(b).

Appendix II to Subpart F—Procedures for Compliance With the National Historic Preservation Act of 1966 Under § 157.206(d)(3)(ii)

This appendix also sets forth procedures that apply to blanket certificate holders that undertake projects subject to the environmental compliance requirements of section 157.206(d). This section also needs to be amended to make minor changes to correct typographical errors in the appendix. The Commission proposes to change the reference in the title to ''section 157.206(d)(3)(ii)'' to read ''section 157.206(b)(3)(ii)'' and to change all references to ''section 157.206(d)(2)(iv)'' to read ''section 157.206(b)(2)(iii).'' In addition, this section should also be amended to remove an outdated reference to ''Environmental Evaluation Branch, Office of Pipeline and Producer Regulation'' and to add, in its place, ''environmental staff of the Office of Pipeline Regulation.'' These references are in the introduction and in paragraphs (4), (6), (7), and (8).

D. Part 284—Certain Sales and Transportation of Natural Gas Under the Natural Gas Policy Act of 1978 and Related Authority

Part 284 sets forth the general provisions and conditions that govern certain sales and transportation of natural gas under the NGA and the NGPA.

Section 284.221—General rule; Transportation by Interstate Pipelines on Behalf of Others

This section sets forth the requirements for an interstate pipeline to apply for a blanket transportation certificate. The Commission proposes to amend this section in order to remove various outdated or erroneous language.

Section 284.221(d)(1)describes the limitations of the pregranted abandonment authority. The Commission proposes to amend this section to remove the reference to paragraph (d)(3). This change will reflect the removal of section 284.221(d)(3) from the regulations as explained below.

Section 284.221(d)(3) states that pregranted abandonment does not apply where shippers converted from sales service to firm transportation service under the provisions of section 284.10 or under a separate agreement. The Commission proposes to remove this section as obsolete. Section 284.221(d)(3) was necessary during the industry transition from bundled to unbundled services, as is evidenced by its dependence on the conversion rights originally contained in section 284.10. Section 284.10 provided an interim program for bundled sales customers to convert to firm transportation services. However, Order No. 636 has unbundled sales service, so that sales and transportation are now separate services and there is no further need for customers to convert from one to the other. In Order No. 581[36], the Commission removed and reserved section 284.10. Therefore, there is no continuing need for section 284.221(d)(3) and it should be removed.

The Commission proposes to revise section 284.221(f)(4). The section refers to sales taps being subject to the prior notice procedures in Subpart F. However, new section 157.211 relates to delivery points (which have been redefined to include sales taps) and confers both automatic authorization and authorization under the prior notice procedures of section 157.205.

The Commission also proposes to amend section 284.221(h)(3) to remove the reference to ''section 157.212'' as obsolete. As noted above, delivery points are proposed to be constructed and operated under new section 157.211, on both an automatic basis and subject to the prior notice procedures.

Section 284.288—Reporting Requirements

This section sets forth the annual reporting requirements for an interstate pipeline making sales under this subpart. Blanket sales certificates were issued to interstate pipelines in Order No. 636. There, the Commission required pipelines to file an annual report describing the type of service provided, the total volumes sold and the total revenues received. The Commission stated that such information would provide an indication of how the market is functioning and whether a pipeline has been able to exercise market power.

The industry has completed its transition to a fully unbundled environment and pipelines are authorized to charge market-based rates for their sales in order to compete directly with third-party sellers of natural gas. In view of this, the Commission seeks comment on whether the information required by this section is still necessary or whether it has become obsolete, leading to removal of the section from the regulations.

E. Part 375—The Commission

Part 375 sets forth the general provisions of the Commission, the procedures for Sunshine Act meetings and delegations of authority. We propose the following revisions to the subpart C delegation of authority regulations.

Section 375.307 Delegations to the Director of the Office of Pipeline Regulation.

This section details the authorities delegated from the Commission to the Director of OPR. Sections 375.307(a)(1) and (a)(5) delegate to the Director of OPR the authority to grant applications or amendments for the construction, acquisition and operation of certain facilities that have a construction or acquisition cost of less than $5,000,000. The Commission proposes to increase this spending limit to match the prior

[36] Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, Order No. 581, 60 FR 53019 (October 11, 1995), FERC Stats. and Regs.] 31,026 (September 28, 1995).

notice limits set forth in section 157.208(d) Limits and inflation adjustment. The Commission believes that adjusting the spending limit in this section will provide more flexibility and a faster regulatory track to pipelines that want to construct facilities that are not ''eligible'' for prior notice treatment, i.e., mainlines, but are the subject of applications not formally protested, and whose costs exceed the $5,000,000 limit in this section. Pipelines should not, however, break projects into segments for the purpose of meeting the above-stated spending limit.

Section 375.307(a)(2) delegates to the Director of OPR the authority to grant applications filed under sections 157.7(b), (c), (d), (e), and (g) of this chapter. These sections originally set out rules for budget-type certificates for gas supply facilities, miscellaneous rearrangement of facilities, storage facilities, direct sales service and facilities and field compression and facilities. In Order No. 542,[37] the Commission determined that the transactions covered by these sections were covered under subpart F of Part 157 of the regulations and removed sections 157.7(b)-(g) as unnecessary. Since these sections have been removed from the regulations, there is no need to retain section 375.307(a)(2).

Section 375.307(a)(3) delegates abandonment authority to the Director of OPR for gas purchase facilities with a construction cost of less than $1 million or the deletion of delivery points. This authority is conditioned upon the producer's having been authorized to abandon its related service or the gas having been removed from the Commission's jurisdiction by operation of section 601(a)(1)(A) of the NGPA. The Decontrol Act deregulated all first sales of natural gas as of January 1, 1993 and Order No. 567 eliminated the regulations pertaining to producer sales and abandonment requirements. Therefore, this condition is obsolete and will be removed. While pipelines will still need authority to abandon gas purchase facilities and delete delivery points, we propose to expand this section to include abandonment of any facility. The Commission proposes to revise this section to allow the Director of OPR to act on uncontested applications for the abandonment of any pipeline facilities, including mainline and compression facilities, regardless of their construction cost. However, this section does not, as described in section 375.307(a)(4) below, cover facilities involving specific customers.

Similarly, section 375.307(a)(4) delegates to the Director of OPR abandonment authority for pipeline or producer facilities or services. Since the Commission no longer regulates producer activities, this section should be amended to remove the reference ''or producer.''

Section 375.307(a)(5) authorizes the Director of OPR to issue temporary or permanent certificates for transportation, exchange or storage service, provided the related facilities cost less than $5,000,000. For the same reasons detailed above, we propose to increase this spending limit to match the prior notice limits set forth in section 157.208(d) Limits and inflation adjustment. Under section 375.307(a)(8), the Director of OPR can issue temporary or permanent certificates to independent producers. Since Order No. 567 removed the regulations pertaining to producer filings, this section should also be removed as obsolete.

Section 375.307(a)(9) provides that the Director of OPR can authorize adding or changing delivery points or changing volumes between existing delivery points under NGA section 7(c), provided that the pipeline ''sales'' volumes remain within total existing contract demand and certificated levels. We propose to remove this section as obsolete. Since unbundling under Order No. 636, we no longer need to monitor changes in delivery points for sales volumes, because pipelines transport gas to customers' delivery points. Changes in delivery points for transportation volumes are now covered under section 157.211.

We propose new section 375.307(a)(10) to delegate to the Director of OPR the authority to dismiss protests to prior notice filings that the Director determines do not raise a substantive issue and fail to provide any specific detailed reason or rationale for the objection. We propose to amend section 157.205(g) to add that such protests may be dismissed.

Section 375.307(a)(17) delegates to the Director of OPR authority to act on certificates and related rate schedules of independent producers. Since Order No. 567 eliminated the regulations pertaining to producers, the Commission proposes to remove this section as obsolete.

Section 375.307(a)(18) authorizes the Director of OPR to act on offers of settlement in the Independent Oil and Gas Association of West Virginia proceedings in Docket Nos. RI74–188 and RI75–21 involving indefinite price escalator clauses (also referred to as area rate clauses).[38] On December 10, 1996, the Presiding Administrative Law Judge issued an Initial Decision Terminating Proceedings in the above dockets.[39] The initial decision found that all pipeline parties have settled or otherwise satisfied all claims asserted against them in these proceeding and that no issues remained. On January 21, 1997, the Commission issued a Notice of Finality of Initial Decision allowing the December 16, 1996 initial decision to become a final Commission decision.[40] Therefore, the Commission proposes to remove this section. With the deletion of sections 375.307(a)(2), (8), (9), (17) and (18), the remaining paragraphs are redesignated as (a)(2) through (a)(13).

Section 375.307(b) authorizes the Director of OPR to act upon a variety of filings related to rate schedules filed by natural gas companies. Section 375.307(b)(4) allows the Director of OPR to accept rate filings of jurisdictional natural gas companies which involve replacement and rollover contracts. Section 375.307(b)(5) allows the Director of OPR to accept statements of eligibility by producers filed under section 2.56[41] and section 157.40. As noted above, following issuance of the Decontrol Act, Order No. 567 eliminated the regulations pertaining to producers. Therefore, the Commission proposes to remove sections 375.307(b)(4) and (b)(5) as obsolete.

Section 375.307(c) authorizes the Director of OPR to take certain actions under the NGPA, including computing maximum lawful prices under section 375.307(c)(1), notifying jurisdictional agencies under section 375.307(c)(2), and passing on uncontested requests for extensions of time to file reports under section 284.148(c) under section 375.307(c)(3). These sections are now obsolete and the Commission proposes to remove all of section 375.307(c). Sections 375.307(c)(1) and (c)(2) are outdated because the Wellhead Decontrol Act deregulated all first sales of natural gas as of January 1, 1993 and Order No. 567 eliminated the regulations pertaining to the sales of natural gas production. Section 375.307(c)(3) is no longer germane since it is linked to reports filed under section

[37] Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, Order No. 542, 57 FR 21891 (May 26, 1992) FERC Stats. and Regs. ¶30,945 (May 1, 1992).

[38] See Opinion No. 77, 10 FERC ¶ 61,214 (1980).

[39] Independent Oil & Gas Association of West Virginia, 77 FERC ¶ 63,020 (1996).

[40] Independent Oil & Gas Association of West Virginia, 78 FERC ¶ 61,052 (1997).

[41] Section 2.56 was a policy statement concerning area rates for natural gas sales by independent producers. This section was removed from the regulations by Order No. 542 as obsolete because the NGPA superseded area rates.

284.148(c), which has been removed by Order No. 581.[42]

Section 375.307(e)(3) authorizes the Director of OPR to initiate an annual survey of winter gas supply. The Commission no longer requires the submission of detailed gas supply information in support of new construction projects. Pipelines proposing new construction are currently required only to describe the production areas accessible that contain existing or potential supplies for the proposed project.[43] In Order No. 554,[44] the Commission revised its regulations to remove the requirement that natural gas pipeline companies file FERC Form No. 15, ''Interstate Pipeline's Annual Report of Gas Supply,'' and FERC Form No. 16, ''Report of Gas Supply and Requirements.'' The Commission found that the information in those reports was no longer necessary since the interstate pipelines have evolved from performing primarily as merchants of natural gas to providing primarily transportation services to non-pipeline shippers. For the same reason, the Commission is proposing to remove section 375.307(e)(3).

Section 375.307(e)(7) authorizes the Director of OPR to grant any producer's uncontested application for abandonment. Since Order No. 567 removed the regulations pertaining to producers, the Commission proposes to remove this section as obsolete.

The existing section 375.307(f)(3), which will be redesignated as section 375.307(e)(3), will delegate to the Director of OPR the authority to waive fees prescribed in various sections of the regulations. The Commission proposes to remove the reference in redesignated section 375.307(e)(3) to section 381.402 as outdated.

Since we propose to remove section 375.307(c), remaining sections 375.307(d)–(g) should be redesignated section 375.307(c)–(f).

F. Part 380—Regulations Implementing the National Environmental Policy Act

The regulations in Part 380 implement the Commission's procedures under the NEPA. These regulations supplement the regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500 through 1508 (1986). Part 380 essentially follows the CEQ procedures concerning early and efficient review of environmental issues, public notice and participation, scooping, interagency cooperation, comments, and timing of decisions on proposals.

Section 380.4—Projects or Actions Categorically Excluded.

As a procedural matter, the Commission proposes to amend section 380.4(a)(28) to the correct a typographical error by replacing the word ''tops'' with ''taps''.

Section 380.12—Environmental Reports for Natural Gas Act Applications.

The Commission proposes to replace Part 380 Appendix A (guidelines for the environmental report), which is out of date and contains numerous errors, with the currently optional Appendix G resource reports in the electronic filing requirements, which virtually all companies are now using instead of Appendix A. These resource reports would be in new section 380.12. In section 380.12 the Commission proposes to list, in detail, the information it needs to conduct an environmental review of a proposal under NEPA. Applications not meeting a minimum specified portion of these requirements will be rejected. It is very inefficient for the Commission's staff to try to process filings with minimal data for analysis while the applicant files the necessary information in a piecemeal fashion. Moreover, accepting incomplete applications fosters unreasonable expectations by the applicant, *i.e.*, filling in the blanks as time progresses, and expecting staff to be able to complete its analysis as if the application had been complete from the beginning.

In addition, it causes undue concern to landowners and other opponents. This is also a practice that the industry is not allowed to follow at other agencies. Acceptance of such incomplete filings can cause affected parties and staff to prematurely expend significant effort which may ultimately be unnecessary or duplicative once the project is more fully developed. Nor does filing prematurely confer any real competitive advantage on the applicant. Any perceived advantage of filing early is nullified by our practice of not noticing incomplete applications. The applicant with a complete filing can expect expedited processing with minimal delays due to data requests.

The information listed in proposed section 380.12 would not only provide better guidance to the regulated industry on what the Commission needs for its environmental analysis, but when the information should be provided. Both of these factors have a strong impact on the staff's ability to quickly process applications in a way that protects the environment and ensures the procedural requirements of NEPA are met.

Some of these changes include:

Adding a new Resource Report 13 on Liquified Natural Gas (LNG) engineering filing requirements.

- Adding a requirement to compare the proposal to the staff's current ''Upland Erosion Control, Revegetation, and Maintenance Plan'' and ''Wetland and Waterbody Construction and Mitigation Procedures.''
- Specifying that supplemental or amendment filings which include changes in facility locations provide tables showing exactly how the substitution of those locations for the ones originally proposed affects the environmental factors relevant to the locations on file prior to the amendment.

Additionally, proposed section 380.12(c)(2) lists the information the Commission needs to consider the environmental impact of related nonjurisdictional facilities that would be constructed upstream or downstream of the jurisdictional facilities for the purpose of delivering, receiving, or using the proposed gas volumes. Integrally-related nonjurisdictional facilities could include major power facilities, such as cogeneration plants, as well as less significant facilities, such as lateral pipeline connections built by local distribution companies. The extent of the Commission's analyses of nonjurisdictional facilities depends on the Commission's determination of its and other Federal agencies' control and responsibility over these facilities.

Section 380.13—Compliance With the Endangered Species Act

This section makes it clear how the Commission expects applicants to assist the Commission in complying with its responsibilities under the Endangered Species Act. It is similar to the current process under the blanket certificate program of Subpart F of Part 157 of this chapter and is fashioned to parallel the regulations implementing the Endangered Species Act. This process is to be used when the applicant is preparing the environmental documents required by section 380.12(e)(5).

Section 380.14—Compliance With the National Historic Preservation Act

This section identifies applicants as non-Federal parties and specifies principles that natural gas companies are expected to follow in assisting the Commission in complying with its responsibilities under the National Historic Preservation Act. These

[42] Revisions to Uniform Systems of Accounts, Forms, Statements, and Reporting Requirements for natural gas Companies, Order No. 881 (Oct. 11, 1995).

[43] See section 157.14(a)(10), Exhibit H—Total gas supply data.

[44] Revisions to the Regulations Governing Natural Gas Pipelines, Order No. 554, 58 FR 38524 (July 19, 1993), FERC Stats. and Regs. ¶ 30,973 (July 13, 1993).

principles are to be used when the applicant is preparing the environmental documents required by section 380.12(f).

Section 380.15—Siting and Maintenance Requirements

The Commission also proposes that the facility siting guidelines currently at section 2.69 would be redesignated as new section 380.15. This would put them with the rest of the environmental regulations.

Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the Natural Gas Act

The Commission proposes to replace the old Part 380 Appendix A with a checklist of minimum environmental filing requirements. The checklist in the proposed new Appendix A represents the minimum filing requirement an applicant would need to provide the Commission at the time the application is filed. Failure to provide these minimum requirements would result in the application's being rejected.

G. Part 385—Rules of Practice and Procedure

Part 385 sets forth the Commission's Rules of Practice and Procedure. The Commission is proposing to revise certain of the regulations under Subpart T relating to the rejection of filings and to electronic filing of applications.

Section 385.2001—Filings (Rule 2001)

Consistent with our proposal to reject patently deficient filings under section 157.8 and section 157.205(d), the Commission proposes to modify section 385.2001(b)(3), dealing with rejection of filings, to provide for a letter of rejection indicating the reasons for rejection.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant impact on a substantial number of small entities.[45] The Commission is not required to make such analysis if a rule would not have such an effect.

The Commission does not believe that this rule would have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of small entity.[46] Further, the filing requirements of small entities are reduced by the rule. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[47] No environmental consideration is raised by the promulgation of a rule that is procedural or that does not substantially change the effect of legislation or regulations being amended.[48] The instant rule updates the various regulations and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated.

The primary effect of this rule is procedural or changes some of the filing requirements placed on applicants. It also clarifies some of the existing regulations (§ 2.55) without changing their effect. These clarifications and changes to filing requirements have no potential for environmental effect. Whether the Commission approves or denies the application is the Federal action that can be said to have an environmental effect.

There are only minor changes to what a project sponsor may construct under the blanket certificate program with little or no Commission review. Eligible facilities now include mainline and lateral replacements and wells in a certificated storage field. However, there is no difference, from an environmental standpoint, between the pipeline that could be built under the previous regulations and these proposed regulations. In addition, wells may already be drilled under the blanket program for testing and development of fields for storage of natural gas (§ 157.215). The change proposed herein does not allow drilling of wells for the purpose of increasing the capacity of the storage field, only for enhanced operational efficiency. An Environmental Assessment was done for the blanket program in July of 1981. For these reasons, no environmental analysis is necessary.

VII. Public Comment Procedures

The Commission invites all interested persons to submit written comments on this NOPR.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. December 1, 1998. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426 and should refer to Docket No. RM98–9–000. Commenters also can submit comments on computer diskette in WordPerfect 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM98–9–000 on the outside of the diskette.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, comments can be viewed and printed remotely via the 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.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 153

Exports, Imports, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf, Incorporating by Reference, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping.

[45] 5 U.S.C. 601–612.

[46] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[47] 18 CFR 380.4.

[48] 18 CFR 380.4(a)(2)(ii).

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 2, 153, 157, 284, 375, 380, 381 and 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: U.S.C. 601; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–825y, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

§ 2.1 [Amended]

2. In § 2.1, paragraph (a)(1)(viii)(A) through (D) are removed and (a)(1)(viii) introductory text is removed and reserved.

3. In § 2.55, paragraph (a) is amended to add a new sentence at the end; (b)(1)(ii) and (iii) are revised; and paragraph (d) is removed and reserved, to read as follows:

§ 2.55 Definition of terms used in section 7(c).

* * * * *

(a) * * * Facilities constructed along with new transmission facilities do not qualify as auxiliary installations for the purposes of this section.

(b) * * *

(1) * * *

(ii) The replacement facilities will have a substantially equivalent designed delivery capacity, will be located in the same right-of-way or on the same site as the facilities being replaced, and, except as specified in paragraph (b)(1)(iv) of this section will be constructed using the temporary work space used to construct the replaced facility (See Appendix A of this part for guidelines on what is considered to be the appropriate work area in this context);

(iii) Except as described in paragraph (b)(2) of this section, the company files notification of such activity with the Commission at least 30 days prior to commencing construction.

* * * * *

(d) [Reserved]

§ 2.69 [Removed]

4. Section 2.69 is removed and reserved.

§ 2.102 [Removed]

5. Section 2.102 is removed and reserved.

6. Appendix A to Part 2 is added to read as follows:

Appendix A to Part 2—Guidance for Determining the Acceptable Construction Area for Replacements

1. Pipeline replacement must be within the existing right-of-way as specified by § 2.55(b)(1)(ii). Construction activities for the replacement can extend outside the current permanent right-of-way to the extent that they are constrained by the temporary and permanent right-of-way and associated work spaces used in the original installation.

2. If documentation is not available on the location and width of the temporary and permanent rights-of-way and associated work space that was used to construct the original facility, the company may use the following guidance in replacing its facility, providing the appropriate easements have been obtained:

a. Construction should be limited to no more than a 75-foot-wide right-of-way including the existing permanent right-of-way for large diameter pipeline (pipe greater than 12 inches in diameter) to carry out routine construction. Pipeline 12 inches in diameter and smaller should use no more than a 50-foot-wide right-of-way.

b. The temporary right-of-way (working side) should be on the same side that was used in constructing the original pipeline.

c. A reasonable amount of additional temporary work space on both sides of roads and interstate highways, railroads, and significant stream crossings and in side-slope areas is allowed. The size should be dependent upon site-specific conditions. Typical work spaces are:

Item	Typical extra area (width/length)
Two lane road (bored).	25–50 by 100 feet.
Four lane road (bored).	50 by 100 feet.
Major river (wet cut) ..	100 by 200 feet.
Intermediate stream (wet cut).	50 by 100 feet.
Single railroad track ..	25–50 by 100 feet.

d. The replacement facility must be located within the permanent right-of-way or, in the case of nonlinear facilities, the cleared building site. In the case of pipelines this is assumed to be 50-feet-wide and centered over the pipeline unless otherwise legally specified.

3. However, use of the these guidelines for work space size is constrained by the physical evidence in the area. Areas obviously not cleared during the original construction, as evidenced by stands of mature trees, structures, or other features that exceed the age of the facility being replaced, should not be used for construction of the replacement facility.

4. If these guidelines cannot be met, the company should consult with the staff to determine if the exemption afforded by § 2.55 of this chapter may be used. Usually, it may not and construction authorization must be obtained pursuant to another regulation under the Natural Gas Act.

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES FOR THE EXPORT OR IMPORT NATURAL GAS

7. The authority citation for Part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204–112, 49 FR 6684 (February 22, 1984).

8. In § 153.8, paragraph (a)(7) is revised to read as follows:

§ 153.8 Required exhibits.

(a) * * *

(7) *Exhibit F.* An environmental report as specified in § 380.3 and § 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F whenever route or site changes are filed. These revisions should identify the specific differences resulting from the route or site changes, and not just provide revised totals for the resources affected; and

* * * * *

9. In § 153.21, paragraph (b) is revised to read as follows:

§ 153.21 Conformity with requirements.

* * * * *

(b) *Rejection of applications.* If an application does not conform to the requirements of this part, the Director of the Office of Pipeline Regulation may reject the application within 10 days of filing as provided by § 385.2001(b) of this chapter. An application that relates to an operation, service, or construction concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

10. The authority citation for Part 157 continues to read as follows: st

Authority: 15 U.S.C. 717–717W, 3301–3432; 42 U.S.C. 7101–7352.

11. In § 157.6, paragraphs(a)(1)–(4) are revised; a new paragraph (a)5 is added; the heading in paragraph (b) revised; and a new paragraph (b)(8) is added to read as follows:

§ 157.6 Applications; general requirements.

(a) *Applicable rules*—(1) *Submission required to be furnished by applicant under this subpart.* Applications, amendments thereto, and all exhibits and other submissions required to be furnished by an applicant to the Commission under this subpart must be submitted in an original and 7 conformed copies. To the extent that data required under this subpart has been provided to the Commission, this data need not be duplicated. The applicant must, however, include a statement identifying the forms and records containing the required information and when that form or record was submitted.

(2) The following must be submitted in electronic format as prescribed by the Commission:

(i) Applications;

(ii) Exhibits to applications;

(iii) Applications covering acquisitions and all attached exhibits;

(iv) Applications for temporary certificates;

(v) Applications to abandon facilities or services and attached exhibits;

(vi) The progress reports required under § 157.20(c) and (d);

(vii) Applications submitted under Subpart E of this part;

(viii) Applications under Subpart F of this part;

(ix) Requests for authorization under the notice procedures established in § 157.205;

(x) The annual report required by § 157.207;

(xi) The report required under § 157.214 when storage capacity is increased;

(xii) Amendments to any of the sections listed in paragraph (a)(2).

(3) All filings must be signed in compliance with the following:

(i) The signature on a filing constitutes a certification that: the signer has read the filing signed and knows the contents of the paper copies and electronic filing; the paper copies contain the same information as contained in the electronic filing; the contents as stated in the copies and in the electronic filing are true to the best knowledge and belief of the signer; and the signer possesses full power and authority to sign the filing.

(ii) A filing must be signed by one of the following:

(A) the person on behalf of whom the filing is made;

(B) an officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(C) a representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(4) Suitable means of electronic transmission or electronic media suitable for Commission filings are listed in the instructions for each form and filing. Lists of suitable electronic media are available upon request from the Commission. The formats for the electronic filing and paper copy can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, NE., Washington, D.C. 20426.

(5) *Other requirements.* Applications under section 7 of the Natural Gas Act must conform to the requirements of §§ 157.5 through 157.14. Amendments to or withdrawals of applications must conform to the requirements of §§ 385.213 and 385.214 of this chapter. If the application involves an acquisition of facilities, it must conform to the additional requirements prescribed in §§ 157.15 and 157.16. If the application involves an abandonment of facilities or service, it must conform to the additional requirements prescribed in § 157.18.

(b) *General content of application.*

* * * * *

(8) For applications to construct new facilities, the complete information necessary for the Commission to make an upfront determination on the rate treatment of the proposed project in accordance with the Statement of Policy in Docket No. PL94–4–000, if the applicant does not propose to charge incremental rates. The Policy Statement can be found at 71 FERC (CCH) ¶ 61,241 (1995) or on the FERC Homepage at http://www.ferc.fed.us/news1/policy/pages/policy.htm. Such information should include, but is not limited to the following:

(i) Documentation specifically showing that an expansion project will increase system or operational reliability, or provide other financial benefits;

(ii) Detailed cost-of-service data supporting the cost of the expansion project, a detailed study showing the revenue responsibility for each firm rate schedule under the pipeline's currently effective rate design and under the pipeline's proposed rolled-in rate design, a detailed rate impact analysis by rate schedule (including by zone, if applicable), and an analysis reflecting the impact of the fuel usage by zone resulting from the proposed expansion project.

* * * * *

12. Section 157.8 is revised to read as follows:

§ 157.8 Acceptance for filing or rejection of applications.

Applications will be docketed when received and the applicant so advised. If an application does not conform to the requirements of this part, the Director of the Office of Pipeline Regulation may reject the application within 10 days of filing as provided by § 385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis of environmental reports that are incomplete because the company has not been granted access by the affected landowner(s) to perform required surveys, etc. An application which relates to an operation, sale, service, construction, extension acquisition, or abandonment concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

13. In § 157.9, the first sentence is revised to read as follows:

§ 157.9 Notice of application.

Notice of each application filed, except when rejected in accordance with § 157.8, will be issued within 10 days of filing, and subsequently will be published in the **Federal Register** and copies of such notice mailed to States affected thereby. * * *

14. Section 157.10 is revised to read as follows:

§ 157.10 Interventions and protests.

Notices of applications, as provided by § 157.9, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, as provided by § 385.214 of this chapter, desiring to intervene may file its notice of intervention. Any person filing a petition to intervene or notice of intervention shall state specifically whether he seeks formal hearing on the application. Any person may file to intervene on environmental grounds based on the draft environmental impact statement as stated at § 380.10(a)(1)(i) of this chapter. In accordance with that section, such intervention will be deemed timely as long it is filed within the comment period for the draft environmental impact statement. Failure to make timely filing will constitute grounds for denial of participation in the absence of extraordinary circumstances for good cause shown. A copy of each application, supplement and

amendment thereto, including exhibits required by § 157.14, 157.16, and 157.18, shall upon request be promptly supplied by the applicant to anyone who has filed a petition for leave to intervene or given notice of intervention. However, an applicant is not required to serve voluminous or difficult to reproduce material, such as copies of environmental information, to all parties, unless such material is specifically requested. Within two business days of receiving a request for a complete copy from any party, the applicant must serve a full copy of any filing. Pipelines will be required to keep all voluminous material on file with the Commission and make such information available for inspection in the project area. Protests may be filed in accordance with § 385.211 of this chapter within the time permitted by any person who does not seek to participate in the proceeding.

15. In § 157.14, paragraph (a) is amended to remove the words ''On or after October 31, 1989, exhibits'' and the word ''Exhibits'' added in its place; paragraph (a)(6–a) is revised; paragraph (a)(6–b) is removed; paragraph (a)(6–d) is redesignated as (a)(6–b); both references in newly redesignated (a)(6–b) to ''IV'' is removed and a reference to ''II'' is added in its place; paragraph (a)(6–c) is removed; paragraph (a)(12) is removed and reserved; paragraphs (a)(14)(i) through (vi) are revised; and paragraphs (a)(14)(vii) through (xiii) are removed, all to read as follows:

§ 157.14 Exhibits.

(a) * * *

(6) * * *

(6–a) *Exhibit F–I, Environmental Report.* An environmental report as specified in §§ 380.3 and 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F–I whenever route or site changes are filed. These revisions should identify the locations by mile post and describe all other specific differences resulting from the route or site changes, and should not simply provide revised totals for the resources affected.

* * * * *

(12) [Reserved]

* * * * *

(14) * * *

(i) A description of the class (e.g. commercial paper, long-term debt, preferred stock) and cost rates for securities expected to be issued with construction period and post-operational sources of financing separately identified.

(ii) Statement of anticipated cash flow, including provision during the period of construction and the first 3 full years of operation of proposed facilities for interest requirements, dividends, and capital requirements.

(iii) A balance sheet and income statement (12 months) of most recent data available.

(iv) Comparative pro forma balance sheets and income statements for the period of construction and each of the first 3 full years of operation, giving effect to the proposed construction and proposed financing of the project.

(v) Any additional data and information upon which applicant proposes to rely in showing the adequacy and availability of resources for financing its proposed project.

(vi) In instances for which principal operations of the company have not commenced or where proposed rates for services are developed on an incremental basis, a brief statement explaining how the applicant will determine the actual allowance for funds used during construction (AFUDC) rate, or if a rate is not to be used, how the applicant will determine the actual amount of AFUDC to be capitalized as a component of construction cost, and why the method is appropriate under the circumstances.

* * * * *

16. In § 157.16, paragraph (c)(1) is revised to read as follows:

§ 157.16 Exhibits relating to acquisitions.

* * * * *

(c) * * *

(1) The amounts recorded upon the books of the vendor, as being applicable to the facilities to be acquired, and the related depreciation, depletion, and amortization reserves. Include a brief statement explaining the basis or methods used to derive the related depreciation, depletion and amortization reserves.

* * * * *

§ 157.17 [Amended]

17. In § 157.17, the words ''Before October 31, 1989, and thereafter whenever'' are removed from paragraph (a) and the word ''Whenever'' added in their place; and the words ''On or after October 31, 1989, the'' are removed from paragraph (b) and the word ''The'' added in their place.

18. In § 157.18, a new sentence is added between the first and second sentence in the introductory paragraph and in paragraph (f)(2); paragraph (f)(3) is revised to read as follows:

§ 157.18 Applications to abandon facilities or service; exhibits.

* * * Any application for an abandonment that is not excluded by § 380.4(a)(28) or (29), must include an environmental report as specified by § 380.3(c)(2). * * *

* * * * *

(f) * * *

(2) * * * Include a brief statement explaining the basis or methods used to derive the accumulated depreciation related to the property to be disposed of. * * *

(3) State the amount of accumulated deferred income taxes attributable to the property to be abandoned and the tax basis of the property. * * *

* * * * *

19. In § 157.20, paragraph (b) is revised; the phrases ''\, until October 31, 1989,'' and ''\, and thereafter,'' are removed from paragraph (c), the phrases ''\, before October 31, 1989,'' and and thereafter'' are removed from paragraph (d); paragraph (f) is removed and paragraph (g) is redesignated as (f) to read as follows:

§ 157.20 General conditions applicable to certificates.

* * * * *

(b) Any authorized construction, extension, or acquisition shall be completed and made available for service by applicant and any authorized operation, service, or sale shall be actually undertaken and regularly performed by applicant within (period of time to be specified by the Commission in each order) from the issue date of the Commission's order issuing the certificate. Applicant shall notify the Commission in writing at least 30 days prior to (expiration date of time period specified in the Commission's order issuing the certificate) that the end-user/shipper is unable to meet the imposed timetable to commence service.

* * * * *

§ 157.21 [Removed]

20. Section 157.21 is removed and reserved.

21. In § 157.102, the last sentence in paragraph (a)(1) is removed; paragraph (b)(1)(v) is revised to read as follows:

§ 157.102 Contents of application and other pleadings.

* * * * *

(b) * * *

(1) * * *

(v) An environmental report as specified in §§ 380.3 and 380.12 of this chapter. Applicant must submit all appropriate revisions to the environmental report whenever route or site changes are filed. These revisions should identify and describe the specific differences resulting from the route or site changes, and not just

provide revised totals for the resources affected; and

* * * * *

§ 157.103 [Amended]

22. In § 157.103(j), the words ''and Producer'' are removed.

§ 157.201 [Amended]

23. In § 157.201(a) the words ''sales arrangements'' are removed.

24. In § 157.202, paragraphs (b)(2)(i) and (b)(2)(ii)(A), (B), (D), (E), and (F), and paragraphs (b)(4), (5), (7), (10) are revised; and (b)(12) through (14) are removed to read as follows:

§ 157.202 Definitions.

* * * * *

(b) * * *

(2)(i) *Eligible facility* means, except as provided in paragraph (b)(2)(ii) of this section, any facility subject to the Natural Gas Act jurisdiction of the Commission that is necessary to provide service within existing certificated volumes. Eligible facility also includes any gas supply facility or any facility, including receipt points, needed by the certificate holder to receive gas into its system for further transport or storage, and interconnecting points between transporters that transport natural gas under part 284 of this chapter. Further, eligible facility includes mainline and lateral replacements that do not qualify under § 2.55(b) of this chapter because they will have an impact on the capacity of the mainline facilities.

(ii) * * *

(A) A main line of a transmission system, except replacement facilities covered under paragraph (b)(2)(i) of this section.

(B) An extension of a main line, except replacement facilities covered under paragraph (b)(2)(i).

* * * * *

(D) A facility required to test, develop or utilize an underground storage field and that alters the certificated capacity of the storage field, or a facility required to store gas above ground in either a gaseous or liquified state, or a facility used to receive gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas.

(E) Delivery points under § 157.211.

(F) Temporary compression under § 157.209.

* * * * *

(4) *Temporary compression* means compressor facilities installed and operated at existing compressor locations for the limited purpose of temporarily replacing existing permanent compressor facilities that are undergoing maintenance or repair or that are pending permanent replacement.

(5) *Main line* means the principal transmission facilities of a pipeline system extending from supply areas to market areas and does not include small diameter supply or delivery laterals or gathering lines.

* * * * *

(7) *Project* means a unit of improvement or construction that is used and useful upon completion.

* * * * *

(10) *Delivery point(s)* means a tap and/or metering and appurtenant facilities necessary to enable the certificate holder to deliver gas to any customer.

* * * * *

§ 157.203 [Amended]

25. In § 157.203, paragraph (b) is amended to remove the references to ''157.213(a)'' and ''157.217'' and to add the reference ''157.209(a)'' immediately after ''§§ 157.208(a)''. Paragraph (c) is amended to remove the reference to ''157.211, 157.211(b), 157.212, 157.213(b)'' and to add the reference ''157.211(a)(2)'' in their place.

§ 157.204 [Amended]

26. In § 157.204, paragraph (d)(2) is removed; paragraph (d)(3) is redesignated as d(2); and paragraphs (d)(4) and (5) and paragraph (e) are removed.

27. In § 157.205, paragraphs (a) introductory text and (b) introductory text are revised; paragraph (c) is removed; paragraphs (d) through (i) are redesignated as (c) through (h); newly designated (c) is revised; redesignated (f) the words ''and Producer'' is removed; in redesignated (d) add the phrase ''issue a notice of the request within 10 days of the date of the filing and'' after the words ''Commission shall'; redesignated (e)(2) is revised; in redesignated (f) add the words ''or dismissed'' after the words ''is not withdrawn''; in redesignated (g) introductory text is revised, the words ''and staff'' are removed, the phrase ''certificate holder, the protestor'' is revised to read ''certificate holder and protestor'', and a sentence is added at the end of the paragraph; and in redesignated (h)(2) add the words ''or dismissed'' after the words ''subsequently withdrawn'' and the words ''or dismissal'' after the words ''after the withdrawal'' to read as follows:

§ 157.205 Notice Procedure.

(a) *Applicability.* No activity described in §§ 157.208(b), 157.211, 157.214 or 157.216(b) is authorized by a blanket certificate granted under this subpart, unless, prior to undertaking such activity:

* * * * *

(b) *Contents.* For any activity subject to the requirements of this section, the certificate holder must file with the Secretary of the Commission an original and seven copies, as prescribed in § 157.6(a) and 385.2011 of this chapter, a request for authorization under the notice procedures of this section that contains:

* * * * *

(c) *Rejection of request.* The Director of the Office of Pipeline Regulation may reject within 10 days of the date of filing a request which patently fails to comply with the provisions of paragraph (b) of this section, without prejudice to the pipeline's refiling a complete application.

* * * * *

(e) * * *

(2) Protests shall be filed in the following form:

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

[Name of pipeline holding the blanket certificate]
Docket No. [Include both docket no. of the blanket certificate and the prior notice transaction]

PROTEST TO PROPOSED BLANKET CERTIFICATE ACTIVITY

(Name of Protestor) hereby protests the request filed by (Name of pipeline) to conduct a (construction of facilities, abandonment, etc.) under § 157.____ of the Commission's regulations. Protestor seeks to have this request processed as a separate application.

(Include a detailed statement of Protestor's interest in the activity and the specific reasons and rationale for the objection and whether the protestor seeks to be an intervenor.)

* * * * *

(g) *Withdrawal or dismissal of protests.* * * * The Director of the Office of Pipeline Regulation may dismiss any protest which does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection.

* * * * *

28. In § 157.206, paragraphs (b), (c), (e), and (h) are removed; paragraph (d) is redesignated as paragraph (b); paragraph (f) is redesignated as (c); paragraph (g) is redesignated as (d); in redesignated (b)(1) the reference to ''§ 2.69'' is removed and the reference to ''§ 380.15'' is added in its place; in redesignated (b)(3)(i) through (iii) the

references to paragraph ''(d)'' are removed and a reference to ''(b)'' is added in its place; redesignated (b)(5) is revised; and redesignated paragraph (c) is revised to read as follows:

§ 157.206 Standard conditions.

* * * * *

(b) * * *

(5) The noise attributable to any compressor facility installed, modified, upgraded, or uprated pursuant to the blanket certificate shall not exceed a day-night sound level (L_{dn}) of 55 db (A) at any noise-sensitive area unless the noise-sensitive areas (such as schools, hospitals, or residences) are established after facility construction, modification, upgrade, or uprate.

* * * * *

(c) *Commencement.* Any authorized construction, extension, or acquisition shall be completed and made available for service by the certificate holder and any authorized operation, or service, shall be available within one year of the date the activity is authorized pursuant to § 157.205(h). The certificate holder may apply to the Director of the Office of Pipeline Regulation for an extension of this deadline. However, if the request for extension is not due to construction delays, the certificate holder must provide notification that the end-user/shipper is unable to meet the one year timetable.

* * * * *

29. In § 157.207, paragraphs (b) and (c) are revised; paragraph (f) is removed; paragraphs (g) and (h) are redesignated as paragraphs (f) and (g) to read as follows:

§ 157.207 General reporting requirements.

* * * * *

(b) For each delivery point authorized under § 157.211(a)(1), the information required by § 157.211(c);

(c) For each temporary compressor facility under § 157.209, the information required by § 157.209(b);

* * * * *

30. In § 157.208, the heading is revised; in paragraphs (a)(2) and (b)(2) add the word ''replace'' after the word ''construct,'; remove paragraphs (c)(6) and (c)(8); paragraph (c)(7) is redesignated as (c)(6), paragraphs (c)(9) through (11) are redesignated as (c)(7) through (9); in redesignated (c)(9) the first sentence is revised and a new sentence is added at the end; in paragraph (d) the reference to ''GNP'' is removed and a reference to ''GDP'' is added in its place, the words ''and Producer'' are removed, and the reference to ''375.307(t)'' is corrected to ''375.307(d)''; in paragraph (e) the introductory text and paragraph (e)(2) are revised, paragraphs (e)(4) through (e)(7) are removed; paragraph (e)(8) is redesignated as (e)(4), paragraph (e)(9) is redesignated as (e)(5); and in paragraph (g) the words ''and Producer'' are removed to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(c) * * *

(9) A concise analysis discussing the relevant issues outlined in § 380.12 of this chapter. * * * Include a copy of the ''clearances'' received for compliance with the Endangered Species Act, National Historic Preservation Act, and Coastal Zone Management Act.

* * * * *

(e) *Reporting requirements.* For each facility completed during the calendar year pursuant to paragraph (a) of this section, the certificate holder shall file, in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter, as part of the required annual report under § 157.207(a) the information described in paragraph (e)(1) through (5) of this section. For each facility completed during the calendar year pursuant to paragraph (b) of this section, the certificate holder shall file in the manner prescribed in this paragraph only the information described in paragraph (e)(3).

(1) * * *

(2) The specific purpose, location, and beginning and completion date of construction of the facilities installed, and, if applicable, a statement indicating the extent to which the facilities were jointly constructed;

* * * * *

31. Section 157.209 is added to read as follows:

§ 157.209 Temporary compression facilities

(a) *Automatic authorization.* If the cost does not exceed the cost limitations set forth in column 1 in the Limit section of Table I, under § 157.208(d) of this chapter, the certificate holder may install, operate and remove temporary facilities provided that the temporary compressor facilities shall not be used to increase the volume or service above that rendered by the involved existing permanent compressor unit(s).

(b) *Reporting requirements.* As part of the certificate holder's annual report of projects authorized under paragraph (a) of this section, the certificate holder must report the following in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter:

(1) A description of the temporary compression facility, including the size, type and number of compressor units;

(2) The location at which temporary compression was installed, operated and removed, including its location relative to existing facilities;

(3) A description of the permanent compression facility which was unavailable, and a statement explaining the reason for the temporary compression;

(4) The dates for which the temporary compression was installed, operated and removed; and

(5) If applicable, the information required in § 157.208(e)(4).

§ 157.210 [Removed]

32. § 157.210 is removed and reserved.

33. In § 157.211, the heading, paragraphs (a), (b)(1) through (5), and (c)(1) through (3) are revised and a new paragraph (c)(4) is added to read as follows:

§ 157.211 Delivery points

(a) *Construction and operation*—(1) Automatic authorization. The certificate holder may acquire, construct, replace, modify, or operate any delivery point, excluding the construction of certain delivery points subject to the prior notice provisions in paragraph (a)(2) of this section if:

(i) The natural gas is being delivered to, or for the account of, a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(ii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(2) Prior notice. Subject to the notice procedure in § 157.205, the certificate holder may construct a delivery point if:

(i) The natural gas is being delivered to, or for the account of, an end-user that is currently being served by a local distribution company; and

(ii) The natural gas is being delivered to a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(iii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(b) * * *

(1) The name of the end-user, the location of the delivery point, and the distribution company currently serving the end-user;

(2) A description of the facility and any appurtenant facilities;

(3) A USGS 7½-minute series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities;

(4) The quantity of gas to be delivered through the proposed facility;

(5) A description, with supporting data, of the impact of the service rendered through the proposed delivery tap upon the certificate holder's peak day and annual deliveries.

(c) * * *

(1) A description of the facilities acquired, constructed, replaced, modified or operated pursuant to this section;

(2) The location and maximum quantities delivered at such delivery point;

(3) The actual cost of the delivery point and the date such delivery point is ready and available for service; and

(4) The date of each clearance obtained pursuant to § 157.206(b)(3) and the date construction began.

* * * * *

§ 157.212 [Removed]

34. Section 157.212 is removed and reserved.

§ 157.213 [Removed]

35. Section 157.213 is removed and reserved.

36. In § 157.215, paragraph (b)(1)(iii) is revised to read as follows:

§ 157.215 Underground storage testing and development.

* * * * *

(b) * * *

(1) * * *

(iii) The cost of such facilities, the date construction began, and the date they were placed in service;

* * * * *

37. In § 157.216, paragraphs (a)(1) and (2), (b), (c)(1) and (3), and (d)(1), (2), and (4) are revised; and new paragraphs (c)(5), and (d)(5) are added to read as follows:

§ 157.216 Abandonment.

(a) * * *

(1) A receipt or delivery point, or related supply or delivery lateral, provided the point has not been used to provide (i) Interruptible transportation service during the one year period prior to the effective date of the proposed abandonment, or

(ii) Firm transportation service during the one year period prior to the effective date of the proposed abandonment, provided the point is no longer covered under a firm contract; or

(2) An eligible facility that was installed pursuant to automatic authority under § 157.208(a), or that now qualifies for automatic authority under § 157.208(a), provided the certificate holder obtains the written consent of the customers served through such facility. Consent is required from customers that have received service during the immediate past 12 months.

(b) Prior notice. Subject to the notice requirements of § 157.205, the certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon:

(1) Any receipt or delivery point if all of the existing customers of the pipeline served through the receipt or delivery point consent in writing to the abandonment. When filing a request for authorization of the proposed abandonment under the notice procedures of § 157.205, the certificate holder shall notify, in writing, the State public service commission having regulatory authority over retail service to the customers served through the delivery point.

(2) Any other facility which qualifies as an eligible facility, and which is not otherwise eligible for automatic authorization under paragraph (a)(2) of this section, provided the certificate holder obtains the written consent of all of the customers served through such facility. Consent is required from customers that have received service during the immediate past 12 months.

(c) * * *

(1) The location, type, size, and length of the subject facilities;

* * * * *

(3) For each facility an oath statement that all of the customers served during the past year by the subject facilities have consented to the abandonment, or an explanation of why the customers' consent is not available;

* * * * *

(5) For any abandonment resulting in earth disturbance, a USGS 7½-minute-series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities.

(d) * * *

(1) A description of the facilities abandoned pursuant to this section;

(2) The docket number(s) of the certificate(s) authorizing the construction and operation of the facilities to be abandoned;

* * * * *

(4) The date earth disturbance, if any, related to the abandonment began and the date the facilities were abandoned; and

(5) The date of the clearances obtained pursuant to § 157.206(b)(3), if earth disturbance was involved.

§ 157.217 [Removed]

38. § 157.217 is removed and reserved.

39. In § 157.218, paragraph (a) is revised to read as follows:

§ 157.218 Changes in customer name.

(a) Automatic authorization. The effective certificates of the certificate holder may be amended to the extent necessary to reflect the change in the name of an existing customer, if the certificate holder has filed any necessary conforming changes in its tariffs, including the customer's old name.

* * * * *

Appendix I to Subpart F of Part 157

40. In appendix I to subpart F of part 157, in the reference to ''§ 157.206(d)(3)(i)'' in the heading and the references to ''§ 157.206(d)'' and ''§ 157.206(d)(7)'' in the introduction the ''(d)'' is removed and a ''(b)'' is added in their place; the references to ''§ 157.206(d)(2)(vii)'' in the second introductory paragraph, paragraphs 2, 3, and 4(b) are revised to read ''§ 157.206(b)(2)(vi)''; and the words'', or that no further consultation is necessary'' is added to the end of paragraph 4(b).

Appendix II to Subpart F of Part 157

41. In appendix II to subpart F of part 157, in the references to ''§ 157.206(d)(3)(ii)'' in the heading and ''§ 157.206(d)(3)(ii)'' in the introduction the ''(d)'' is removed and a ''(b)'' is added in its place; in the references to ''§ 157.206(d)(2)(iv)'' in paragraphs (4), (6), (7) and (8) the ''(d)'' and ''(iv)'' are removed and a ''(b)'' and ''(iii)'' are added in their place; in paragraph (1)(b) the reference to ''Environmental Evaluation Branch, Office of Pipeline and Producer Regulation'' is removed and a reference to ''Environmental staff of the Office of Pipeline Regulation'' is added in its place.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS ACT, THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

42. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

43. In § 284.221, paragraph (d)(1) is amended to remove the ''s'' from the word ''paragraphs'' and to remove the phrase ''and (d)(3)''; paragraph (d)(3) is removed; the word ''replacement,'' is added to paragraph (f)(3) after the word ''operation''; paragraph (f)(4) is revised; and the phrase ''and § 157.212'' is removed from paragraph (h)(3) to read as follows:

§ 284.221 General rule; transportation by interstate pipelines on behalf of others.

* * * * *

(f) * * *

(4) Authorization for delivery points is subject to the automatic authorization under § 157.211(a)(1) and the prior notice procedures under § 157.211(a)(2) and § 157.205.

* * * * *

§ 284.288 [Removed]

44. § 284.288 is removed and reserved.

PART 375—THE COMMISSION

45. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

46. In § 375.307, paragraph (a)(1) is amended to remove ''$5,000,000'' and to add the words ''the limits specified in Column 2 of Table I in § 157.208(d)'' in its place; paragraph (a)(2) is removed; paragraphs (a)(3) through (5) are redesignated as paragraphs (a)(2) through (4) and are revised; paragraphs (a)(6) and (a)(7) are redesignated as (a)(5) and (6); paragraphs (a)(8) and (a)(9) are removed; paragraph (a)(10) through (12) are redesignated as (a)(7) through (9); new paragraph (a)(10) is added; paragraphs (a)(14) through (16) are redesignated as (a)(11) through (13), and paragraphs (a)(17) and (a)(18) are removed; paragraphs (b)(4) and (5) and (c) are removed; paragraph (d) is redesignated as (c); paragraphs (e)(3) and (7) are removed; paragraphs (e)(4) through (6) are redesignated as (e)(3) through (5); paragraphs (e) through (g) are redesignated as (d) through (f); and redesignated paragraph (e)(3) is revised all to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline Regulation.

* * * * *

(a) * * *

(2) Applications by a pipeline for the abandonment of pipeline facilities or for the deletion of delivery points;

(3) Applications to abandon pipeline facilities or services involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(4) Applications for temporary or permanent certificates (and for amendments thereto) for the transportation, exchange, or storage of natural gas, provided that the cost of construction of the certificate applicant's related facility is less than the limits specified in Column 2 of Table I in § 157.208(d).

* * * * *

(10) Dismiss any protest that does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection;

* * * * *

(e) * * *

(3) Fees prescribed in §§ 381.207 and 381.403 of this chapter in accordance with §§ 381.106(b) of this chapter;

* * * * *

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT.

47. The authority citation for Part 380 continues to read as follows:

Authority: National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370a; Department of Energy Organization Act, 42 U.S.C. 7107–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

§ 380.3 [Amended]

48. Section 380.3(c)(2) is amended to add the words ''§ 380.12 and'' after the words ''information identified in''.

§ 380.4 [Amended]

49. At § 380.4(a)(28) remove the word ''tops'' and add the word ''taps'' in its place.

50. Section 380.12 is added to read as follows:

§ 380.12 Environmental reports for Natural Gas Act applications.

(a)(1) The applicant must submit an environmental report with any application that proposes the construction, operation, or abandonment of any facility identified in § 380.3(c)(2)(i). The environmental report shall consist of the thirteen resource reports and related material described in this paragraph.

(2) The detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impact. Each topic in each resource report shall be addressed or its omission justified, unless resource report description indicates that the data is not required for that type of proposal. If material required for one resource report is provided in another resource report or in another exhibit, it may be incorporated by reference. If any resource report topic is required for a particular project but is not provided at the time the application is filed, the environmental report shall explain why it is missing and when the applicant anticipates it will be filed.

(3) The appendix to this Part contains a checklist of the minimum filing requirements for an environmental report. Failure to provide at least the applicable checklist items will result in rejection of the application.

(b) As appropriate, each resource report shall:

(1) Address conditions or resources that might be directly or indirectly affected by the project.

(2) Identify significant environmental effects expected to occur as a result of the project;

(3) Identify the effects of construction, operation (including maintenance and malfunctions), and termination of the project, as well as cumulative effects resulting from existing or reasonably foreseeable projects;

(4) Identify measures proposed to enhance the environment or to avoid, mitigate, or compensate for adverse effects of the project;

(5) Provide a list of publications, reports, and other literature or communications, including agency contacts, that were cited or relied upon to prepare each report. This list should include the name and title of the person contacted, their affiliations, and telephone number.

(c) *Resource Report 1—General project description.* This report is required for all applications. It will describe facilities associated with the project, special construction and operation procedures, construction timetables, future plans for related construction, compliance with regulations and codes, and permits that must be obtained. Resource Report 1 must:

(1) Describe and provide location maps of all jurisdictional facilities, including all aboveground facilities associated with the project (such as: meter stations, pig launchers/receivers, valves), to be constructed, modified, abandoned, replaced, or removed, including related construction and operational support activities and areas such as maintenance bases, staging areas, communications towers, power lines, and new access roads (roads to be built or modified). As relevant, the report must describe the length and diameter of the pipeline, the types of aboveground facilities that would be installed, and associated land requirements. It must also identify other companies that must construct jurisdictional facilities related to the project, where the facilities would be located, and where they are in the Commission's approval process.

(2) Identify and describe all nonjurisdictional facilities that will be built in association with the project, including facilities to be built by other companies.

(i) Provide the following information:

(A) A brief description of each facility, including as appropriate: ownership, land requirements, gas consumption, megawatt size, construction status, and an update of the latest status of Federal, state, and local permits/approvals;

(B) The length and diameter of any interconnecting pipeline;

(C) Current 1:24,000/1:25,000 scale topographic maps showing the location of the facilities;

(D) Correspondence with the appropriate State Historic Preservation Officer (SHPO) regarding whether properties eligible for listing on the National Register of Historic Places (NRHP) would be affected;

(E) Correspondence with the Fish and Wildlife Service (and National Marine Fisheries Service, if appropriate) regarding potential impacts of the proposed facility on federally listed threatened and endangered species; and

(F) For facilities within a designated coastal zone management area, a consistency determination or evidence that the owner has requested a consistency determination from the state's coastal zone management program.

(ii) Address each of the following factors and indicate which ones, if any, indicate the need to do an environmental review of project-related nonjurisdictional facilities.

(A) Whether or not the regulated activity comprises ''merely a link'' in a corridor type project (e.g., a transportation or utility transmission project).

(B) Whether there are aspects of the nonjurisdictional facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.

(C) The extent to which the entire project will be within the Commission's jurisdiction.

(D) The extent of cumulative Federal control and responsibility.

(3) Provide the following maps and photos:

(i) Current, original United States Geological Survey (USGS) 7.5-minute series topographic maps or maps of equivalent detail, covering at least a 0.5-mile-wide corridor centered on the pipeline, with integer mileposts identified, showing the location of rights-of-way, new access roads, other linear construction areas, compressor stations, and pipe storage areas. Show nonlinear construction areas on maps at a scale of 1:3,600 or larger keyed graphically and by milepost to the right-of-way maps.

(ii) Original aerial photographs or photo-based alignment sheets, not more than 1 year old and with a scale of 1:6,000 or larger, showing the proposed pipeline route and location of major aboveground facilities, covering at least a 0.5 mile-wide corridor, and including mileposts. Alternative formats (e.g., blue-line prints of acceptable resolution) need prior approval by the environmental staff of the Office of Pipeline Regulation.

(iii) In addition to the copy required under § 157.6(a)(2) of this chapter, applicant should send two additional copies of topographic maps and aerial photos directly to the environmental staff of the Office of Pipeline Regulation.

(4) When new or additional compression is proposed, include large scale (1:3,600 or greater) plot plans of each compressor station. The plot plan should reference a readily identifiable point(s) on the USGS maps required in paragraph (c)(2) of this section. The maps and plot plans must identify the location of noise-sensitive areas (schools, hospitals, or residences) near the compressor station, existing and proposed compressor and auxiliary buildings, access roads, and the limits of areas that would be permanently disturbed.

(5) Identify aboveground facilities to be abandoned, how they would be abandoned, and how the site would be restored.

(6) Describe and identify by milepost, proposed construction and restoration methods to be used in areas of rugged topography, residential areas, active croplands, sites where the pipeline would be located longitudinally under roads, and sites where explosives are likely to be used.

(7) Unless provided in response to Resource Report 5, describe estimated workforce requirements, including the number of pipeline construction spreads, average workforce requirements for each construction spread and meter or compressor station, estimated duration of construction from initial clearing to final restoration, and number of personnel to be hired to operate the proposed project.

(8) Describe reasonably foreseeable plans for future expansion of facilities, including additional land requirements and the compatibility of those plans with the current proposal.

(9) Describe all authorizations required to complete the proposed action and the status of applications for such authorizations. Identify environmental mitigation requirements specified in any permit or proposed in any permit application to the extent not specified elsewhere in this section.

(10) Provide the names and addresses of all landowners whose land would be crossed by the project facilities. Include the names and addresses of all residents adjacent to new or modified compressor stations.

(d) *Resource Report 2—Water use and quality.* This report is required for all applications, except those which involve only facilities within the areas of an existing compressor, meter, or regulator station that were disturbed by construction of the existing facilities, no wetlands or waterbodies are on the site and there would not be a significant increase in water use. The report must describe water quality and provide data sufficient to determine the expected impact of the project and the effectiveness of mitigative, enhancement, or protective measures. Resource Report 2 must:

(1) Identify and describe by milepost perennial waterbodies and municipal water supply or watershed areas, especially designated surface water protection areas and sensitive waterbodies, and wetlands that would be crossed. For each waterbody crossing, identify the approximate width, state water quality classifications, any known potential pollutants present in the water or sediments, and any potable water intake sources within 3 miles downstream.

(2) Compare proposed mitigation measures with the staff's current ''Wetland and Waterbody Construction and Mitigation Procedures,'' which are available from the Commission's Internet Homepage at http://www.ferc.fed.us/gas/environment/gidlines.htm or from the Commission's staff, describe what proposed alternative mitigation would provide equivalent or greater protection to the environment, and provide a description of site-specific construction techniques that would be used at each major waterbody crossing.

(3) Describe typical staging area requirements at waterbody and wetland crossings. Also, identify and describe waterbodies and wetlands where staging areas are likely to be more extensive.

(4) Describe, by milepost, wetland crossings as determined by field delineation using the current Federal methodology, or as listed on National Wetland Inventory (NWI) maps. Identify, for each crossing, the wetland classification specified by the U.S. Fish and Wildlife Service and the length of the crossing. If NWI maps are provided, include two copies clearly showing the proposed route and mileposts. If NWI maps are not provided, provide two copies of USGS maps depicting wetlands delineated by the applicant.

(5) Identify aquifers within excavation depth in the project area, including the depth of the aquifer, current and projected use, water quality and average yield, and known or suspected contamination problems.

(6) Describe specific locations, the quantity required, and the method and rate of withdrawal and discharge of hydrostatic test water. Describe suspended or dissolved material likely to be present in the water as a result of contact with the pipeline, particularly if an existing pipeline is being retested. Describe chemical or physical treatment of the pipeline or hydrostatic test water. Discuss waste products generated and disposal methods.

(7) If underground storage of natural gas is proposed:

(i) Identify how water produced from the storage field will be disposed of, and

(ii) For salt caverns, identify the source locations, the quantity required, and the method and rate of withdrawal of water for creating salt cavern(s), as well as the means of disposal of brine resulting from cavern leaching.

(8) Discuss proposed mitigation measures to reduce the potential for adverse impacts to surface water or groundwater quality to the extent they are not described in response to paragraph (d)(2) of this section. Discuss the potential for blasting to affect water wells, springs, and wetlands, and measures to be taken to detect and remedy such effects.

(9) Identify the location of known public and private groundwater supply wells or springs within 150 feet of proposed construction areas. Identify locations of EPA or state-designated sole-source aquifers and well-head protection areas crossed by the proposed pipeline facilities.

(e) *Resource Report 3—Fish, wildlife, and vegetation.* This report is required for all applications, except those involving only facilities within the improved area of an existing compressor, meter, or regulator station. It must describe aquatic life, wildlife, and vegetation in the vicinity of the proposed project; expected impacts on these resources including potential effects on biodiversity; and proposed mitigation, enhancement or protection measures. Resource Report 3 must:

(1) Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries.

(2) Describe terrestrial habitats, including wetlands, typical wildlife habitats, and significant wildlife habitats that might be affected by the proposed action. Describe typical species that have commercial, recreational, or aesthetic value.

(3) Describe and provide the affected acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees.

(4) Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on state-listed endangered or threatened species. Describe the impact of maintenance, clearing and treatment of the project area on fish, wildlife, and vegetation, including specific areas of significant habitats or communities.

(5) Identify all federally listed or proposed endangered or threatened species and state-listed endangered or threatened species that potentially occur in the vicinity of the project. Discuss the results of the consultation requirements listed in § 380.13(b) and include any written correspondence that resulted from the consultation.

(6) Describe site-specific mitigation measures to minimize impacts on fisheries, wildlife, and vegetation.

(7) Include copies of correspondence not provided pursuant to paragraph (e)(5) of this section, containing recommendations from appropriate Federal and state fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the applicant's response to the recommendations.

(f) *Resource Report 4—Cultural resources.* This report is required for all applications. In order to prepare this report, the applicant must follow the principles in § 380.14. Guidance on the content and the format for the documentation listed in this paragraph, as well as professional qualifications of preparers, is detailed in ''OPR's Guidelines for Reporting on Cultural Resources Investigations,'' which is available from the Commission's Internet Homepage at http://www.ferc.fed.us/gas/environment/gidlines.htm or from the Commission's staff.

(1) Resource Report 4 must ultimately contain:

(i) Plan for Unanticipated Historic Properties and Human Remains—The Commission may consider a previously approved unanticipated discovery plan for the state in which the project would be located. The applicant should reference the docket number of the proceeding in which the plan was approved in its filing;

(ii) Documentation of applicant's initial cultural resources consultation, including consultations with Native Americans (if appropriate);

(iii) Overview and Survey Reports, as appropriate;

(iv) Evaluation Report, as appropriate;

(v) Treatment Plan, as appropriate; and

(vi) Written comments from State Historic Preservation Officer(s) (SHPO) and applicable land-managing agencies on the reports in paragraphs (f)(1)(ii through v) of this section.

(2) The Plan for Unanticipated Historic Properties and Human Remains, the Documentation of initial cultural resource consultation, the Overview and Survey Reports, if required, and written comments from SHPOs and land-management agencies must be filed with the initial application.

(i) If the SHPOs' and land-management agencies' comments are not available at the time the application is filed, they may be filed separately.

(ii) If landowners deny access to private property and certain areas are not surveyed, the unsurveyed area must be identified by mileposts, and supplemental surveys or evaluations may be conducted after access is granted. In such circumstances, reports, and treatment plans, if necessary, for those inaccessible lands may be filed after a certificate is issued.

(3) The Evaluation Report and Treatment Plan, if required, for the entire project must be filed before a final certificate is issued.

(i) The Evaluation Report may be combined in a single synthetic report with the Overview and Survey Reports if the SHPOs and land-managing agencies allow and if it is available at the time the application is filed.

(ii) In preparing the Treatment Plan, the applicant must consult with the staff, the SHPO, and any applicable land-managing agency.

(iii) Authorization to implement the Treatment Plan occurs only after the final certificate is issued.

(4) Applicant must request privileged treatment for all material filed with the Commission containing location, character, and ownership information about cultural resources in accordance with § 388.112 of this chapter. The cover and relevant pages or portions of the report should be clearly labeled in bold lettering: CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.

(5) Except as specified in a final Commission order, or by the Director of the Office of Pipeline Regulation,

construction may not begin until all cultural resource reports and plans have been approved.

(g) *Resource Report 5—Socioeconomics.* This report is required only for applications involving significant aboveground facilities, including, among others, conditioning or liquefied natural gas (LNG) plants. It must identify and quantify the impacts of constructing and operating the proposed project on factors affecting towns and counties in the vicinity of the project. Resource Report 5 must:

(1) Describe the socioeconomic impact area.

(2) Evaluate the impact of any substantial immigration of people on governmental facilities and services and plans to reduce the impact on the local infrastructure.

(3) Describe on-site manpower requirements and payroll during construction and operation, including the number of construction personnel who currently reside within the impact area, would commute daily to the site from outside the impact area, or would relocate temporarily within the impact area.

(4) Determine whether existing housing within the impact area is sufficient to meet the needs of the additional population.

(5) Describe the number and types of residences and businesses that would be displaced by the project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments.

(6) Conduct a fiscal impact analysis evaluating incremental local government expenditures in relation to incremental local government revenues that would result from construction of the project. Incremental expenditures include, but are not limited to, school operating costs, road maintenance and repair, public safety, and public utility costs.

(h) *Resource Report 6—Geological resources.* This report is required for applications involving LNG facilities and all other applications, except those involving only facilities within the boundaries of existing aboveground facilities, such as a compressor, meter, or regulator station. It must describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed action or that could place the proposed facilities at risk, the potential effects of those hazards on the facility, and methods proposed to reduce the effects or risks. Resource Report 6 must:

(1) Describe, by milepost, mineral resources that are currently or potentially exploitable;

(2) Describe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as high seismicity areas, active faults, and areas susceptible to soil liquefaction; planned, active and abandoned mines; karst terrain; and areas of potential ground failure, such as subsidence, slumping, and landsliding. Discuss the hazards posed to the facility from each one.

(3) Describe how the project would be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction. Discuss also the potential for blasting to affect structures, and the measures to be taken to remedy such effects.

(4) Specify methods to be used to prevent project-induced contamination from surface mines or from mine tailings along the right-of-way and whether the project would hinder mine reclamation or expansion efforts.

(5) If the application involves an LNG facility located in zones 2, 3, or 4 of the Uniform Building Code's Seismic Risk Map, or where there is potential for surface faulting or liquefaction, prepare a report on earthquake hazards and engineering in conformance with ''Data Requirements for the Seismic Review of LNG Facilities,'' NBSIR 84–2833. This document may be obtained from Commission staff.

(6) If the application is for underground storage facilities:

(i) Describe how the applicant would control and monitor the drilling activity of others within the field and buffer zone;

(ii) Describe how the applicant would monitor potential effects of the operation of adjacent storage or production facilities on the proposed facility, and vice versa;

(iii) Describe measures taken to locate and determine the condition of old wells within the field and buffer zone and how the applicant would reduce risk from failure of known and undiscovered wells; and

(iv) Identify and discuss safety and environmental safeguards required by state and Federal drilling regulations.

(i) *Resource Report 7—Soils.* This report is required for all applications except those not involving soil disturbance. It must describe the soils that would be affected by the proposed project, the effect on those soils, and measures proposed to minimize or avoid impact. Resource Report 7 must:

(1) List, by milepost, the soil associations that would be crossed and describe the erosion potential, fertility, and drainage characteristics of each association.

(2) If an aboveground facility site is greater than 5 acres:

(i) List the soil series within the property and the percentage of the property comprised of each series;

(ii) List the percentage of each series which would be permanently disturbed;

(iii) Describe the characteristics of each soil series; and

(iv) Indicate which are classified as prime or unique farmland by the U.S. Department of Agriculture, Natural Resources Conservation Service.

(3) Identify, by milepost, potential impact from: soil erosion due to water, wind, or loss of vegetation; soil compaction and damage to soil structure resulting from movement of construction vehicles; wet soils and soils with poor drainage that are especially prone to structural damage; damage to drainage tile systems due to movement of construction vehicles and trenching activities; and interference with the operation of agricultural equipment due to the probability of large stones or blasted rock occurring on or near the surface as a result of construction.

(4) Identify, by milepost, cropland and residential areas where loss of soil fertility due to trenching and backfilling could occur.

(5) Describe proposed mitigation measures to reduce the potential for adverse impact to soils or agricultural productivity. Compare proposed mitigation measures with the staff's current ''Upland Erosion Control, Revegetation and Maintenance Plan'', which is available from the Commission's Internet Homepage at http://www.ferc.fed.us/gas/environment/gidlines.htm or from the Commission's staff, explain how proposed mitigation measures provide equivalent or greater protections to the environment.

(j) *Resource Report 8—Land use, recreation and aesthetics.* This report is required for all applications except those involving only facilities which are of comparable use at existing compressor, meter, and regulator stations. It must describe the existing uses of lands on, and within 0.25 mile of, the proposed project and changes to those land uses that would occur if the project is approved. The report shall discuss proposed mitigation measures, including protection and enhancement of existing land use. Resource Report 8 must:

(1) Describe the width and acreage requirements of all construction and permanent rights-of-way and the acreage required for each proposed plant and

operational site, including injection or withdrawal wells.

(i) List, by milepost, locations where the proposed right-of-way would be adjacent to existing rights-of-way of any kind.

(ii) Identify, preferably by diagrams, existing rights-of-way that would be used for a portion of the construction or operational right-of-way, the overlap and how much additional width would be required.

(iii) Identify the total amount of land to be purchased or leased for each aboveground facility, the amount of land that would be disturbed for construction and operation of the facility, and the use of the remaining land not required for project operation.

(iv) Identify the size of typical staging areas and expanded work areas, such as those at railroad, road, and waterbody crossings, and the size and location of all pipe storage yards and access roads.

(2) Identify, by milepost, the existing use of lands crossed by the proposed pipeline, or on or adjacent to each proposed plant and operational site.

(3) Describe planned development, the time frame for such development, and proposed coordination to minimize impacts on land use.

(4) Identify, by milepost and length of crossing, the area of direct effect of each proposed facility and operational site on sugar maple stands, orchards and nurseries, landfills, operating mines, hazardous waste sites, state wild and scenic rivers, state or local designated trails, nature preserves, game management areas, remnant prairie, old-growth forest, national or state forests, parks, golf courses, designated natural, recreational or scenic areas, or registered natural landmarks, Native American religious sites and reservations, lands identified under the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or controlled by Federal or state agencies or private preservation groups shall be identified by milepost and length of crossing.

(5) Identify, by milepost, all residences and buildings within 50 feet of the proposed pipeline construction right-of-way and the distance of the residence or building from the right-of-way. Provide survey drawings or alignment sheets to illustrate the location of the facilities in relation to the buildings.

(6) Describe any areas crossed by the proposed pipeline at or adjacent to each proposed plant and operational site which are included in, or are designated for study for inclusion in: The National Wild and Scenic Rivers System (16 U.S.C. 1271); The National Trails System (16 U.S.C. 1241); or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132).

(7) For facilities within a designated coastal zone management area, provide a consistency determination or evidence that the applicant has requested a consistency determination from the state's coastal zone management program.

(8) Describe the impact the project will have on present uses of the affected area, including commercial uses, mineral resources, recreational areas, public health and safety, and the aesthetic value of the land and its features. Describe any temporary or permanent restrictions on land use resulting from the project.

(9) Describe mitigation measures intended for all special use areas identified under paragraphs (j)(2) through (6) of this section.

(10) Describe proposed typical mitigation measures for each residence that is within 50 feet of the edge of the pipeline construction right-of-way, as well as any proposed residence-specific mitigation. Describe how residential property would be restored (fences, driveways, stone walls, sidewalks, water supply, and septic systems, for example). Describe compensation plans for temporary and permanent rights-of-way and the eminent domain process for the affected areas.

(11) Describe measures proposed to mitigate the aesthetic impact of the facilities especially for aboveground facilities such as compressor or meter stations.

(12) Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-managing agencies with jurisdiction over land that would be affected by the project.

(k) *Resource Report 9—Air and noise quality.* This report is required for applications involving compressor facilities at new or existing stations, and for all new LNG facilities. It must identify the effects of the project on the existing air quality and noise environment and describe proposed measures to mitigate the effects. Resource Report 9 must:

(1) Describe the existing air quality, including background levels of nitrogen dioxide and other criteria pollutants which may be emitted above EPA-identified significance levels.

(2) Quantitatively describe existing and proposed noise levels at noise-sensitive areas.

(i) Report existing noise levels as the L_{eq} (day), L_{eq} (night), and L_{dn} and include the basis for the data or estimates.

(ii) For existing compressor stations, include the results of a sound level survey at the site property line and nearby noise-sensitive areas while the compressors are operated at full load.

(iii) For proposed new compressor station sites, measure or estimate the existing ambient sound environment based on current land uses and activities.

(iv) Include a plot plan that identifies the locations and duration of noise measurements, the time of day, weather conditions, wind speed and direction, engine load, and other noise sources present during each measurement.

(3) Estimate the impact of the project on air quality, including how existing regulatory standards would be met.

(i) Provide the emission rate of nitrogen oxides from existing and proposed facilities, expressed in pounds per hour and tons per year for maximum operating conditions, include supporting calculations, emission factors, fuel consumption rates, and annual hours of operation.

(ii) For major sources of air emissions (as defined by the Environmental Protection Agency), provide copies of applications for permits to construct (and operate, if applicable) or for applicability determinations under regulations for the prevention of significant air quality deterioration and subsequent determinations.

(4) Provide a quantitative estimate of the impact of the project on noise levels at noise-sensitive areas, such as schools, hospitals, or residences.

(i) Include step-by-step supporting calculations, far-field sound level data for maximum facility operation, and the source of the data.

(ii) Include sound pressure levels for unmuffled engine inlets and exhausts, engine casings, and cooling equipment; dynamic insertion loss for all mufflers; sound transmission loss for all compressor building components, including walls, roof, doors, windows, and ventilation openings; sound attenuation from the station to nearby noise-sensitive areas; the manufacturer's name, the model number, the performance rating; and a description of each noise source and noise control component to be employed at the proposed compressor station.

(iii) Far-field sound level data measured from similar units in service elsewhere, when available, may be substituted for manufacturer's far-field sound level data.

(iv) If specific noise control equipment has not been chosen, include

a schedule for submitting the data prior to certification.

(v) The estimate must demonstrate that the project will comply with applicable noise regulations and show how the facility will meet the following requirements:

(A) The noise attributable to any new compressor station or compression added at an existing station or an existing station that is otherwise modified, upgraded, or uprated, must not exceed a day-night sound level (L_{dn}) of 55 dBA at any pre-existing noise-sensitive area (such as schools, hospitals, or residences).

(B) New compressor stations or modification of existing stations shall not result in a perceptible increase in vibration at any noise-sensitive area.

(5) Describe measures and manufacturer's specifications for equipment proposed to mitigate impact to air and noise quality, including emission control systems, installation of filters, mufflers, or insulation of piping and buildings, and orientation of equipment away from noise-sensitive areas.

(l) *Resource Report 10—Alternatives.* This report is required for all applications. It must describe alternatives to the project and compare the environmental impacts of such alternatives to those of the proposal. The discussion must demonstrate how environmental benefits and costs were weighed against economic benefits and costs, and technological and procedural constraints. The potential for each alternative to meet project deadlines and the environmental consequences of each alternative shall be discussed. Resource Report 10 must:

(1) Discuss the ''no action'' alternative and the potential for accomplishing the proposed objectives through the use of other systems, energy conservation, or realistic alternatives. Provide an analysis of the relative environmental benefits and costs.

(2) Describe alternative routes or locations considered for each facility during the initial screening but rejected. Include the environmental characteristics of each route or site, and the reasons for rejecting it. Identify the location of such alternatives on maps of sufficient scale to depict their location and relationship to the proposed action, and the relationship of the pipeline to existing rights-of-way.

(3) Describe alternative routes or locations considered for more in-depth consideration. Include a description of the environmental characteristics of each route or site and the reasons for rejecting it. Provide comparative tables showing the differences in environmental characteristics for the alternative and proposed action. The location of any alternatives in this paragraph shall be provided on maps equivalent to those required in paragraph (c)(2) of this section.

(m) *Resource Report 11—Reliability and safety.* This report is required for applications involving new or recommissioned LNG facilities. Information previously filed with the Commission need not be refiled if the applicant verifies its continued validity. This report shall address the potential hazard to the public from failure of facility components resulting from accidents or natural catastrophes, how these events would affect reliability, and what procedures and design features have been used to reduce potential hazards. Resource Report 11 must:

(1) Describe measures proposed to protect the public from failure of the proposed facilities (including coordination with local agencies).

(2) Discuss hazards, the environmental impact, and service interruptions which could reasonably ensue from failure of the proposed facilities.

(3) Discuss design and operational measures to avoid or reduce risk.

(4) Discuss contingency plans for maintaining service or reducing downtime.

(5) Describe measures used to exclude the public from hazardous areas. Discuss measures used to minimize problems arising from malfunctions and accidents (with estimates of probability of occurrence) and identify standard procedures for protecting services and public safety during maintenance and breakdowns.

(n) *Resource Report 12—PCB Contamination.* This report is required for applications involving the replacement, abandonment by removal, or abandonment in place of pipeline facilities determined to have polychlorinated biphenyls (PCBs) in excess of 50 ppm in pipeline liquids. Resource Report 12 must:

(1) Provide a statement that activities would comply with an approved EPA disposal permit, with the dates of issuance and expiration specified, or with the requirements of the Toxic Substances Control Act.

(2) For compressor station modifications on sites that have been determined to have soils contaminated with PCBs, describe the status of remediation efforts completed to date.

(o) *Resource Report 13—Engineering and design material.* This report is required for construction of new liquefied natural gas (LNG) facilities, or the recommissioning of existing LNG facilities. If the recommissioned facility is existing and is not being replaced, relocated, or significantly altered, resubmittal of information already on file with the Commission is unnecessary. Resource Report 13 must:

(1) Provide a detailed plot plan showing the location of all major components to be installed, including compression, pretreatment, liquefaction, storage, transfer piping, vaporization, truck loading/unloading, vent stacks, pumps, and auxiliary or appurtenant service facilities.

(2) Provide a detailed layout of the fire protection system showing the location of fire water pumps, piping, hydrants, hose reels, dry chemical systems, high expansion foam systems, and auxiliary or appurtenant service facilities.

(3) Provide a layout of the hazard detection system showing the location of combustible-gas detectors, fire detectors, heat detectors, smoke or combustion product detectors, and low temperature detectors. Identify those detectors that activate automatic shutdowns and the equipment that would shutdown. Include all safety provisions incorporated in the plant design, including automatic and manually activated emergency shutdown (ESD) systems.

(4) Provide a detailed layout of the spill containment system showing the location of impoundments, sumps, subdikes, channels, and water removal systems.

(5) Provide manufacturer specifications, drawings, and literature on the fail-safe shut-off valve for each loading area at a marine terminal (if applicable).

(6) Provide a detailed layout of the fuel gas system showing all taps with process components.

(7) Provide copies of company, engineering firm, or consultant studies of a conceptual nature that show the engineering planning or design approach to the construction of new facilities or plants.

(8) Provide engineering information on major process components related to the items in paragraphs (o) (1) through (6) of this section, which include (as applicable) function, capacity, type, manufacturer, drive system (horsepower, voltage), operating pressure, and temperature.

(9) Provide manuals and construction drawings for LNG storage tank(s).

(10) Provide up-to-date piping and instrumentation diagrams. Include a description of the instrumentation and control philosophy, type of instrumentation (pneumatic, electronic), use of computer technology, and control

room display and operation. Also, provide an overall schematic diagram of the entire process flow system, including maps, materials, and energy balances.

(11) Provide engineering information on the plant's electrical power generation system, distribution system, emergency power system, uninterruptible power system, and battery backup system.

(12) Identify of all codes and standards under which the plant (and marine terminal, if applicable) will be designed, and any special considerations of safety provisions that were applied to the design of plant components.

(13) Provide a list of all permits or approvals from local, state, Federal, or Native American groups or Indian agencies required prior to and during construction of the plant, and the status of each, including the date filed, the date issued, and any known obstacles to approval. Include a description of data records required for submission to such agencies and transcripts of any public hearings by such agencies. Also provide copies of any correspondence relating to the actions by all, or any, of these agencies regarding all required approvals.

(14) Identify how each applicable requirement will comply with 49 CFR part 193 and the National Fire Protection Association 59A LNG Standards. For new facilities, the siting requirements of 49 CFR part 193, subpart B must be given special attention. If applicable, vapor dispersion calculations from LNG spills over water should also be presented to ensure compliance with the U.S. Coast Guard's LNG regulations in 33 CFR part 127.

(15) Provide seismic information specified in Data Requirements for the Seismic Review of LNG facilities (NBSIR 84–2833, available from FERC staff) for facilities that would be located in zone 2, 3, or 4 of the Uniform Building Code Seismic Map of the United States.

51. New § 380.13 is added to read as follows:

§ 380.13 Compliance with the Endangered Species Act.

(a) *Definitions.* For purposes of this section:

(1) ''Listed species'' and ''critical habitat'' have the same meaning as provided in 50 CFR 402.02.

(2) ''Project area'' means any area subject to construction activities (for example, material storage sites, temporary work areas, and new access roads) necessary to install or abandon the facilities.

(b) *Procedures for informal consultation.* (1) *Designation of non-Federal representative.* The project sponsor is designated as the Commission's non-Federal representative for purposes of informal consultations with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) under the Endangered Species Act of 1973, as amended (ESA).

(2) *Consultation requirement.* (i) Prior to the filing of the environmental report specified in § 380.12, the project sponsor must contact the appropriate regional or field office of the FWS or the NMFS, or both if appropriate, to initiate informal consultations, unless it is proceeding pursuant to a blanket clearance issued by the FWS and/or NMFS which is less than 1 year old and the clearance does not specify more frequent consultation.

(ii) If a blanket clearance is more than 1 year old or less than 1 year old and specifies more frequent consultations, or if the project sponsor is not proceeding pursuant to a blanket clearance, the project sponsor must request a list of federally listed or proposed species and designated or proposed critical habitat that may be present in the project area, or provide the consulted agency with such a list for its concurrence.

(iii) The consulted agency will provide any information requested by a project sponsor pursuant to this paragraph within 30 days of its receipt of the initial request. In the event that the consulted agency does not provide this information within this time period, the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(3) *Finding of no impact.* (i) If, at any time during the informal consultations, the agency arrives at a finding of no impact, the consulted agency agency will provide this information to the project sponsor within 30 days.

(ii) Such a finding confirms:

(A) That no listed or proposed species, or its listed or proposed critical habitat, occurs in the project area; or

(B) That the project is not likely to adversely affect a listed species or critical.

(iii) In the event that the consulted agency does not provide this information within this time period, the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(4) *Potential impact to proposed species.* (i) If the consulted agency, pursuant to informal consultations, initially determines that any species proposed to be listed, or its proposed critical habitat, occurs in the project area, the project sponsor must confer with the consulted agency on methods to avoid or reduce the potential impact.

(ii) The project sponsor should include in its proposal, implementation of any mitigating measures recommended through the consultation process.

(5) *Continued informal consultations for listed species.* (i) If the consulted agency initially determines, pursuant to the informal consultations, that a listed species or its designated critical habitat may occur in the project area, the project sponsor must continue informal consultations with the consulted agency to determine if the proposed project may affect the species or habitat. These consultations may include discussions with experts (including experts provided by the consulted agency), field surveys, biological analyses, and the formulation of mitigation measures. If the biological assessment or other pertinent information indicates that the project is not likely to adversely affect a listed species or critical habitat, the consulting agency provides a letter of concurrence which completes informal consultation.

(ii) The project sponsor must prepare a Biological Assessment unless the consulted agency indicates that the proposed project is not likely to adversely affect a specific listed species or its designated critical habitat. The Biological Assessment must contain the following information for each species contained in the consulted agency's species list:

(A) Life history and habitat requirements;

(B) Results of detailed surveys to determine if individuals, populations, or suitable, unoccupied habitat exists in the proposed project's area of effect;

(C) Potential impacts, both beneficial and negative, that could result from the construction and operation of the proposed project, or disturbance associated with the abandonment, if applicable; and

(D) Proposed mitigation that would eliminate or minimize these potential impacts.

(iii) All surveys must be conducted by qualified biologists and must use FWS and/or NMFS approved survey methodology. In addition, the Biological Assessment must include the following information:

(A) Name(s) and qualifications of person(s) conducting the survey;

(B) Survey methodology;

(C) Date of survey(s); and

(D) Detailed and site-specific identification of size and location of all areas surveyed.

(iv) The project sponsor must submit the Biological Assessment to the consulted agency for its review and comment. If the consulted agency fails to provide formal comments on the Biological Assessment to the project sponsor within 30 days of its receipt, as specified in 50 CFR 402.12(d), the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(v) The consulted agency's comments on the Biological Assessment's determination must be filed with the Commission.

(c) *Notification to Director of OPR.* In the event that the consulted agency fails to respond to requests by the project sponsor under paragraph (b) of this section, the project sponsor must notify the Director, OPR. The notification must include all information, reports, letters, and other correspondence prepared pursuant to this section. The Director will determine whether:

(1) Additional informal consultation is required;

(2) Formal consultation must be initiated under paragraph (d) of this section; or

(3) Construction may proceed.

(d) *Procedures for Formal Consultation.* (1) In the event that Formal Consultation is required pursuant to paragraphs (b)(5)(v) or (c)(2) of this section, the Commission staff will initiate Formal Consultation with the FWS and/or NMFS, as appropriate, and will request that the consulted agency designate a lead Regional Office, lead Field/District Office, and Project Manager, as necessary, to facilitate the Formal Consultation process. In addition, the Commission will designate a contact for Formal Consultation purposes.

(2) During Formal Consultation, the consulted agency, the Commission, and the project sponsor will coordinate and consult to determine potential impacts and mitigation which can be implemented to minimize impacts. The Commission and the consulted agency will schedule coordination meetings and/or field visits as necessary.

(3) The Formal Consultation period will last no longer than 90 days, unless the consulted agency, the Commission, and project sponsor mutually agree to an extension of this time period.

(4) The consulted agency will provide the Commission with a Biological Opinion on the proposed project, as specified in 50 CFR 402.14(e), within 45 days of the completion of Formal Consultation.

52. New § 380.14 is added to read as follows:

§ 380.14 Compliance with the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act, as amended (NHPA), requires the Commission take into account the effect of a proposed project on any historic property and to afford the Advisory Council on Historic Preservation (Council) an opportunity to comment on the undertaking. The project sponsor, as a non-Federal party, assists the Commission in meeting its obligations under NHPA section 106 by following the procedures at § 380.12(f). The project sponsor may contact the Commission at any time for assistance. The Commission will review the resultant filings.

(a) The Commission's NHPA section 106 responsibilities apply to public and private lands, unless subject to the provisions of paragraph (b) of this section. The project sponsor will assist the Commission in taking into account the views of interested parties, Native Americans, and tribal leaders.

(b) If Federal or Tribal land is affected by a proposed project, the project sponsor shall adhere to any requirements for cultural resources studies of the applicable Federal land-managing agencies on Federal lands and any tribal requirements on Tribal lands. The project sponsor must identify, in Resource Report 4 filed with the application the status of cultural resources studies on Federal or Tribal lands, as applicable

(c) The project sponsor must consult with the SHPO(s). If the SHPO declines to consult with the project sponsor, the project sponsor shall not continue, except as instructed by the Director, Office of Pipeline Regulation.

(d) If the project is covered by an agreement document among the Commission, Council, SHPO(s), land-managing agencies, project sponsors, and interested persons, as appropriate, then that agreement will provide for compliance with NHPA section 106, as applicable.

53. New § 380.15 is added to read as follows:

§ 380.15 Siting and maintenance requirements.

(a) The siting, construction, and maintenance of facilities shall be undertaken in a way that minimizes effects on scenic, historic, wildlife, and recreational values.

(b) The desires of landowners should be taken into account in the planning, locating, clearing, and maintenance of rights-of-way and the construction of facilities on their property, so long as the result is consistent with laws relating to land-use and any requirements imposed by the Commission.

(c) The requirements of this section do not affect a project sponsor's obligation to comply with safety regulations of the U.S. Department of Transportation. Furthermore, the requirements of this paragraph shall not detract from recognized safe engineering practices.

(d) *Pipeline construction.* (1) The use, widening, or extension of existing rights-of way must be considered in locating proposed facilities.

(2) In locating proposed facilities, the project sponsor shall, to the extent practicable, avoid places listed on, or eligible for listing on, the National Register of Historic Places; natural landmarks listed on the National Register of Natural Landmarks; officially designated parks; wetlands; and scenic, recreational, and wildlife lands. If rights-of-way must be routed near or through such places, attempts should be made to minimize visibility from areas of public view and to preserve the character and existing environment of the area.

(3) Rights-of-way should avoid forested areas and steep slopes where practical.

(4) Rights-of-way clearing should be kept to the minimum width necessary.

(5) In selecting a method to clear rights-of-way, soil stability and protection of natural vegetation and adjacent resources should be taken into account.

(6) Trees and vegetation cleared from rights-of-way in areas of public view should be disposed of without undue delay.

(7) Remaining trees and shrubs should not be unnecessarily damaged.

(8) Long foreground views of cleared rights-of-way through wooded areas that are visible from areas of public view should be avoided.

(9) Where practical, rights-of-way should avoid crossing hills and other high points at their crests where the crossing is in a forested area and the resulting notch is clearly visible in the foreground from areas of public view.

(10) Screen plantings should be employed where rights-of-way enter forested areas from a clearing and where the clearing is plainly visible in the foreground from areas of public view.

(11) Temporary roads should be designed for proper drainage and built to minimize soil erosion. Upon abandonment, the road area should be restored and stabilized without undue delay.

(e) *Right-of-way maintenance.* (1) Vegetation covers established on a right-of-way should be properly maintained.

(2) Access and service roads should be maintained with proper cover, water bars, and the proper slope to minimize soil erosion. They should be jointly used with other utilities and land-management agencies where practical.

(3) Chemical control of vegetation should not be used unless authorized by the landowner or land-managing agency. When chemicals are used for control of vegetation, they should be approved by EPA for such use and used in conformance with all applicable regulations.

(f) *Construction of aboveground facilities.* (1) Unobtrusive sites should be selected for the location of aboveground facilities.

(2) Aboveground facilities should cover the minimum area practicable.

(3) Noise potential should be considered in locating compressor stations, or other aboveground facilities.

(4) The exterior of aboveground facilities should be harmonious with the surroundings and other buildings in the area.

54. Appendix A to Part 380 is revised to read as follows:

Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the Natural Gas Act

Resource Report 1—General Project Description

- Provide a detailed description and location map of the project facilities. (§ 380.12(c)(1))
- Describe any nonjurisdictional facilities that would be built in association with the project. (§ 380.12(c)(2))
- Provide current original U.S. Geological Survey (USGS) 7.5-minute-series topographic maps with mileposts showing the project facilities; (§ 380.12(c)(3))
- Provide aerial photographs or photo-based alignment sheets with mileposts showing the project facilities; (§ 380.12(c)(3))
- Provide plot/site plans of compressor stations showing the location of the nearest noise-sensitive areas (NSA) within 1 mile. (§ 380.12(c)(3,4))
- Describe construction and restoration methods. (§ 380.12(c)(6))
- Identify the permits required for construction across surface waters. (§ 380.12(c)(9))
- Provide the names and addresses of all landowners whose land would be crossed by the project facilities. Include the names and addresses of all residents adjacent to new or modified compressor stations. (§ 380.12(c)(10))

Resource Report 2—Water Use and Quality

- Identify all perennial surface waterbodies crossed by the proposed project and their water quality classification. (§ 380.12(d)(1))
- Identify all waterbody crossings that may have contaminated waters or sediments. (§ 380.12(d)(1))
- Identify watershed areas, designated surface water protection areas, and sensitive waterbodies crossed by the proposed project. (§ 380.12(d)(1))
- Provide a table identifying all wetlands, by milepost and length, crossed by the project (including abandoned pipeline), and the total acreage and acreage of each wetland type that would be affected by construction. (§ 380.12(d)(1 & 4))
- Discuss construction and restoration methods proposed for crossing wetlands, and compare them to staff's Wetland and Waterbody Construction and Mitigation Procedures; (§ 380.12(d)(2))
- Describe the proposed waterbody construction, impact mitigation, and restoration methods to be used to cross surface waters and compare to the staff's Wetland and Waterbody Construction and Mitigation Procedures. (§ 380.12(d)(2))
- Provide original National Wetlands Inventory (NWI) maps that show all proposed facilities and include milepost locations for proposed pipeline routes. (§ 380.12(d)(4))
- Identify all U.S. Environmental Protection Agency (EPA)- or state-designated aquifers crossed. (§ 380.12(d)(9))

Resource Report 3—Vegetation and Wildlife

- Classify the fishery type of each surface waterbody that would be crossed, including fisheries of special concern. (§ 380.12(e)(1))
- Describe terrestrial and wetland wildlife and habitats that would be affected by the project. (§ 380.12(e)(2))
- Describe the major vegetative cover types that would be crossed and provide the acreage of each vegetative cover type that would be affected by construction. (§ 380.12(e)(3))
- Describe the effects of construction and operation procedures on the fishery resources and proposed mitigation measures. (§ 380.12(e)(4))
- Evaluate the potential for short-term, long-term, and permanent impact on the wildlife resources caused by construction and operation of the project and proposed mitigation measures. (§ 380.12(e)(4))
- Identify all federally listed or proposed endangered or threatened species and state-listed endangered or threatened species that potentially occur in the vicinity of the project and discussion results of consultations with other agencies. (§ 380.12(e)(4,5))
- Describe any significant biological resources that would be affected. Describe impact and any mitigation proposed to avoid or minimize that impact. (§ 380.12(e)(4 & 6))

Resource Report 4—Cultural Resources

- See § 380.14 and ''OPR's Guidelines for Reporting on Cultural Resources Investigations'' for further guidance.
- Plan for Unanticipated Historic Properties and Remains. (§ 380.12(f)(1)(i) & (2))
- Initial cultural resources consultation and documentation, and documentation of consultation with Native Americans. (§ 380.12(f)(1)(ii) & (2))
- Overview/Survey Report(s). (§ 380.12(f)(1)(iii) & (2))

Resource Report 5—Socioeconomics

- For major aboveground facilities and major pipeline projects that require an EIS, describe existing socioeconomic conditions within the project area. (§ 380.12(g)(1))
- For major aboveground facilities, quantify impact on employment, housing, local government services, local tax revenues, transportation, and other relevant factors within the project area. (§ 380.12(g)(2–6))

Resource Report 6—Geological Resources

- Identify the location (by milepost) of mineral resources and any planned or active surface mines crossed by the proposed facilities. (§ 380.12(h)(1))
- Identify any geologic hazards to the proposed facilities. (§ 380.12(h)(2))
- Discuss the need for and locations where blasting may be necessary in order to construct the proposed facilities. (§ 380.12(h)(3))
- For LNG projects in seismic areas, the materials required by ''Data Requirements for the Seismic Review of LNG Facilities,'' NBSIR84–2833. (§ 380.12(h)(5))
- For underground storage facilities, how drilling activity by others within or adjacent to the facilities would be monitored, and how old wells would be located and monitored within the facility boundaries. (§ 380.12(h)(6))

Resource Report 7—Soils

- Identify, describe, and group by milepost the soils affected by the proposed pipeline and aboveground facilities. (§ 380.12(i)(1))
- For aboveground facilities that would occupy sites over 5 acres, determine the acreage of prime farmland soils that would be affected by construction and operation. (§ 380.12(i)(2))
- Describe, by milepost, potential impacts on soils. (§ 380.12(i)(3,4))
- Identify proposed mitigation to minimize impact on soils, and compare with the staff's Upland Erosion Control, Revegetation, and Maintenance Plan. (§ 380.12(i)(5))

Resource Report 8—Land Use, Recreation and Aesthetics

- Classify and quantify land use affected by: (§ 380.12(j)(1))
- ipeline construction and permanent rights-of-way (§ 380.12(j)(1));
- Extra work/staging areas (§ 380.12(j)(1));
- Access roads (§ 380.12(j)(1));
- Pipe and contractor yards (§ 380.12(j)(1)); and
- Aboveground facilities (§ 380.12(j)(1)).
- Identify by milepost all locations where the pipeline right-of-way would at least partially coincide with existing right-of-way, where it would be adjacent to existing rights-of-way, and where it would be outside of existing right-of-way. (§ 380.12(j)(1))
- Provide detailed typical construction right-of-way cross-section diagrams showing information such as widths and relative locations of existing rights-of-way, new permanent right-of-way, and temporary construction right-of-way. (§ 380.12(j)(1))
- Summarize the total acreage of land affected by construction and operation of the project. (§ 380.12(j)(1))
- Identify by milepost all planned residential or commercial/business development and the time frame for construction. (§ 380.12(j)(3))
- Identify by milepost special land uses (e.g., sugar maple stands, specialty crops, natural areas, national and state forests, conservation land, etc.). (§ 380.12(j)(4))
- Identify by beginning milepost and length of crossing all land administered by Federal, state, or local agencies, or private conservation organizations. (§ 380.12(j)(4))
- Identify by milepost all natural, recreational, or scenic areas, and all registered natural landmarks crossed by the project. (§ 380.12(j)(4 & 6))
- Identify all facilities that would be within designated coastal zone management areas. (§ 380.12(j)(4))
- Identify by milepost all residences that would be within 50 feet of the construction right-of-way or extra work area. (§ 380.12(j)(5))
- Identify all designated or proposed candidate National or State Wild and Scenic Rivers crossed by the project. (§ 380.12(j)(6))
- Describe any measures to visually screen aboveground facilities, such as compressor stations. (§ 380.12(j)(11))
- Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-managing agencies with jurisdiction over land that would be affected by the project. (§ 380.12(j)(12))

Resource Report 9—Air and Noise Quality

- Describe existing air quality in the vicinity of the project. (§ 380.12(k)(1))
- Quantify the existing noise levels (day-night sound level (L_{dn}) and other applicable noise parameters) at the noise sensitive area and at other locations required by state and local noise ordinances. (§ 380.12(k)(2))
- Quantify existing and proposed emissions of compressor equipment, plus construction emissions, including nitrogen oxides (NO_X) and carbon monoxide (CO), and the basis for these calculations. Summarize anticipated air quality impacts for the project. (§ 380.12(k)(3))
- Describe the existing and proposed compressor units at each station where new, additional, or modified compression units are proposed, including the manufacturer, model number, and horsepower of the compressor units. (§ 380.12(k)(4))
- Identify any nearby NSA by distance and direction from the proposed compressor unit building/enclosure. (§ 380.12(k)(4))
- Identify any applicable state or local noise regulations. (§ 380.12(k)(4))
- Calculate the noise impact of the proposed compressor unit modifications or additions, specifying how the impact was calculated, including manufacturer's data and proposed noise control equipment. (§ 380.12(k)(4))

Resource Report 10—Alternatives

- Address the ''no action'' alternative. (§ 380.12(l)(1))
- For large projects, address the effect of energy conservation or energy alternatives to the project. (§ 380.12(l)(1))
- Identify system alternatives considered during the identification of the project and provide the rationale for rejecting each alternative. (§ 380.12(l)(1))
- Identify major and minor route alternatives considered to avoid impact on sensitive environmental areas (e.g., wetlands, parks, or residences) and provide sufficient comparative data to justify the selection of the proposed route. (§ 380.12(l)(3))
- Identify alternative sites considered for the location of major new aboveground facilities and provide sufficient comparative data to justify the selection of the proposed site. (§ 380.12(l)(3))

Resource Report 11—Reliability and Safety

- Describe how the project facilities would be designed, constructed, operated, and maintained to minimize potential hazard to the public from the failure of project components as a result of accidents or natural catastrophes. (§ 380.12(m))

Resource Report 12—PCB Contamination

- For projects involving the replacement or abandonment of facilities determined to have PCBs, provide a statement that activities would comply with an approved EPA disposal permit or with the requirements of the TSCA. (§ 380.12(n)(1))
- For compressor station modifications on sites that have been determined to have soils contaminated with PCBs, describe the status of remediation efforts completed to date. (§ 380.12(n)(2))

Resource Report 13—Additional Information Related to LNG Plants

- Provide all the listed detailed engineering materials. (§ 380.12(o))

PART 385—RULES OF PRACTICE AND PROCEDURE

55. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1085.

56. In § 385.2001, paragraph (b)(3) is revised to read as follows:

§ 385.2001 Filings (Rule 2001).

* * * * *

(b) * * *

(3) The Secretary, or the office director to whom the filing has been referred, will send a letter of rejections with an indication of the deficiencies in the filing and the reasons for rejection.

* * * * *

[FR Doc. 98–26721 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 380

[Docket No. RM98–17–000]

Landowner Notification, Residential Area Designation, and Other Environmental Filing Requirements; Notice of Technical Conference September 30, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) intends to hold a staff technical conference on December 9, 1998, at 9:00 AM, in the Commission Meeting Room, 888 First Street, NE., Washington, DC, to address its concerns regarding its present landowner notification policies and its present environmental designation of residential areas.

DATES: Comments are due November 16, 1998.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

John S. Leiss, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, (202) 208–1106

Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE,. Washington, DC 20426 (202) 208–2246.

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, NE., Room 2A, Washington, DC 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, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

In the matter of: Landowner Notification, Residential Area Designation, and Environmental Filing Requirements; Docket No. RM98–17–000.

Notice of Technical Conference

September 30, 1998.

In Docket No. RM98–9–000, which is being issued concurrently with this notice of technical conference, the Commission, among other things, proposes to amend, consolidate, and clarify its current environmental filing requirements for applications for certificates of public convenience and necessity to construct pipeline facilities. These requirements are necessary for the Commission to comply with the National Environmental Policy Act of 1969 (NEPA).[1] The Commission believes that revising its existing regulations will lead to more complete applications and to an expedited environmental review process.

However, in addition to the changes proposed in Docket No. RM98–9–000, the Commission is interested in examining its existing landowner notification policies and designation of residential areas. It is concerned that its current regulations are not adequate to provide the general public and potentially affected landowners with sufficient opportunity for participation in the Commission's certificate process. Increased public interest in several recently filed certificate applications

[1] 42 U.S.C. 4321. Specifically, NEPA requires that federal agencies carefully weigh the potential environmental impact of all their decisions and consult with federal and state agencies and the public on serious environmental questions.

suggests that the Commission should review its existing procedures.[2]

To open the process to the affected public, the Commission is contemplating requiring that companies proposing a pipeline project provide notification to the affected public prior to filing an application with the Commission. For projects that do not require prior notification to the Commission, we believe that the affected landowners should be notified within a reasonable time prior to construction, to reduce the potential for complaints that landowners were not aware of the project. The Commission believes that early notification of a proposed project will provide the public with a better opportunity to participate in the proceeding.

We note that in a letter dated September 16, 1998, the Interstate Natural Gas Association of America (INGAA) also acknowledges the concern over the landowner notification issue. In the letter, it proposes a solution to the landowner notification problem which, among other things, requires that the owner of record of property affected by a pipeline project be notified of the project by certified mail. We invite INGAA to present its proposal at the December 9, 1998 technical conference. Additionally, we invite any other interested party to present proposals at the technical conference.

The Commission is also considering some other changes to its regulations which it feels may require expanded landowner notification to ensure fairness for both the company and landowners. For example, the Commission is considering expanding the definition of eligible facility under section 157.202(b)(2) of its regulations to include injection and withdrawal wells which do not alter the capacity of an existing, certificated underground storage field. That change would allow the addition of minor facilities designed to enhance existing storage operations without case specific Commission review and approval. However, the Commission is concerned about whether and how the pipeline should be required to acquire consent from the landowner prior to beginning construction.

The Commission would also like to revise section 2.55(b)(iii) and (iv) of its regulations to allow the use of additional temporary work space for replacement facilities. However, once again, the Commission is concerned about how the pipeline should acquire landowner consent to use the additional space as well as providing for appropriate environmental safeguards.

Additionally, the Commission believes it is necessary to designate residential areas as sensitive environmental areas defined under section 157.202(b)(11).[3] This change would bring the status of residential areas in our regulations more in line with the existing treatment of these areas as noise sensitive areas (section 157.206(d)(5)), as well as Commission practice to weigh project impact on residential areas in the same way as the more traditional natural resource areas, such as, for example, endangered species habitats, historical places, wetlands, and designated wilderness areas.

Finally the Commission is interested in obtaining comment on the need to apply the same erosion control and stream and wetland crossing mitigation measures it applies to filings under Subpart A of Part 157 to Subpart F blanket projects. This would provide more uniform treatment of natural gas projects whether or not they are actually reviewed by the Commission prior to construction.

In the past the Commission has used working groups to develop proposals for improving upon the Commission's regulations.[4] Here, the Commission is also considering using the negotiated rulemaking procedure under the Negotiated Rulemaking Act of 1990[5] as an alternative to its traditional rulemaking process. That act establishes a framework for conducting a negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the rulemaking process. Negotiations would be conducted by a committee chartered under the Federal Advisory Committee Act.[6] The committee would include a Commission representative and would be assisted by a neutral facilitator. The goal of the committee would be to reach consensus on the language or issues involved in the rule. If consensus is reached, the Commission undertakes to use the consensus as the basis of the proposed rule.

The purpose of the staff technical conference is to discuss potential changes to the Commission's regulations in the above mentioned areas and to address the appropriateness of using working groups or negotiated rulemaking for these changes. Additionally, the Commission may entertain and discuss at the staff technical conference suggestions concerning other areas of its environmental review process.

The Commission invites all interested persons to submit written comments on these topics. Additionally, any persons wishing to make comments or presentations at the conference should submit a request for time and the topic(s) they want to address. The original and 14 copies of such comments and requests must be received by the Commission before 5:00 p.m., November 16, 1998. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426 and should refer to Docket No. RM98–17–000. Commenters also can submit comments on computer diskette in WordPerfect 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM98–17–000 on the outside of the diskette.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, comments can be viewed and printed remotely via the 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.

By direction of the Commission.

David P. Boergers,

Secretary.

[FR Doc. 98–26726 Filed 10–15–98; 8:45 am]

BILLING CODE 6717–01–P

[2] For example, in the pending Independence Pipeline Company proceeding in Docket No. CP97–315–000, the Commission has received in excess of 6,500 correspondences from concerned citizens.

[3] Section 157.206(d)(4) of the Commission's regulations provides: ''Any transaction authorized under a blanket certificate shall not have a significant impact on a sensitive environmental area.''

[4] *See* Standards for Business Practices of Interstate Natural Gas Pipelines, 60 FR 55,504 (Nov. 1, 1995), 73 FERC ¶ 61,104 (Oct. 25, 1995).

[5] 5 U.S.C. 561–569.

[6] 5 U.S.C. App. 2.

federal register

Friday
October 16, 1998

Part III

Environmental Protection Agency

Final National Pollutant Discharge Elimination System (NPDES); Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6176–8]

Final National Pollutant Discharge Elimination System (NPDES) General Permits for the Eastern Portion of Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000) and Record of Decision

AGENCY: Environmental Protection Agency.

ACTION: Final Issuance of NPDES General Permits.

SUMMARY: The Regional Administrator (RA) of EPA Region 4 (the ''Region'') is today issuing final National Pollutant Discharge Elimination System (NPDES) general permits for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (General Permit No. GMG280000), published at 61 FR 64876 on December 9, 1996, revised on January 7, 1998, at 63 FR 846, for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). The existing permit, jointly issued by Regions 4 and 6 and published at 51 FR 24897 on July 9, 1986, authorizes discharges from exploration, development, and production facilities located in and discharging to all Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas. Region 6 issued a final permit (General Permit No. GMG290000) for the Western portion of the OCS of the Gulf of Mexico, published at 57 FR 54642 on November 19, 1992, for facilities in Federal waters seaward of Louisiana and Texas Waters. This notice constitutes the Agency's Record of Decision in accordance with Council on Environmental Quality regulations 40 CFR 1505.2 and EPA regulations 40 CFR 6.606. Draft and Final EISs were issued December 4, 1996 and August 14, 1998, respectively, that considered the range of permitting options available to EPA. Alternative A is the issuance of a general permit to cover the entire Region 4 geographic permitting area in the Gulf; Alternative B is limiting a general permit to the area seaward of the 200 meter isobath; and Alternative C is withholding general permit coverage entirely and conducting individual permit reviews for each application filed. The EIS process defined the affected environment and assessed the potential impacts of the alternatives on the natural and man-made environments. A broad spectrum of mitigation measures were considered in the EIS. To assist in the selection of alternatives, EPA considered different types and degrees of environmental survey information, different review procedures and discharge options. Key to the decision to extend general permit coverage to the Region 4 portion of the Central Planning Area (CPA) offshore Mississippi and Alabama, was to exclude from such coverage four Areas of Biological Concern. Additionally, EPA found it necessary to require Notices of Intent for coverage submitted to the Agency to include geohazards and photodocumentation surveys. While substantial oil and gas activity has occurred and continues, EPA determined that there was inadequate site-specific marine habitat information for the CPA to draw on in making decisions on permit coverage. Today's final NPDES permits cover existing and new source facilities in the Eastern Planning Area (Alternative B of the Environmental Impact Statement (EIS)) with operations on Federal leases occurring in water depths seaward of 200 meters, occurring offshore the coasts of Florida and Alabama, and existing and new source facilities in the Central Planning Area (Alternative A of the EIS), with operations located in and discharging pollutants to federal waters in lease blocks located seaward of the outer boundary of the territorial seas offshore Mississippi and Alabama. The western boundary of the coverage area is demarcated by Mobile and Viosca Knoll leases located seaward of the outer boundary of the territorial seas from the coasts of Mississippi and Alabama in the Central Planning Area; except specific areas in the Central Planning Area which may be designated by EPA as Areas of Biological Concern (See Fact Sheet published on January 7, 1998 at 63 FR 846 and Final Environmental Impact Statement, issued August 14, 1998). The eastern boundary of the coverage area is demarcated by the Vernon Basin leases north of the 26° parallel and in water depths seaward of 200 meters.

All permittees holding leases on which a discharge has taken place within 2 years of the effective dates of the new general permits (operating facilities) in these areas must file a written notice of intent to be covered by either the new general permit for existing sources or the new general permit for new sources within 60 days after November 16, 1998 of the final determination on this action. Non-operational leases, i.e., those on which no discharges have taken place in the 2 years prior to the effective date of November 16, 1998, are not eligible for coverage under either general permit, and their coverage under the old general permit will terminate on the effective date of the new general permits. No NOI's will be accepted on non-operational or newly acquired leases until such time as an exploration plan or development production plan has been prepared for submission to EPA. The notice of intent must contain the information set forth in 40 CFR § 122.28(b)(2)(ii) and Part I, Section A.4 of the NPDES general permit. In accordance with Oil and Gas Extraction Point Source Category; Offshore Subcategory Effluent Guidelines and New Source Performance Standards published at 58 FR 12454 on March 4, 1993, EPA Region 4 made an Environmental Impact Statement (EIS) available with the general permits for review during the public comment period that addresses potential impacts from facilities that may be defined as new sources in the context of a comprehensive offshore permitting strategy. As set forth in Section 2.4.2 of the EIS and information received, the Regional Administrator has determined that the area in the Eastern Planning Area shoreward of the 200 meter depth and certain designated areas in the Central Planning Area includes or is likely to include valuable marine habitats, including extensive live bottom and other valuable marine habitats that have not been adequately located nor fully characterized and which may be more sensitive to the discharges from oil and gas exploration and production activities. These resources potentially qualify and includes areas of biological concern, which are subject to more stringent review based on the ocean discharge criteria under Section 403 of the Clean Water Act (CWA) and findings of the Final EIS. Accordingly, individual permits reviews will be conducted for facilities on lease blocks traversed by and shoreward of the 200 meter water depth in the Eastern Planning Area and certain designated areas of biological concern in the Central Planning Area. Owners or operators of those leases will be notified in writing that an individual permit is required. A brief statement of the reasons for this decision will be provided, together with an application form and a deadline for filing the application. If a timely application is received, general permit coverage will continue and shall automatically terminate on the date final action is taken on the individual NPDES permit application, in accordance with 40 CFR § 122.28(b)(3)(ii). No application will be accepted for non-operational leases until such time as an exploration plan

or development production plan has been prepared for submission to EPA. Owners of non-operational leases and operators who neither file a notice of intent nor an individual permit application will lose coverage under the old general permit on the effective date of the new general permits, which is on November 16, 1998.

These final NPDES general permits include BPT, BCT, and BAT limitations for existing sources and NSPS limitations for new sources as recently promulgated in the effluent guidelines for the offshore subcategory at 58 FR 12454 (March 4, 1993) and codified at 40 CFR Part 435, subpart A. The permits also address a decision of the Ninth Circuit Court of Appeals by establishing limits on cadmium and mercury and by removing references to Alternative Toxicity Requests. In addition, the permits delete references to the Diesel Pill Monitoring Program, incorporate a new limitation on garbage discharges consistent with the regulations of the U.S. Coast Guard, clarify the applicability of some of the permit's effluent limitations and reporting requirements, establish aquatic toxicity limitations for produced water, and include a reopener clause.

DATES: This NPDES General Permit is effective on November 16, 1998. This NPDES General Permit shall expire on October 31, 2003.

FOR FURTHER INFORMATION: Contact Mr. Roosevelt Childress, Chief, Surface Water Permits Section, telephone (404) 562–9279, Ms. Kay Crane, Environmental Scientist, telephone (404) 562–9299, or Mr. Larry Cole, Environmental Engineer, telephone (404) 562–9474 or at the following address: Water Management Division, Surface Water Permits Section, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

SUPPLEMENTAL INFORMATION:

I. Introduction

The Regional Administrator for EPA Region 4 is today reissuing in part the National Pollutant Discharge Elimination System (NPDES) general permits for the Outer Continental Shelf of the Gulf of Mexico (General Permit No. GMG280000) under Region 4 jurisdiction. This previous permit, published at 51 FR 24897 (July 9, 1986), issued jointly for the Eastern and Western Gulf of Mexico by Regions 4 and 6, expired on July 1, 1991. Region 6 reissued a final existing permit for the Western Portion of the Outer Continental Shelf (General Permit No. GMG290000), published at 57 FR 54642 (November 19, 1992) with a modification published at 58 FR 63964 (December 3, 1993). Region 4, continued coverage under the previous OCS general permit to permittees that requested to be covered before the previous general permit expired on July 1, 1991. Region 4 proposed draft NPDES general permits for the Eastern Gulf of Mexico at 61 FR 64876 on December 9, 1996, regulating existing source and new source oil and gas OCS discharges. Region 4 revised the draft NPDES general permits for the Eastern Gulf of Mexico at 63 FR 846 on January 7, 1998. Today's final Eastern Gulf of Mexico OCS revised general permits regulate existing source and new source OCS discharges throughout the Gulf of Mexico for offshore areas under the jurisdiction of Region 4.

For reference, Region 4 published a detailed fact sheet with the proposed draft permit in 61 FR 64876 on December 9, 1996 and a revised fact sheet in 63 FR 846 on January 7, 1998. The Region is incorporating by reference the original fact sheet and revised fact sheet as part of the final fact sheet for today's final permit. The discussions presented in these fact sheets should be consulted in reviewing the applicability and scope of the final permit conditions.

II. Procedures For Reaching a Final Permit Decision

EPA has prepared draft and final EISs that evaluated the potential impacts of the proposed federal action (issuance of the general permits) within the context of a comprehensive NPDES permitting strategy for the Region 4 jurisdictional area of the Gulf of Mexico. The process was conducted in accordance with the regulations implementing the National Environmental Policy Act (NEPA). The findings of the EIS, the CWA Section 403(c) Evaluation and agency and public comments were utilized in reaching the decision to issue the general permits with the conditions and geographic limitation described herein. Important interagency coordination occurred between EPA and MMS, as prescribed by a Memorandum of Understanding. A significant amount of information and assistance was obtained from MMS. Further, a preliminary draft EIS was reviewed by MMS and that agency's comments were fully considered. Since EPA will be conducting individual permitting outside the General Permit area of new source development /production projects, EPA intends to coordinate its efforts with MMS on the environmental reviews required of each agency by NEPA.

EPA initially proposed to limit general permit coverage to waters outside the 200 meter isobath, thereby excluding all of the Central Planning Area (CPA). Extensive comments on this preferred alternative in the Draft EIS and the draft General Permit were received. EPA investigated whether general permit coverage could be appropriate for the CPA. The Minerals Management Service was consulted to determine whether significant bottom habitats have been documented adequately within the CPA. EPA determined that insufficient information on the location and characterization of habitats exists; and therefore, the geohazards and photodocumentation surveys have been added as conditions on the general permits.

EPA has considered all written comments submitted on the Final EIS, 403(c) Evaluation, the notice of revised draft general permit published on January 7, 1998, as well as all written comments submitted pursuant to the December 9, 1996 draft general permit and all comments received during the four (4) public hearings in January and February of 1997. A summary of these comments follow and are available to the public, state agencies and local governments as part of Region 4's administrative record.

A formal hearing is available to challenge any NPDES permit issued according to the regulations at 40 CFR 124.15 except for a general permit as cited at 40 CFR 124.71. Within 120 days following notice of EPA Region 4 final permit decision under 40 CFR 124.15, any interested person may appeal this general NPDES permit in the Federal Court of Appeals in accordance with 509(b)(1) of the Clean Water Act. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 as authorized at 40 CFR 122.28, and then request a formal hearing on the issuance or denial of an individual permit. Additional information regarding these procedures is available by contacting Mr. David M. Moore, Associate Regional Counsel at (404) 562–9547.

III. Procedures For Obtaining General Permit Coverage

Notice of Intent (NOI) requirements for obtaining coverage for operating facilities under both permits are stated in Part I Section A.4 of the general permit. Coverage under the new general permit is effective upon receipt of notification of inclusion from the

Director of the Water Management Division. EPA will act on the NOI within a reasonable period of time.

IV. Exclusion of Non-Operational Leases

These permits do not apply to non-operational leases, i.e., those on which no discharge has taken place in the 2 years prior to November 16, 1998, the effective date of the new general permits. EPA will not accept NOI's for such leases, and these general permits will not cover such leases. Non-operational leases will lose coverage under the old general permit on the effective date of the new general permits which is November 16, 1998. No subsequent exploration, development or production activities may take place on these leases until and unless the lessee has obtained coverage under one of the new general permits or an individual permits. EPA will not accept NOI's or individual permit applications for non-operational or new acquired leases until such time as an exploration plan or development production plan has been prepared for submission to EPA.

The new permitting requirements for leases covered under the old general permits are summarized in Table 1.

TABLE 1.—NEW PERMITTING REQUIREMENTS FOR LEASES COVERED UNDER THE OLD GENERAL PERMIT

Lease location	Discharge status	Coverage requirements	Date old general permit expires	Type of permit coverage
Central Planning Area & Outside 200 meter Isobath in Eastern Planning Area.	(1) Operational	File an NOI within 60 days of effective date of new general permit.	Date EPA Notifies Lessee of New Coverage Decision.	New General Permit, except near an Area of Biological Concern.
	(2) Leases With Imminent Projects.	File NOI At Time Exploration Plan or Development Production Plan Exists.	Effective Date of New General Permit.	New General Permit, except near an Area of Biological Concern.
	(3) Non-Operational ...	No NOI will be accepted; Ineligible for General Permit Coverage.	Effective Date of New General Permit.	None.
Inside 200 meter Isobath in Eastern Planning Area & certain designated areas in the Central Planning Area.	(1) Operational	File an individual permit application within 120 days of effective date of new general permit.	Date EPA notifies lessee of Individual permit decision.	Individual Permit.
	(2) Lessees with Imminent Projects.	File an Individual Permit Application when Lessee has Exploration Plan or Development Production Plan.	Effective date of New General Permit.	Individual Permit.
	(3) Non-Operational ...	Ineligible For General Permit Coverage.	Effective Date of New General Permit.	None.

V. State Water Quality Certification

Because state waters are not included in the area covered by the OCS general permit, its effluent limitations and monitoring requirements are not subject to state water quality certification under CWA Section 401.

VI. State Consistency Determination

Region 4 is required under the Coastal Zone Management Act (CZMA) to provide all necessary information for the States of Mississippi, Alabama and Florida to review this action for consistency with their approved Coastal Management Programs. A copy of the consistency determination on the proposed activities was sent to each affected State, along with draft copies of the draft NPDES general permit, Fact Sheet, preliminary Ocean Discharge Criteria Evaluation, and Draft Environmental Impact Statement. Each state concurred with EPA's finding of consistency. Because of the proposed change in the General Permit coverage, EPA reviewed again the three state plans and found the revised permit coverage consistent. Accordingly, a second CZM coordination with the states occurred with the review of the Final EIS, and concurrences with Region 4's revised action were received from the three states.

VII. Administrative Record

The final NPDES general permits, fact sheet, 403(c) determination, Final EIS, public comments received, public hearing transcripts and other relevant documents on today's action are on file and may be inspected any time between 8:15 a.m. and 4:30 p.m., Monday through Friday at the address shown below. Copies of the final NPDES general permits, fact sheet, 403(c) determination, Final EIS, public comments received, public hearing transcripts and other relevant documents may be obtained by writing the U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–8960, Attention: Ms. LaShon Blakely, or calling (404) 562–9276.

VIII. Other Legal Requirements

Oil Spill Requirements

Section 311 of the Clean Water Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges that are in compliance with NPDES permits are excluded from the provisions of section 311. However, the permits do not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials that are covered by section 311 of the Act.

Endangered Species Act

The Endangered Species Act (ESA) allocates authority to, and administers requirements upon, federal agencies regarding endangered species of fish, wildlife, or plants that have been

designated as critical. Its implementing regulations (50 CFR Part 402) require the RA to ensure, in consultation with the Secretaries of Interior and Commerce, that any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat (40 CFR 122.49(c)). Implementing regulations for the ESA establish a process by which agencies consult with one another to ensure that issues and concerns of both the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) collectively are addressed. The NMFS and USFWS have responded to EPA's initiation of the coordination process under the regulations set forth by section 7 of the Endangered Species Act. The 36 species identified by NMFS and USFWS as threatened or endangered species within the permit coverage area have been assessed for potential effects from the activities covered by the proposed permit in a biological assessment incorporated in the Draft EIS. This biological assessment was submitted to the NMFS and USFWS along with the proposed permit for consistency review and concurrence on the Region's finding of no adverse effect. This coordination is appended to the Final EIS. Concurrence from USFWS was received on 7/30/98, with EPA's findings that the permits would not affect the continued existence or critical habitat of federal listings of endangered or threatened species. The NMFS having provided comments on the Draft EIS, provided concurrence on the modification of the project.

Ocean Discharge Criteria Evaluation

For discharges into waters located seaward of the inner boundary of the territorial seas, the Clean Water Act at section 403, requires that NPDES permits consider guidelines for determining the potential degradation of the marine environment. The guidelines, or Ocean Discharge Criteria (40 CFR part 125, subpart M), are intended to ''prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal'' (45 FR 65942, October 3, 1980).

An Ocean Discharge Criteria Evaluation (ODCE) determination of no unreasonable degradation has been made by Region 4 based on an analysis by Avanti Corporation (1998a). The potential effects of discharges under the proposed permit limitations and conditions are assessed in this revised document available from Region 4. The ODCE states that, based on the available information, the permit limitations are sufficient to determine that no unreasonable degradation should result from the permitted discharges.

Marine Protection, Research, and Sanctuaries Act

No marine sanctuaries as designated by the Marine Protection, Research, and Sanctuaries Act exist in the area to which the OCS permit applies.

Executive Order 12866

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order. Guidance on Executive Order 12866 contain the same exemptions on OMB review as existed under Executive Order 12291. In fact, however, EPA prepared a regulatory impact analysis in connection with its promulgation of guidelines on which a number of permit's provisions are based and submitted it to OMB for review. See 58 FR 12494.

Paperwork Reduction Act

The information collection required by these permits has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

All facilities affected by these permits must submit a notice of intent to be covered under the eastern Gulf of Mexico OCS general permit GMG280000. EPA estimates that it will take an affected facility three hours to prepare the request for coverage.

All affected facilities will be required to submit discharge monitoring reports (DMRs). EPA estimated DMR burden for the existing permit to be 36 hours per facility per year. The DMR burden for these proposed permits is expected to increase slightly due to the additional reporting required for calculating the critical dilution for produced water discharges. While this permit requires some increased monitoring and reporting of that data, the DMR burden for the proposed permits is estimated to increase slightly and facilities affected by this permit reissuance were subject to similar information collection burdens under the existing Gulf of Mexico OCS general permit that this proposed reissuance will replace.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, e.g., UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to section 658 of Title 2 of the U.S. Code, which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act (APA, or any other law * * *''

NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comments on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide an ''opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that the proposed permit would not contain a Federal requirement 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.

The Agency also believes that the permit would not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small government jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means government of cities, counties, towns, etc. with a population of less than 50,000, unless the agency establishes an alternative definition.

The permit, as proposed, also would not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit. Additionally, EPA does not

expect small government to operate facilities authorized to discharge by this permit.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated above, the permit issued today is not a ''rule'' subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit effluent limitations are based. That analysis shows that issuance of this permit will not have a significant impact on a substantial number of small entities.

Dated: October 7, 1998.

John H. Hankinson, Jr.,

Regional Administrator, EPA Region 4.

Summary of Public Comments

Public notice of the draft permit reissuance was published at 61 FR 64876 (December 9, 1996) with a notice to hold public hearings on the Region's proposal. 4 public hearings were held on the proposed NPDES General permit, Fact sheet, Ocean Discharge Criteria Evaluation and Draft Environmental Impact Statement on January 28, 1997 in Ocean Springs, MS, January 29, 1997 in Gulf Shores, Alabama, January 30, 1997 in Pensacola, Florida and February 4, 1997 in St. Petersburg, Florida. Additionally, the Region published a revised general permit at 63 FR 846 (January 7, 1998). The Region also received comments on the Final Environmental Impact Statement which Notice of Availability was published at 63 FR 43698 (August 14, 1998). Copies of comments received during this action from interested parties have been considered in a formulation of a final determination regarding Region 4's final action today on the reissuance of NPDES Permit No. GMG280000. A summary of only the permit related comments are summarized below; however, other comments on the Final Environmental Impact Statement and Ocean Discharge Criteria Evaluation were received by the Region and taken into consideration in the formulation of the Region final decision on reissuance of the general permit and are part of Region 4's administrative record.

Summary of Comments on the Final EIS and Permit Related Comments

Summary of Final EIS Comments

Sixteen comment letters were received during the Final EIS comment period from the following: US Fish and Wildlife Service; C.A. Wise Elementary School, Pensacola, FL; Rosie Heindl, Pensacola, FL; Mississippi Department of Marine Resources; Linda G. Sherman, Cantonment, FL; Barbara and Lex Mohon, Gulf Breeze, FL; D.E. Walgis, Pensacola, FL; Southwest Florida Regional Planning Council; Town of North Redington Beach, FL; Lois Silberstein, Pensacola, FL; Marsha King, Cantonment, FL; Wendy Tennant, Cantonment, FL; City of Gulf Shores, AL; Chevron U.S.A., Inc.; Alabama Department of Environmental Management; and Florida Department of Community Affairs.

The following comments raise new concerns or are of a substantive nature needing further response. Otherwise, the letters present issues already addressed adequately by EPA in the text and response to comments printed in the Final EIS and in the responses set forth below.

Comment 1: Comments by the City of Gulf Shores

Waters offshore Alabama should be treated with the same environmental sensitivity as waters offshore Florida; individual permitting should be conducted rather than easier blanket general permitting; EPA has placed little or no value on the visual pollution caused by towers as close as 3 miles offshore; believe the local economy, dependent on beaches, clean water and visual aesthetics, was not adequately or accurately assessed by EPA.

Response: In general, the waters offshore Mississippi and Alabama have less hard bottom areas that increase marine life diversity. Most scientists consider this a natural condition related to the geology of the bottom and the influx of sediment loads from major rivers. With the required submittal of geohazard and photodocumentation surveys with application for General Permit coverage, EPA believes impacts of wastewater discharges on potential sensitive habitats offshore Alabama can be minimized or avoided. If state or federal water monitoring shows near-shore Gulf water quality decreasing, EPA can reconsider the adequacy of the general permit effluent limits. The near-shore state and federal waters off the Ft. Morgan peninsula and Dauphin Island have oil and gas industry structures visible from the peninsula. The EIS states that structure visibility to beach communities is an aesthetic factor but not likely to decrease tourist visits. EPA is unaware of accepted methods to relate aesthetic impacts to coastal community economics. While the EIS assessed the impact of the offshore oil and gas industry on the local economy, that economy is changing. The Alabama coast is becoming heavily developed and the economic value of its tourist and retirement-based economy is growing rapidly in comparision to the presently depressed market value of the offshore oil and gas. It should be noted that the area seaward of the City of Gulf Shores and eastward is within the Eastern Planning Area and subject to EPA individual permitting. All environmental issues and public concerns will be considered in making decisions on issuances of individual permits.

Comment 2: Comment by the Town of North Redington Beach, FL

Permitting oil and gas facilities within the area known as the Dead Zone near the outlet of the Mississippi River would not be ecologically rehabilitative.

Response: The Region 4 permitting is presently not within this area where scientists have documented a 6000 to 7000 square mile area of the Gulf offshore Louisiana with extremely low dissolved oxygen during the hot months of recent years. However, bottom waters not far from the Alabama coast have infrequent seasonal episodes of lowered dissolved oxygen.

Comment 3: Comments by Barbara and Lex Mohon, Gulf Breeze, FL

Permitting decisions for projects should await completion of socio-economic studies available after year 2002; EPA should not continue to support extracting small amounts of fossil fuel at the end of the fossil fuel era.

Response: EPA is aware of the socio-economic studies being conducted by MMS. However, EPA does not control oil and gas activity and must be prepared to consider applications for NPDES permits resulting from MMS lease sales. The agency will consider any relevant information available at the time of permit applications. EPA must remain objective when it considers permit applications on the issue of hydrocarbon vs. alternative energy sources and must refer to the National Energy Policy authored by the Department of Energy.

Comment 4: Comments by David Duplantier, Chevron U.S.A., Inc.

Questions whether EPA included into the project record all of Chevron's comments, provided to EPA as attachments to their letter.

Response: There are over 200 commenters, with 105 of these in written form. Some letters had attachments. EPA followed the rule of

reason in the decision to print only the main comment letters and not attachments, and also to condense and group comments by topic in order to keep the Final EIS document and this final permit issuance notice from becoming excessive in size. Chevron's attachments were reviewed and the subject of those lengthy attachments responded to Section 5.5 of the Final EIS and the responses set forth below. Accordingly, readers are referred to comment/response subject groups and may not see their comments responded to item after item. All letters with any attachments have been included in the project record.

Comment 5: Comment by James Murley, Florida Department of Community Affairs

Indicates the State will continue to review both general permit coverage and individual permits for consistency with the State plan.

Response: EPA acknowledges the State's desire to review proposed General Permit coverage. It is important to note that EPA's action of granting such coverage for specific projects is not subject to formal Coastal Zone Management Act (CZMA) consistency review procedures. However, EPA intends to coordinate with the State thereby providing opportunity to offer comments. Issuance of an individual NPDES permit is an indirect federal action that requires applicants to submit a consistency determination of their project to the State for review under CZMA procedures. Therefore, the State of Florida would have a review of a project, whichever permitting mechanism applies.

Comment 6: Comment by James Murley

The State appreciates the opportunity to work with EPA to further define resources as ''areas of biological concern''.

Response: Defining ''areas of biological concern'' is a valuable process for minimizing or avoiding adverse impacts. The State of Florida has a strong marine research program and expertise in evaluating maring ecosystems. EPA would entertain nominations from the State and undertake coordination with MMS and other federal agencies leading to potential designations relevant to the NPDES permitting program.

Summary of Permit Related Comments

Comment 1: The commenters state the ''because the Gulf cannot withstand further pollution, a ''zero discharge'' stipulation must be added to option B.''

Response: While the stated goal of the CWA is to eliminate the discharge of pollutants into navigable waters, it also specifies a progressive step-wise approach for technology-based limitations (i.e., BPT, BAT, and NSPS limitations); water quality criteria are developed on a chemical-by-chemical basis and are intended to be protective for both human health and aquatic organisms; Section 403 for marine dischargers requires EPA to assess ten specific factors and only issue a permit if ''no unreasonable degradation'' will occur (or where information is insufficient, EPA determines the discharge will not cause irreparable harm, there are no reasonable alternatives to the on-site disposal of the materials, and the discharger complies with other conditions including monitoring and adequate effluent limitations). The Agency does not believe that the health of the Gulf of Mexico is jeopardized by the permit with the limitations and conditions developed by the Region. Additionally, EPA may require any discharger authorized by this general permit to apply for and obtain an individual permit as specified in this permit and in EPA regulations, including in instances where the discharge is a significant contributor of pollutants. See 40 CFR § 122.28(c), 122.28(b)(3). One such instance may arise where water quality standards, or criteria may be exceeded by a discharge which would otherwise be subject to this general permit. The permit and regulations provide that under these circumstances EPA may exercise its discretion to require an individual permit.

Comment 2: The commenter stated his support for deep well injection of drilling muds and cuttings as a permitting option for disposing of this wastestream.

Response: EPA investigated deep well injection as a method of disposal of drilling muds and cuttings during the development of the Offshore Effluent Guidelines (EPA, 1993). EPA agrees with the commenter that the technology of deep well injection of drilling wastes currently exists. However, not all facilities located in the offshore regions are able to inject. Subsurface injection requires different formation zones with appropriate characteristics (e.g., porosity and permeability) that are separate from the production formation. In some instances, there is significant risk that the injected material could interfere with hydrocarbon recovery (EPA, 1996). EPA concluded for the Offshore Effluent Guidelines that this technology did not constitute the Best Available Technology Economically Achievable (BAT) for the offshore industry or for coastal facilities in Cook Inlet, Alaska.

Comment 3: The commenter stated his support for those technologies that are designed to reduced the amount of drilling mud that is discharged and also the toxicity of that mud. The commenter opposes any regulation that promotes hauling of cuttings and stagnates improvements on drilling mud technology. Some of the consequences that may result from hauling cuttings to shore are: increased air pollution, decreased landfill space, and potentially encouraging the use of more toxic, older drilling fluids technologies.

Response: EPA agrees with the commenter and considers drilling mud innovations that reduce waste volumes and are less toxic to be positive technological developments in promoting environmental protection. However, EPA's mandate is to evaluate the environmental impacts of discharges resulting from the use of new technologies. The evaluation considers current industry practices and the best available technology economically achievable in reducing pollutant concentrations from the discharged wastestream. In some cases, such as for oil-based drilling fluids (OBM), the toxicity and environmental impacts of OBM discharge cannot be sufficiently mitigated in any way other than by a discharge prohibition based upon current information. EPA evaluated the consequences of prohibiting OBM discharges, including its technological feasibility and economic achievability, increased air pollution from boat traffic, and landfill space capacity, and found that these consequences result in substantially lower environmental impacts than the continued discharge of OBM.

For this general permit, EPA is not authorizing the discharge of synthetic drilling muds or synthetic oils. EPA is currently considering the environmental impacts from the use of these substances and appropriate effluent limitations for their use and discharge. Applicants who wish to discharge synthetic drilling muds or oils should submit an individual permit application to EPA.

Comment 4: The commenters question the use of monitoring to determine the need for additional regulation given that harmful effects may be discovered too late to prevent irrevocable harm. Also, how is the data tracked and monitored by EPA?

Response: For permitted discharges, with all of the limitations and conditions imposed under this permit, and with specified monitoring, the Agency feels that the danger of

irrevocable harm is not at issue. Monitoring allows the Agency to assure that its assumptions about effluent and operational characteristics used to develop a permit that results in ''no unreasonable degradation'' are continuously tested and verified through compliance monitoring data submitted by operators on Discharge Monitoring Reports (DMRs). Monthly DMR data submitted, is entered into an enforcement data base that is programmed to identify violations. The data are also reviewed by enforcement staff in cases where the data are not readily obtained from a data base (e.g., monitoring reports). This information is available to the public and other entities for many purposes, including assessment of potentially harmful effects of discharges.

Comment 5: Many commenters requested 24-hour on-site monitoring by Minerals Management Service or EPA inspectors, to avoid further illegal discharges of toxic waste, and a practice of manifesting all supplies and chemicals transported to and from rigs.

Response: The Clean Water Act, the primary law passed by the U.S. Congress to protect the waterways of the U.S., defines the National Pollutant Discharge Elimination System (NPDES) as the mechanism by which EPA may grant permits to industries that discharge effluent into U.S. waters. Per the Clean Water Act, the NPDES was designed to be an industry self-monitoring system with enforcement conducted by EPA. In compliance with NPDES permit requirements, EPA requires industry to monitor numerous pollutant concentrations and toxicity of discharges from oil and gas exploration and production operations. Discharge monitoring reports (DMRs) and laboratory data from independent laboratories are sent to EPA. EPA enforcement personnel review the DMRs and, if deemed necessary, will inspect the facility to take samples for verification or to review on-site operations and documentation. EPA has the authority to visit any industrial facility to which it grants a NPDES permit.

The Minerals Management Service (MMS) and the U.S. Coast Guard (USCG) also have jurisdiction in regulating oil and gas operations and discharges. Because both of these agencies' purview is different than the EPA's, MMS and the USCG frequently inspect oil and gas facilities. EPA has coordinated inspections with MMS and USCG and has shared information to minimize duplicative inspection efforts.

In addition, 24-hour monitoring by either MMS, USCG, or EPA is not feasible because the U.S. Congress does not provide any of these agencies the funding to conduct such a labor intensive effort. In fact, if EPA conducted 24-hour monitoring for each oil and gas facility under NPDES permits, they would also have to conduct the same level of monitoring for all industries discharging under the NPDES permit program. For Region 4, this constitutes thousands of facilities.

The CWA provides for a self-monitoring permitting program, with civil penalties for failure to comply with the Act. Criminal penalties may result in situations where a facility fails to comply with permit provisions, falsifies information submittals, or in the case of other more egregious violations of the Act.

Comment 6: The commenter suggests that the toxicity test references be updated to refer to the newer EPA methodology.

Response: The permit has been updated to refer to the 1993 document ''Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms'' EPA/600/4–90/027F, August 1993.

Comment 7: The commenter suggests that the Region 4 general permit incorporate the produced water toxicity monitoring frequency requirements that are in the Region 6 permit for the territorial seas of Louisiana. The frequency is based on the critical dilution achieved at each facility and is reduced to once per year if discharger has met the toxicity limit for 12 consecutive months.

Response: Since produced water limitations based on available technology are currently being required to be reported on a monthly basis, the Region agrees that some frequency reduction should be considered for facilities that consistently meet the produced water limitation. The Region has decided to reduce the frequency from once/month to once/2 months for the first year; similar to other industrial facilities toxicity requirements in the Region. Facilities that pass six consecutive produced water toxicity tests for six will be allowed to change to a frequency of once/every six months; otherwise bimonthly testing shall continue. This frequency is adequate to ensure compliance with the produced water toxicity limitation is being achieved for the life of permit.

Comment 8: The commenter suggests that monitoring the oil content of drilling fluids is not necessary with the other restrictions in place (i.e., no free oil, static sheen test, no diesel). If the monitoring is necessary, a method should be specified.

Response: EPA Region 4 agrees with the commenter that the permit is incorrect and has deleted requirements under the last sentence in Part I. Section B.1(c) for monitoring for the oil content of drilling fluids in final issuance of the permit, since the static sheen test requires testing for compliance with the no free oil limitation before discharge can occur.

Comment 9: The commenter asks that the oil content monitoring requirement be added to Tables 2 and 3 for completeness.

Response: EPA agrees with the commenter since the and deleted these requirements from the final NPDES general permit, Part I. Section B.1(c), since the static sheen test requires testing for compliance with the no free oil limitation before discharge can occur.

Comment 10: The commenter requests that Region 4 adopt the same notification response approach as Region 6. That is that the operator must notify EPA at least 14 days before commencement of discharge. Unless the operator is otherwise notified by EPA prior to discharge, he may assume he is covered by the general permit. Region 4's permit does not allow operators to plan operations until notification is received.

Response: Based on different informational requirements that the Region is requiring in the NOI's, Region 4 has elected to maintain these notification requirements in the final permit. General permit coverage for these leases shall be upon receipt of notification of coverage from Region 4.

Comment 11: The commenter recommends that monitoring requirements for parameters not limited by the permit be deleted from the permit (e.g., volumes of drilling fluids, cuttings, and deck drainage). They were previously monitored for development of offshore guidelines but their continued monitoring is a burden on operators.

Response: In accordance with Section 402(o)(1) of the Clean Water Act, the Region must consider more stringent conditions of the existing NPDES general permit. Since Effluent Guidelines place limits and monitoring requirements on this wastestream and the monitoring requirements were included in the previous general permit, Region 4 has decided to maintain these requirements in the reissued NPDES general permit. The monitoring requirements referenced constitute valid measurements of pollutant discharge, frequency and/or concentration and

accordingly are appropriate monitoring and reporting requirements under the CWA.

Comment 12: The commenter recommends that the monitoring frequency of drilling fluids, drill cuttings, and miscellaneous wastes for free oil be reduced from once per day to once per week.

Response: Because these discharges are intermittent, and may differ substantially from day to day, the Region believes that daily monitoring, also a condition of the previous general permit is appropriate. Therefore, Region 4 will maintain the proposed monitoring frequencies for compliance purposes in the reissued NPDES general permit.

Comment 13: The commenter points out that the general permit issued by Region 6 covering the western Gulf of Mexico uses the Inland silverside minnow instead of the sheepshead minnow for produced water toxicity testing requirements.

Response: The Agency agrees with the commenter and has changed the toxicity test vertebrate species requirements for produced water from sheepshead minnows (Cyprinodon variegatus) to the Inland silverside minnow (Menidia beryllina). The standard test method is 1006.0 as is found in ''Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms' Fourth Edition. EPA/600/4–90/027F.

Comment 14: The commenters state that EPA does not ''have enough information to issue permits for offshore drilling near Florida shores.'' Mentioned statements in the EIS regarding impacts of discharges and that by allowing industry to drill for oil and gas in the Eastern Gulf of Mexico, the government ignores huge gaps in information on the effects of drilling.

Response: EPA has noted the commenters statements regarding impacts of discharges into the Gulf of Mexico and agrees that in some instances information may not be available regarding the environmental effects of drilling for portions of the Gulf. For this reason, EPA chose the alternative set forth in the draft EIS consistent with available information. In addition, EPA acknowledges that all environmental effects of discharges into marine waters cannot be measured and known with absolute certainty. However, Section 403(c) of the Clean Water Act provides EPA with the authority to make the determination at 40 CFR 125.122, based on existing information if EPA determines that the discharge will cause no unreasonable degradation of the marine environment under the NPDES permit.

EPA has evaluated available data, including information submitted pursuant to public comment on the draft EIS and permit, and has found it to be adequate to assess the potential impacts to marine waters, endangered species, marine life including the benthos for dischargers in compliance with permit conditions to those areas of the Gulf of Mexico covered by this general permit. EPA has determined that, though some impact may occur, ''unreasonable degradation'' will not result due to the permit issuance, based upon the analysis set forth in the Ocean Discharge Criteria Evaluation and all information submitted by commenters to the draft permit, EIS, and other information set forth in the administrative record.

Comment 15: The commenter expressed the desire for public input into the permitting of ''each and every well that you intend to force on us.''

Response: The current National Pollutant Discharge Elimination System (NPDES) permitting process was determined by the U.S. Congress and is outlined in the Clean Water Act. According to the NPDES regulations, EPA is allowed to promulgate general permits for discharges into federal waters. The Minerals Management Service of the Department of the Interior issues permits for oil and gas drilling operations. EPA is authorized to issue permits for the discharges generated from these drilling and production operations, where appropriate and consistent with the requirements of the CWA. Use of a general permit does not prohibit public input on each and every potential operation, which can be provided to the Agency at any time. The general permit merely provides an administrative mechanism for regulating a category of discharge sources which involve substantially similar operations, discharge the same types of waste, require similar monitoring and effluent limits, and which are more appropriately controlled under a general permit rather than individual permits, 40 CFR 122.28. For general permits, EPA solicits public input regarding the entire category of discharge sources to be addressed via formal public notice and comment procedures for the general permit, as set forth at 40 CFR 124.10.

EPA has identified regions within the Gulf of Mexico for which less information regarding potential impacts are available, or that are more sensitive and require discharges to be reviewed on a case by case basis. These areas are within the 200 meter isobath in the Eastern Planning Region and within 1,000 meters of areas of biological concern. The general permit does not cover these areas and instead EPA is requiring operators to submit an application for an individual permit.

Additionally, there are 4 features that are described in the revised permit and Fact Sheet that may warrant case-by-case review and will be subject to a public notice comment period. Therefore, the Regional Administrator has the authority to issue individual permits after proper notice has been provided to the permittee and public input is solicited on these individual permits during the public notice comment period.

Comment 16: The commenter states that ''there is a lack of scientific data regarding impacts to live bottom areas from oil and gas discharges within 1,000 m of the areas. A prohibition on these discharges is not warranted at a distance of 1,000 m as this is too conservative.''

Response: The prohibition does not apply to discharges, but refers to an exclusion of coverage under the general permit. Operators may apply for an individual NPDES permit that will allow EPA to determine the appropriate conditions and monitoring for each site. EPA also believes there are adequate data to assess potential benthic effects within 1,000 m of discharge from permitted dischargers.

Comment 17: The commenter feels that authorization of discharge of drill cuttings from synthetic-based drilling mud systems should be added to the general permit. In the final Coastal Effluent Guidelines, the Agency recognized that additional categories of drilling fluids, specifically Synthetic Based Mud (SBM) and Enhanced Mineral Oil (EMO), were warranted. The eastern OCS general permit should do the same.

Response: EPA is aware that the oil and gas industry has developed additional drilling fluid types, including synthetic fluid-based muds (SBM) and has acknowledged this new technology within the permit. EPA Headquarters is currently developing effluent limitations guidelines (ELGs) for SBMs. Once the final ELGs are published, EPA Region 4 may consider modifying the existing permit to incorporate SBMs per the limitations of the guidelines. For this permit, however, SBMs are not authorized for discharge. As stated above, persons who wish to discharge SBMs should submit an individual permit application.

Comment 18: The commenter states that because EPA has determined that the discharge will not cause unreasonable degradation of the marine environment, the permit should be a

general permit covering facilities discharging to water of all depths.

Response: The Region has determined that the most effective manner in which to manage the effects of discharges to more shallow waters (<200 m) in the Eastern Planning Area is to require operators to obtain individual permits. Additionally, the revised January 7, 1998 **Federal Register** publication of the general permit proposed to extend permit coverage into the Central Planning Area. This revision is based on additional information submitted by the public pursuant to the December 9, 1996 proposed permit that Region 4 considered and responded to.

EPA has examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that the areas over the continental shelf and shelf transitional zone (approximated by the area out to the 200 meter isobath) contain an abundance of sensitive biological resources, particularly offshore Florida and Alabama in the Eastern Planning Area and in the excluded features identified in the Central Planning Area. Consistent with the literature review noted above, EPA concludes that due to the abundance and sensitivity of the biological resources in the area offshore Florida and Alabama in the Eastern Planning Area, and features identified in the Offshore Central Planning Area, extra protection can be afforded by the thorough, case-by-case review possible with individual permits in these areas.

Comment 19: The commenter states ''EPA has many years of experience regulating and observing impacts from offshore oil and gas facilities located in waters shallower than 200 meters in Region 4 as well as other regions. EPA has the ability to impose various restrictions on discharges in specific areas that are determined to be of high habitat or resource value. The draft permit contains one such restriction—a prohibition of discharges within 1000 meters of areas of biological concern. By placing such high value areas off limits, EPA has greatly reduced its uncertainty about causing unreasonable degradation.''

Response: EPA agrees with the commenter that the current permit contains discharge limitations, such as the requirement to apply for an individual permit for facilities located within 1,000 m of areas of biological concern, ensure no unreasonable degradation of marine waters will occur within the permit coverage area. EPA has examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that the areas over the continental shelf and shelf transitional zone (approximated by the area out to the 200 meter isobath) contain an abundance of sensitive biological resources, particularly offshore Florida and Alabama in the Eastern Planning Area and in the Excluded features identified in the Central Planning Area. Consistent with the literature review noted above, EPA concludes that due to the abundance and sensitivity of the biological resources in the area offshore Florida and Alabama in the Eastern Planning Area, and features identified in the Offshore Central Planning Area, extra protection can be afforded by the thorough, case-by-case review possible with individual permits in these areas. EPA has reached this conclusion based on the ODCE. The ODCE outlined potential environmental impacts resulting from the permit and found that the permit will not cause unreasonable degradation.

Comment 20: The commenter finds no rationale for excluding facilities located in depths of 200 meters or less from the general permit based on the lack of significant environmental or biological impacts from discharges.

Response: EPA has examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that the areas over the continental shelf and shelf transitional zone (approximated by the area out to the 200 meter isobath) contain an abundance of sensitive biological resources, particularly offshore Florida/Alabama Eastern Planning Area and in the excluded features identified in the Central Planning Area. Consistent with the literature review noted above and the EIS, EPA concludes that due to the abundance and sensitivity of the biological resources in the area offshore Florida and Alabama in the Eastern Planning Area, and features identified in the Offshore Central Planning Area, extra protection can be afforded by the thorough, case-by-case review possible with individual permits in these areas.

Comment 21: The commenter recommends that the general permit be modified to require toxicity monitoring for produced water but not place limits on the waste stream. Produced water can have a salinity as high as 300 ppt and the test organisms may be adversely affected given their limited salinity tolerance range (cultured at 20–30 ppt).

Response: EPA has statutory and regulatory requirements to comply with CWA Section 403 and 40 CFR 125 Part M (Ocean Discharge Criteria) which require a waste stream to not exceed 0.01 x LC50 at the edge of the mixing zone. Because a standard toxicity test methodology exists for this waste stream, EPA is utilizing it to ensure compliance with the statute.

The commenter is correct in that the salinity of produced water may adversely affect the test organisms. However, the toxicity of salinity is integrated into the test protocol for produced water. Also, the dilution required to achieve a specified toxicity, including the dilution of salinity effects, is accommodated in the CORMIX surface water quality model. Therefore, the commenter's concern is correct in that salinity effects occur; however, dilution of produced water in salt water media during effluent toxicity testing accounts for the dilution of this salinity effect.

Comment 22: If EPA elects to maintain toxicity limits for produced water, the commenter supports establishing site-specific toxicity limits.

Response: The commenter's approval is noted. For produced water outfalls, each operator will be required to test for compliance with a site-specific toxicity limit after wells begin to produce water from reservoirs.

Comment 23: The commenter claims that the equation used to develop toxicity limits for produced water is inconsistent in the proposed permit.

Response: The Agency has reviewed the equations provided in the permit and they are correct. The toxicity limitation (applied at the end of the pipe) is derived to represent the effluent concentration at the edge of the mixing zone times 0.01 (as required by CWA Section 403 and 40 CFR Part 125, Ocean Discharge Criteria). This calculation of an end-of-pipe limitation requires the estimation of the number of dilutions achieved by the edge of the mixing zone. The toxicity limitation is calculated as 0.01 * effluent concentration at 100 m (i.e., 0.01 * effluent concentration/no. of dilutions at 100 m).

Comment 24: Over the past several years, the industry has developed new types of synthetic-based drilling fluids that combine the superior drilling performance of oil-based fluids with the low environmental impacts of water-based fluids. Other new drilling fluids utilize enhanced mineral oils as the base fluid. Although the discussion group has not yet focused on enhanced mineral oil, the technology offers good potential. EPA agreed to include new explanatory information and definitions concerning synthetics and enhanced mineral oils in its final coastal oil and

gas effluent limitations, which were published on December 16, 1996. The commenter recommends that Region 4 incorporate the effluent limitations guidelines definitions for drilling fluid, enhanced mineral oil, and synthetic material (40 CFR 435.11 (I), (j) and (x)) in the general permit.

Response: EPA acknowledges the offshore oil and gas exploration and production industry use of synthetic-based drilling fluid and is currently developing effluent limitations guidelines for this new technology. The EPA Region 4 general permit for the Eastern Gulf of Mexico region will not authorize discharges of synthetic based drilling fluids. However, after the SBM effluent limitations guidelines have been promulgated, EPA Region 4 may consider modification of the existing general permit to incorporate the limitation of the guidelines.

Comment 25: To avoid any unnecessary prohibition on the use of improved drilling fluid technology due to uncertainty about what constitutes an inverse emulsion, the commenter recommends that the prohibition of oil-based drilling fluids be modified by deleting ''and inverse emulsion drilling fluids.'' Likewise, the prohibition of cuttings from oil-based drilling fluids should be modified by deleting ''or invert emulsion''. Alternatively, the definition of inverse emulsion drilling fluids could be modified to specifically exclude synthetic-based fluids.

Response: Inverse emulsion drilling fluids are drilling fluids in which an oil, including synthetic oils, is the continuous phase and water is the dispersed phase. Synthetic drilling fluids (SBMs) are considered a type of inverse emulsion drilling fluid. EPA Region 4 will not authorize discharge of synthetic-based drilling fluids within the general permit for the Eastern Gulf of Mexico region at this time. However, EPA acknowledges the use and benefits of SBMs and is currently developing effluent limitation guidelines. After the SBM effluent limitations guidelines have been promulgated, EPA Region 4 may consider modification of the existing permit to incorporate the cuttings limitations of the guidelines.

Comment 26: The permit should be modified to specifically recognize the additional categories of drilling muds that have been defined by EPA, and to authorize their discharge. In the final Coastal Effluent Guidelines, EPA recognizes that additional categories of drilling fluid, specifically Synthetic Based Mud (SBM) and Enhanced Mineral Oil (EMO), are warranted due to the pollution prevention opportunities presented by these new technologies. The commenter recommends that Region 4 participate in the task force to help expedite completion of this effort—in a time frame that will allow for inclusion of permit provisions in this general permit clearly defining the appropriate effluent limitations for these mud systems.

Response: EPA agrees with the commenter that synthetic based drilling fluids (SBMs) are a new drilling technology and in the Coastal Effluent Guidelines recognized the potential pollution prevention opportunities presented by this new technology (61 FR 66086). SBMs are most often used under difficult drilling condition such as deep wells where traditionally oil-based drilling fluids were used (Burke and Veil, 1995). In fact, SBMs were developed in response to the discharge ban of OBM in the North Sea in the early 1990s and not as a substitute for traditional water based drilling fluids, as the commenter states (EPA, 1996). Water-based drilling fluids are still the most cost effective drilling fluid type for most normal drilling situations.

The commenter is correct that SBMs are currently under investigation by the Engineering and Analysis Division of EPA Headquarters. The investigation is in support of a presumptive rule (i.e., expedited rule) for the development of effluent limitation guidelines for SBMs. EPA Region 4 disagrees with the commenters statements that the Region is not involved in the ELG process. The Region is both informed and participating in EPA's work group developing ELG for SBMs.

Comment 27: The commenter states that the permit should eliminate the acute toxicity limitation for produced water and require the chronic test for compliance instead. The commenter states that the chronic endpoint may be more appropriate due to the fact that produced water dilutes rapidly in the offshore environment.

Response: The Region believes that for compliance purposes of this 5-year permit, that the acute toxicity test meets the requirements of the Clean Water Act to prevent toxic discharges from facilities discharging produced water.

Comment 28: The commenter states that the ''Agency should allow the use of diffusers, dilution or split discharges to achieve compliance with the produced water toxicity limitation.''

Response: The Agency determines the produced water toxicity limitation based on a facility's site-specific water column conditions and discharge configuration. An operator can utilize any number of methods to increase the dilution of their discharge in configuring their effluent discharge. The configuration chosen utilized will be used to model the facility-specific toxicity limitation. Commingling or diluting wastestreams prior to discharging effluent, however, cannot be used as a method to achieve NPDES permit compliance.

Comment 29: The commenter asks that the definition of ''Areas of Biological Concern'' be rewritten. It is very broad, without criteria that could help define the agency's intent. For example, it includes all ''. . . features or functions that are potentially sensitive to discharges associated with the oil and gas industry.'' The MMS requirement for live bottom surveys specifies 200 meter line spacing (See MMS ''Revised Guidelines for Photodocumentation Surveys,'' January 31, 1989). This suggests a minimum area of coverage of live bottom should be greater than 200 meters in at least one dimension. A value of 5% cover has been used as a minimum percent cover to classify an area as live bottom in various studies. The commenter recommends that EPA incorporate this kind of standard into the definition of ''Areas of Biological Concern.''

Response: EPA's definition of area of biological concern is found in Part IV.B.3. EPA regularly confers with MMS regarding such environmentally sensitive areas and will consider MMS policies and information in making determinations regarding Areas of Biological Concern (ABCs). ABCs are locations identified by MMS as ''no activity'' or ''live bottom.'' ''Live bottom'' areas are defined as ''areas in the eastern Gulf, having seafloors characterized by sparsely distributed rocky outcrops a few meters in relief . . . [which] contain biological assemblages consisting of sessile flora and fauna which tend to attract or accumulate turtles and fish; such areas are richer and more diverse and productive than the surrounding sea bottom and thus considered worthy of protection . . .'' (USDOI, 1979). With respect to this general permit, Congress has given EPA responsibility for the determination regarding areas appropriate for the issuance of NPDES permits. While EPA will continue to work closely with MMS regarding activities covered by this general permit, EPA is responsible for designation of Areas of Biological Concern and regulation of discharges that may affect such areas. In this permit, EPA has specifically designated such areas and additional areas may be designated in the future.

Comment 30: The commenter asks that the 1,000 m prohibition on discharges near Areas of Biological

Concern be reconsidered. Produced water discharges dilute rapidly (100-fold within a few meters of discharge) and rate limitations and/or shunting could be used for drilling fluids in areas of concern.

Response: The Region is requiring that operators obtain individual permits for discharges in these areas so that appropriate limitations (e.g., rate limitations and/or shunting) can be determined on a case-by-case basis rather than determining all possible solutions for inclusions in this general permit.

Comment 31: The commenter suggests that a new category of miscellaneous discharges be added: ''hydrotest and other treated water.'' The proposed definition is ''seawater or freshwater which has been treated, typically to control fouling, corrosion, and scaling, before it is discharged. Included are effluent wastestreams such as:

(1) Excess seawater which permits the continuous operation of fire control and utility lift pumps;

(2) Excess seawater from pressure maintenance and secondary recovery projects;

(3) Water released during fire system tests and training, including AFFF (light-water systems);

(4) Seawater used to pressure test piping;

(5) Ballast/bilge water;

(6) Non-contact cooling water;

(7) Desalinization unit discharge.

The effluent would be limited by ''no free oil'' and include a footnote that states ''Treatments to these waste streams (when discharge is planned) shall be made in accordance with product registration labeling, (for EPA-registered products), and manufacturers' maximum recommended dosages.''

Response: While EPA does not disagree with the commenter, EPA received minimal information regarding this type of proposed miscellaneous discharge from the public on which to assess the appropriateness of including the proposed provision. Based upon this minimal information, and EPA's belief that not all permittees will necessarily seek authorization to make these types of discharges. Accordingly, discharges who anticipate the discharge of miscellaneous materials within the category of ''hydrotest and other treated water'' will be addressed on a case by case basis. If EPA determines in the future, based upon applications for NPDES permit coverage, that this category of miscellaneous discharges is necessary and appropriate for inclusion in the general permit, EPA will modify the permit to include such provision.

Comment 32: The permit should allow the use of the partial toxicity test to minimize cost and burden to the operator. The partial test allows for the test organisms to be exposed to only a single concentration, the permit limitation, to determine pass or fail of the limitation.

Response: EPA has specified testing methodology set forth in 58 FR 12507, which is defined in the applicable effluent guidelines at 40 CFR part 435. These provisions allow partial toxicity tests. See Appendix 2.

Comment 33: The commenter suggests that Region 4 adopt the same notification requirements as are in the Region 6 permit: ''permittees who are located in lease blocks that are either in or adjacent to ''no activity'' areas or require live bottom surveys are required to submit both a notice of intent to be covered that specifies they are located in such a lease block. In addition they are required to submit a notice of commencement of operations. Permittees located in lease blocks either in or immediately adjacent to MMS defined ''no activity'' areas, shall be responsible for determining whether a controlled discharge rate is required.''

Response: Based on new information, which is discussed in the Ocean Discharge Criteria Evaluation, and unique areas in the Eastern Gulf of Mexico, as indicated in the Final Environmental Impact Statement, Region 4 believes the current Notice of Intent (NOI) requirements are appropriate. The Region revised the NOI requirements to include additional information, specifically in the Central Planning Area.

Comment 34: The commenters request that the permit contain produced water toxicity limitations tables for various pipe configurations and flow rates.

Response: Because discharge rates change over the producing life of a well, Region 4 believes this approach allows the operators flexibility in complying with limitation. It also allows the use of diffusers should more mixing be required to meet the produced water limitation. Therefore, EPA will not add tables for compliance, but will allow the operator to calculate a limit based on flow and comply with that limit.

Comment 35: The language concerning non-operational facilities should be deleted from Part I.A.4 of the permit. The sentences are contradictory and an operator should not have to submit its exploration or development production plan for permit coverage.

Response: Non-Operational leases, which are leases on which a discharge has not taken place within 2 years prior to the effective date of the new general permits will lose coverage under the previous existing general permit on the effective date of the new general permits. However, upon submittal of an exploration plan or development production plan to EPA, plus the required information in the Notice of Intent (NOI) these non-operational leases would be eligible for coverage under the new general permits and will be notified for inclusion of coverage from the Director of the Water Management Division. Regarding submittal of an exploration or development production plan, EPA included this submittal in an effort to determine the scope and geographic area of potential discharges. While the same type of information could be provided in many different forms, EPA determined that exploration and developmental plans are preexisting documents which are regularly prepared by potential permittees that contain the necessary information for EPA to make permit coverage decisions, and their submittal for permit coverage would avoid the need to create additional paperwork and burden to obtain coverage. The commenter provides no persuasive reason for EPA to deviate from the proposal to submit exploration and development plans for permit coverage.

Comment 36: EPA should eliminate the requirements to submit a Notice to Drill (NTD) and Notice of Commencement of Operations (NCO). This is another instance of EPA proposing permitting notification requirements which create unnecessary burdens on the operator. EPA has not provided a rationale for the increased burden of making these notifications, except in areas of special significance, and the operator is placed in a position of non-compliance or interruption of operation if notifications are missed.

Response: In response to the commentors concern about NCO requirements concerning accurately measuring produced water, Region 4 did revise the submittal timeframes of the NCO notices. The NTD and NCO are necessary for EPA to carry out statutory authorities regarding discharges to the Gulf of Mexico and are substantially similar to the requirements of other EPA Regions. The information is required so that EPA is aware of the location of discharges or potential discharges, even though they may be temporary, for the purpose of ensuring compliance with permit provisions, including inspection. The notices provide information necessary for the Agency to make determinations regarding the impact of discharges to the environment. The required notices provide EPA with basic

information necessary to effective regulation of discharges, including information necessary for calculation of toxicity limitations for produced water discharges. EPA would like to emphasize that the submittal of these notifications consists of simply sending a form to the Region containing information which should be readily available to the permittee well before the time the notices are required to be sent to EPA. EPA does not consider these submittals a significant ''burden.''

Comment 37: The commenter points out that the permit establishes a discharge rate limitation for drilling fluids in the units of bbl/hr but requires reporting as average daily discharge rate in bbl/day. In addition, the discharge rate limitation should not apply before installation of the marine riser because these discharges cannot be accurately estimated.

Response: The Region revised the once/day reporting frequency to once/hr to be consistent with the limitation requirement and has included an exception to the discharge rate limitation that excludes discharges at the seafloor before installation of the marine riser in Part I, Section B.1(c) of the permit.

Comment 38: The commenter recommends that the parenthetical information, ''* * * (this includes any spill that requires reporting to the state regulatory authority) * * *,'' be deleted from the requirement to report noncompliances which may endanger health or the environment. A ''spill'' subject to Section 311 of the Clean Water Act is not considered to be a noncompliance with the terms of the NPDES discharge permit, but rather is subject to Coast Guard jurisdiction. Also, the permit applies only to areas far removed from any State jurisdiction, so it would be unreasonable to assume that a noncompliance situation would impact a State.

Response: EPA disagrees with the commenter. Any discharge is required to be reported as set forth in the permit. The commenter is incorrect with respect to jurisdiction over oil spills pursuant to Section 311 of the CWA, which is enforceable by the Administrator.

Comment 39: The commenter states that EPA should change the requirement to submit DMRs on a facility basis. Instead, such reporting should be averaged for each lease block.

Response: EPA does not agree with the commenter that a change to the requirement of DMR submittal on a facility basis is needed. EPA considers each facility as a point source, (in fact, one facility commonly has several point sources of pollution, based on the waste streams that are discharged). EPA sees no compelling rationale for aggregating discharges for the purposes of averaging activities within a lease block. Unlike in the Western Gulf of Mexico, the Eastern Gulf has few facilities per lease block. EPA does not find any benefit in consolidating the reports from different facilities within the permit coverage area or any burden to permittees under the approach set forth herein.

Comment 40: The commenter suggests that EPA should change the proposed DMR reporting requirement from a monthly to an annual requirement.

Response: The commenter is correct that EPA has the right to enter a facility at any time and inspect its monitoring reports. However, since monitoring data is compiled on a monthly basis, EPA does not consider it a burden for industry to submit the compiled information and considers this submission as an important record of recent data. Such information is crucial to EPA enforcement and compliance efforts.

Comment 41: The commenter requests that the Agency delete the requirement to submit a copy of laboratory reports with the DMR.

Response: EPA disagrees with the commenter regarding deletion of the requirement to submit a copy of laboratory reports with the DMR. EPA considers the laboratory reports important and pertinent discharge monitoring information. EPA does not believe that the photocopying of the lab reports, and their inclusion in the operator's DMR package, represents a significant additional burden, and these reports provide a great deal of information to EPA.

Comment 42: The commenter states that EPA should remove the requirement to notify the Regional Director upon cessation of discharge or modify the wording to read: ''If, during the term of this permit, the facility permanently ceases discharge to surface waters, the Regional Director shall be notified within 60 days.''

Response: EPA agrees with the commenter's suggested wording for the permit regarding the notification of the Regional Director upon cessation of discharge. EPA has revised the language of the permit accordingly.

Comment 43: To the definition of Daily Maximum Discharge Limitation, the commenter asks that EPA insert the word ''daily'' between ''allowable'' and ''discharge rate or concentration, such that it would now read: ''Daily Maximum discharge limitations are the highest allowable daily discharge rate or concentration measured during a calendar day.''

Response: EPA agrees with the comment regarding the definition of Daily Maximum Discharge Limitation. EPA has changed the language in the permit accordingly.

Comment 44: The commenter asks that EPA define Diesel Oil as ''distillate fuel oil, as specified in the ASTM Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids.''

Response: EPA agrees with the commenter that clarification by identifying ASTM Specification D975–81 is appropriate. The general permit prohibits discharge of Diesel Oil, as defined, including Diesel Oil (and other oils) which may contain toxic pollutants as contaminants not otherwise identified as a constituent of ASTM D975–81. The definition will be amended to include the commenter's suggested language and to ensure consistency with offshore effluent guidelines (58 FR 12454; 40 CFR Part 435).

Comment 45: The commenter asks that EPA use the definition of Drilling Fluids in the current effluent guidelines (FR 61, page 66124).

Response: EPA agrees with the commenter and has changed the definition of drilling fluids. The current definition in the permit is the same as that used in the coastal effluent guidelines (61 FR 66086) and includes the four classes of drilling fluids: water-based, oil-based, enhanced mineral oil, and synthetic-based. As stated above, the discharge of oil-based and synthetic based fluids are not authorized by the general permit.

Comment 46: The commenter states that EPA should delete the definition of ''Free Oil'' or reword it to clarify that it is a test result obtained by the test method specified in the permit for the particular effluent stream.

Response: EPA agrees with the commenter and has changed the definition of free oil. The definition in the permit is the same as that used in the offshore effluent guidelines (58 FR 12454).

Comment 47: The commenter asks that EPA change the definition of Garbage such that it would read as it does in the Region 6 offshore permit: ''means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78.''

Response: EPA has reviewed the definition of garbage found in the Region 6 general permit (GMG290000). Region 4 agrees with the commenter to the extent that the definition does not exclude components of domestic waste from effluent limitation and monitoring requirements set forth in Part I., Section A of the general permits. The definition of domestic waste in the general permits will continue to include discharges from galleys, sinks, showers, safety showers, eye wash stations, fish cleaning stations, and laundries. EPA has modified the definition in the general permit so that it is the same as that found in GMG290000 (61 FR 41609).

Comment 48: The commenter requests that the reference to an MMS Environmental Impact Statement in the definition of No Activity Zones (Part IV,B,38) be deleted. The commenter stated that by referencing a specific lease sale EIS, the proposed definition would be outdated by subsequent lease sales. The MMS lease stipulation is the formal mechanism for that agency to specify No Activity Zones. MMS procedures will not permit or allow a rig or structure to be installed in a No Activity Zone stipulated in the lease agreement.

Response: EPA agrees with the commenter that MMS lease stipulations are the formal mechanism for that agency to specify No Activity Zones. However, EPA does not agree that the proposed permit's definition of No Activity Zones needs to be changed to delete the reference to an MMS Environmental Impact Statement. The definition would not be outdated by subsequent lease sales because it contains the contingent clause that, ''additional no activity zones may be identified by MMS during the life of this permit.''

Comment 49: The commenter requests that the final sentence dealing with states and the territorial seas in the definition of No Activity Zones (Part IV,B.38) be deleted.

Response: EPA does not agree with the commenter that the reference to Alabama, Mississippi, and Florida territorial waters within the definition of No Activity Zones should be deleted. EPA has determined that if these states identify no activity zones within their territorial waters, it may affect the discharge scenarios of the facilities located close to the boundary between federal and state waters. In fact, there are several facilities that are currently in located close to the Alabama state territorial waters.

Comment 50: The commenter requests that EPA delete the definition of No Discharge Areas (Part IV,B.39) within the permit.

Response: EPA disagrees with the commenter and has kept the definition of No Discharge Areas within the permit, since EPA has authority under the CWA to prohibit pollutant discharges to surface waters for specified areas. When EPA determines a discharge is not allowable because of proximity to an Area of Biological Concern, a ''no discharge area'' is affectively defined.

Comment 51: The commenter requested that the definition of Non-Operational Leases (Part IV.B.40) would be deleted or revised. The commenter's rationale for the deletion is that leases that are covered by the existing (1986) general permit should continue to be covered by the 1986 permit until they receive final permit coverage under a replacement permit. There will be no need for a non-operational classification.

Response: EPA does not agree with the commenter's rationale that leases covered by the existing (1986) general permit should continue to be covered by the 1986 permit until final permit coverage is received. In the proposed permit, EPA states that leases from which discharges did not occur two years prior to the effective date of the new general permit are considered Non-Operational Leases. EPA believes that a two year period of time during which no discharge has taken place is a reasonable temporal delineation for permit coverage. Furthermore, environmental impacts from discharging facilities are likely to differ substantially from non-discharging operations. Accordingly, EPA is updating the notification requirements and reevaluate the permits of those leases that have not discharged 2 years prior to the effective date of the new general permit. This approach is also consistent with the procedures that must be followed for new leases, or new dischargers. Another reason this approach is reasonable and necessary is some permittees had applied for and received general permit coverage many years ago without having conducted any exploration or production activities.

In addition, according to the NPDES Program (40 CFR § 122.6) the existing general permit is in force until the effective date of the new permit. Therefore, coverage under the existing permit expires the effective date of the new permit, except for Operational Leases which shall be administratively continued under the previous permit until coverage is granted under the reissued OCS general permit by Region 4 to permittees who comply with the requirements to obtain general permit coverage.

Comment 52: The commenter requested that the definition of Operating Facilities (Part IV,B.41) would be deleted or revised. The commenter's rationale for the deletion is that leases that are covered by the existing (1986) general permit should continue to be covered by the 1986 permit until they receive final permit coverage under a replacement permit, regardless of whether discharges have occurred. If this recommendation is adopted, there will be no need for a definition of Operating Facilities.

Response: EPA does not agree with the commenter's rationale that leases covered by the existing (1986) general permit should continue to be covered by the 1986 permit until final permit coverage is received. In the proposed permit, EPA states that leases from which discharges have occurred two years prior to the effective date of the new general permit are considered Operational Leases. EPA has intended to update the notification requirements and to reevaluate the permits of those leases that have not discharged greater than 2 years prior to the effective date of the new general permit.

In addition, according to the NPDES Program (40 CFR § 122.6) the existing general permit is in force until the effective date of the new permit. Therefore, coverage under the existing permit expires the effective date of the new permit, except for Operational Leases, which shall be administratively continued under the previous permit until coverage by Region 4 is granted under the reissued general permit to permittees who comply with the requirements to obtain general permit coverage.

Comment 53: The commenter states that the definition of Uncontaminated Ballast/Bilge Water (Part IV,B.53), should be changed to be consistent with the Region 6 permit definition which reads: ''means seawater added or removed to maintain proper draft.''

Response: EPA has determined that the commenter's requested amendment is appropriate and Region 4 agrees with the recommended definition change and has revised it in the final permit

Comment 54: The commenter asks that a new definition be added for Uncontaminated Freshwater: ''freshwater which is discharged without the addition of chemicals; examples include: (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water

released during fire protection tests and training, and (4) water used to pressure test piping.''

Response: The Region included this wastestream with a limitation in the fact sheet under minor waste streams and inadverently left it out of the permit conditions. These wastestreams will be included in the final permit along with definitions from the offshore Effluent Guidelines and will be mentioned in the Ocean Discharge Criteria Evaluation.

Comment 55: The commenter suggests that the permit should cover all facilities located in the offshore subcategory and discharging to the federal waters. Any prohibition against discharges to the federal waters from facilities located in the territorial seas should be deleted.

Response: This discharges of drilling muds, drill cuttings in territorial seas are controlled by State's administering their own NPDES programs. The State's guidelines are often more stringent than applicable Federal criteria, therefore, movement of a discharge from territorial seas into Federal Waters should not be an option for complying with more stringent State Criteria, developed by each State's NPDES program. Region 4 believes that since their would possibly be a low percentage of territorial facilities discharging to Federal Waters, these facilities would be properly handled on a case-by-case approach through individual permits and are prohibited under Region 4's final general permit issued today.

Comment 56: The commenter believes that the first paragraph in Part I,A,2, should be deleted. Alternatively, it should be reworded as follows: ''Discharges within 1000 meters of an area of biological concern are not eligible for coverage.'' According to the commenter, EPA's proposed language would—in the event an operator merely sought authorization to discharge within 1000 meters of an area of biological concern—deny coverage under the permit to the operator, instead of just to the area in question. Though it may not have been EPA's intent, this language could be interpreted to deny coverage to an operator for the entire general permit area, not just for areas within the 1000 meter buffer zone. This would be totally unjustified. The commenter raises similar issues with respect to the 26 parallel currently under moratorium.

Response: The comment represents an unreasonable interpretation of the general permit provisions. The general permit language clearly prohibits discharges within 1000 meters of an Area of Biological Concern and operations below the 26 parallel, and excludes from general permit coverage operations of any operator who seeks to discharge drilling fluid within the 1000 meter buffer zone and below the 26 parallel. The language should be read in context of the section in which the language is placed.

Comment 57: The commenter requested that the sentence ''Wastes must be hauled to shore for treatment and disposal'' in Section I.B.5 of the draft permit would be deleted. Although the permit may establish a zero discharge limitation for produced sand, it should not specify treatment and disposal options. Other options may be available to allow an operator to meet the zero discharge limitation. The commenter identified no other method of treatment and disposal.

Response: EPA is unaware of methods of disposal of produced sand which would be in compliance with the terms of the general permits but would not involve the hauling of wastes to shore for treatment and disposal. The discharge of produced sand is prohibited under the general permits. The commenter has not provided EPA with any identification of the ''other options [which] may be available to allow an operator to meet the zero discharge limitation.'' EPA cannot at this time assess such options and make the determination necessary to entertain the requested language changes.

Comment 58: The commenter requested that in section I.B.10 of the draft permit, uncontaminated freshwater and excess cement slurry would be added to the list of miscellaneous discharges.

Response: The Region included these wastestreams with a limitation in the fact sheet under minor waste streams and inadverently left it out of the permit conditions. These wastestreams will be included in the final permit along with definition of uncontaminated freshwater from the offshore Effluent Guidelines.

Comment 59: In Section I.B.10(a) of the draft permit, monitoring of miscellaneous discharges for free oil should be required only when discharging and the facility is manned. Also in this section, the permit requires that static sheen testing be performed when visual observation of a sheen is not possible. The permit should also include the statement ''Static sheen testing is not required for discharges at the sea floor.''

Response: The Region concurs with the commentor and has revised Section I.B.10(a) of the permit.

Comment 60: Section I.B.10(a) of the draft permit requires that the static sheen test be used to determine the presence of free oil in miscellaneous discharges when visual observation of a sheen is not possible. The commenter states that the ''permit should also include the statement 'Static sheen testing is not required for discharges at the sea floor.' ''

Response: The Region concurs and has included revised language in the permit Section I.B.10(a).

Comment 61: The commenter suggests that in Table 3 of the permit, under Miscellaneous Discharges, ''Muds, Cuttings & Cement at the Sea floor'' should be listed separately from ''Uncontaminated Ballast/Bilge Water.''

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision of Table 3 in the permit. These are separate wastestreams.

Comment 62: The commenter recommends that the existing end of well sample definition be retained instead of the proposed change to require the sample to be taken within 48 hours prior to discharge. The change would require operators to discharge without toxicity test results.

Response: Region 4 concurs with the commentors rationale and will retain the current definition as proposed. The definition will remain unchanged from the previous NPDES general permit.

Comment 63: According to the commenter, within the Draft Environmental Impact Statement (DEIS), EPA admits that discharges from rigs and production platforms have the potential to damage or destroy fish eggs, larvae, and juvenile fish. Nevertheless, EPA's proposed general permits will merely require ''the dilution of discharges to reduce the levels of toxics'' to avoid unreasonable degradation. Species that feed on benthic organisms may be subject to pollutant bioaccumulation. Dilution of toxic discharges will not eliminate the potential for bioaccumulation. Thus, dilution is not the solution to the problems posed by these discharges, and will not sufficiently protect the vital resources of the Gulf of Mexico.

Response: EPA agrees that dilution is not an appropriate method for treating discharges. EPA disagrees with the commenter's statement that the general permit only requires ''the dilution of discharges to reduce the level of toxics'' to avoid unreasonable degradation.

The conditions and limitations in the general permit for the eastern Gulf were determined to protect water quality and preserve the health of benthic and other marine organisms. These permit conditions and limitations include no discharge of free oil, no discharge of oil-based muds, no discharge of diesel oil, no discharge of produced sand, no discharge within 1,000 meters of areas

of biological concern, oil and grease limitation on produced water, cadmium and mercury concentration limitation in barite, discharge rate limitations around live-bottom areas, and limitations on the whole effluent toxicity of both drilling fluids and produced water.

The NPDES permits also require water quality-based analyses, and for marine dischargers, must include a Clean Water Act (CWA) Section 403 ''Ocean Discharge Criteria Evaluation'' (ODCE). The ODCE is a document published by EPA to evaluate the environmental impact of the NPDES general permit of discharges from the offshore oil and gas industry. The ODCE determined that the conditions and limitations in the general permit protected the water quality of the eastern Gulf of Mexico and preserved the health of the aquatic life.

Comment 64: Commentor disappointed that EPA did not consider Gulf Coast Environmental defense previous suggestions: 1) No drilling landward of the 200meter isobath, or 100 miles from shore, whichever is greater.

All wells in the Gulf of Mexico should be zero discharge. The Gulf of Mexico not an infinite resource and we can't continue dumping wastes into the water & expect it to be healthy.

Response: EPA considered these comments and provided a response to this concern on Pages 5–25 and 5–26 of the Final Environmental Impact Statement which was available for a 30 day public comment and review period starting on August 14, 1998 thru September 14, 1998. Additional response to this comment is provided throughout the responses herein regarding the scope of general permit coverage.

Comment 65: Commenter questions at what point does damage become irreversible, referring to report of Elliot Norse, a marine ecologist founder of the Marine Conservation Biology Institute in Redmond. Washington declaring that the sea is in real trouble for a variety of reasons, including the effect of oil and gas exploration and production activities as governed by the CWA and Endangered Species Act. Commenter also stated that EPA should eliminate drilling from near shores areas completely, and do not allow any discharges into the Gulf of Mexico.

Response: EPA provided a more comprehensive response and analysis of the commenters concerns in the EIS, agreeing with the comment that the world's oceans are facing problems as a result of human activities. EPA believes, however, that the discharges that result from oil and gas exploration and development activities can be successfully managed to prevent any significant environmental harm and that no irreparable harm will occur as a result. EPA is aware of the commentor's concern and discusses impacts to existing or potential recreational fisheries or commercial fisheries in the EIS and ODCE. EPA has no authority to regulate fisheries or the use of artificial reefs in state and federal waters nor does EPA have authority to prohibit the development of oil and gas resources. Section 402 of the Clean Water Act provides EPA with the authority to regulate discharges that result from such activities. Both the Final Environmental Impact Statement and Ocean Discharge Criteria Evaluation documents are available as part of the Region's administrative record and will be made available upon request.

Comment 66: Requested EPA to extend deadline for comments on its draft NPDES general permit concerning offshore drilling activities, since they have just been notified and need more time to prepare comments.

Response: EPA notified all hearing participants and persons who provided input during the public hearings, and believes the 45 day comment period on the revised NPDES general permit was sufficient to provide adequate response. EPA notes that this commenter did provide written comment to these permits and EPA's response is included herein.

Comment 67: U.S. Department of Energy made comments on EPA revisions supporting extending coverage of General Permit into the Central Planning Area and previous comments that focused on 4 areas: (1) Exclusion of facilities located in less than 200 meters of water depth from coverage under the General Permit. (2) Produced Water Toxicity requirements. (3) Synthetic-based and enhanced mineral oil-based drilling fluids. (4) Oil Content testing requirement.

Response: Previous comment responses respond to these issues, as well as analysis in the EIS and ODCE. After receiving initial comments on the Regions Alternative B, which proposed general permits seaward of the 200-meter isobath for the entire Eastern Gulf of Mexico and reviewing additional information, the Region decided to revise the permitting strategy for the Central Planning Area, and selected Alternative A with certain exclusions based on unique features in the area of offshore Mississippi and Alabama. The Region elected to maintain Alternative B for the Eastern Planning Area which proposed general permits seaward of the 200-meter isobath which is noted in Final Environmental Impact Statement.

EPA believes that the Eastern Planning area is relatively unexplored for the purpose of oil and gas activities and that the probability of encounter with areas of biological concern is greater in the Eastern Planning Area. The EPA believes that individual permitting in water depths of less than 200 meters will provide the agency with the information needed to detect and adequately protect sensitive marine habitat.

Comment 68:

Chevron mentioned that EPA has not considered previous comments, and careful consideration should be given to March 1997 comments and comments submitted by the OOC in February 1998.

Response:

EPA considered all comments and responds in writing at this time, the time of final issuance which is appropriate. While the revised general permits did propose revisions consistent with this and other commenter's concerns, EPA did not respond in writing at that time as EPA is responding herein after all comments to the permit and EIS have been submitted and analyzed.

Comment 69: Delete permit requirement to submit photo documentation for every facility in 100 meters or less in the Central Planning Area. Stated photo documentation should only be required on new facilities where an analysis of geohazards survey data suggest that significant hard bottoms may be present. Data in area suggests that very few facilities will be near significant hard bottom areas. Mentioned that for facilities already discharging this requirement provides no benefit, since EPA has determined that the discharge is acceptable.

Response: EPA will require photo-documentation survey information to be submitted with all notices of intents (NOI) for coverage under the general permit for existing source and new source discharges in less than 100 meters (water depth). The EPA believes that the photo-documentation in the Central Planning Area (CPA) will provide the level of information to the agency necessary to make determinations for permit coveraged as required by law and are consistent with MMS requirements in the Eastern Planning Area. The EPA does not agree that adequate site-specific information exists in the Central Planning Area to assure that all types of potentially sensitive habitat have been identified.

EPA does not limit it's concern with the protection of living marine resources

only to those communities that may be identified as ''significant hard bottom areas''. The EPA agrees that seafloor imaging provided by the geohazard survey may detect high relief (hard bottom) habitat, depending on how the survey was conducted. The data collected during such surveys do not allow for the detection of biota (plants and animals) that may comprise high-relief hard bottom community assemblages and would provide no evidence of any communities not associated with high relief benthic structure.

The EPA concurs with the commentators concerns regarding the need for photo-documentation for continuing discharges of either existing source or new source categories that were covered under the previous permit (no photo-documentation requirement) and has modified the NOI requirement in the final permit to reflect these concerns. The Region agrees that currently active discharges were permitted under a previous permit without a photo-documentation requirement. The Region further agrees that photo-documentation of the seafloor around currently active discharges will not provide additional protection to the environment. The Region has provided an exception to the photo-documentation requirement for submission of the NOI for new and existing source discharges permitted under the previous permit, which are currently active on the effective date of the new general permit. The exception is limited only to the currently active discharges, for the life of those discharges. The modification to the photo-documentation requirement does not exempt the platform or rig from which the discharge originates nor does it exempt the geographic area around the discharge point from any new discharge which occurs after the effective date of the general permit.

Comment 70: API commented on the EPA revised Oil & Gas Permit and mentioned that EPA has not gone far enough in expanding coverage under this permit since it excludes a significant percentage of the Gulf. Stated that the issuance of this permit will force many operators to go through the time consuming and burdensome process of obtaining individual permits and does not believe EPA has provided a rationale for restricting coverage of general permits in this manner. Stated that the OOC has submitted detailed comments on various aspects of the revised draft permit.

Response: EPA considered all comments in the formulation of a final determination on the final NPDES General permit for the Eastern Gulf of Mexico. EPA has examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that the areas over the continental shelf and shelf transitional zone (approximated by the area out to the 200 meter isobath) contain an abundance of sensitive biological resources, particularly in the Eastern Planning Area and in the Excluded features identified in the Central Planning Area. Consistent with the literature review noted above, EPA concludes that due to the abundance and sensitivity of the biological resources in the area offshore Florida Alabama Eastern Planning Area and features identified in the Offshore Central Planning Area, extra protection can be afforded by the thorough, case-by-case review possible with individual permits in these areas and considers this to be the more reasonable approach based on current information.

Comment 71: Commentor stated that the draft NPDES permit rescinds a general permit which was in effect in the area of the Gulf under Region 4's jurisdiction for years with no demonstrated adverse effect, and fails to follow executive orders and VP Gores's Reinvention of Government program designed to make government less complicated. Stated that Region 4 has failed to follow Congress's direct instructions that it abandon its emphasis on requiring individual permits for each OCS oil and gas project and propose an NPDES general permitting regime which is substantially the same as that used since 1986 by both EPA Regions 4 and 6, which has been successful on regulating OCS oil and gas operations in the Gulf of Mexico. Stated that Region 6 has the most experience in dealing with a high level of OCS oil and gas activity, with true biological sensitive areas and with results of scientific studies looking for potential adverse impacts on the marine environment over the years. Stated that there were no problems under the general permit previously administered by Region 4 and there would be none if the old general permit was renewed or Region 6 general permit adopted.

Response: At the time of issuance of a permit, EPA considers all data and information as required by the various applicable statutes and regulations, including, *inter alia,* the CWA, NEPA, ESA, and, as the commenter points out, executive orders, public comment, and other applicable guidance from the Executive, Legislative and Judicial branches of government. All of this information is not static, is subject to change, and has in fact changed since Region 4's issuance in 1986 of the previous general permit covering these activities. Many of comment responses above explain the current status of data and information and full data and information is provided in the administrative record.

The level of exploration and development activity for the areas in Region 4's jurisdiction has increased since the issuance of the previous general permit in 1986. Determinations regarding these general permits is based upon updated projections for oil and gas exploration and development activities for the duration of this permit, based primarily upon MMS' estimated OCS Development Scenario, (see also EIS at Section 1.4.1.; Table 2-7), and MMS' planned lease sales for the Gulf of Mexico area under Region 4's jurisdiction. These projections provide, in summary, that the majority of activity will continue to take place within the Central Planning Area. While a portion of the Eastern Planning Area will be offered for lease sale, projections indicate that a relatively low number of blocks offered for lease sale are expected to be purchased and require NPDES permits, based upon historical trends and MMS projections. Accordingly, EPA's determination regarding the scope of general permit coverage is supported by exploration and development activity projections, as well as the analysis of potentially sensitive biological resources, statutory, and legal requirements set forth in response to previous comments.

The commenter is incorrect regarding Region 4's oil and gas permitting activities. Region 4 has in fact for the last seven (7) years issued streamlined individual permits on exploratory drilling and production activity on new leases acquired in lease sales, since expiration of the former general permit expired in July 1991. The Region has required new leases to obtain individual permits and has conducted expeditious permitting reviews on each proposed activity and considers this to be environmentally sound inside 200 meters. This is an effective, streamlined way to deal with the increased level of activity that has been experienced in this area, while providing optimal environmental protection and is consistent with the approach being taken in these general permits issued today. Based upon these seven years experience, Region 4's expedited individual permit review processes, and the projections for actual exploration and development activity in the Eastern Planning Area, EPA believes that the

commenter will experience no burdensome.

Following concerns expressed in language inserted into the United States House of Representative's Appropriations Committee (July 11, 1997), and Senate/House Conference Report (Oct. 6, 1997), Region 4 reviewed the concerns raised and on Jan 7, 1998, Region 4 issued a revised draft general permit which EPA believes addresses the concerns raised in those reports and complies with statutory and other legal requirements. The revised permit incorporates general permit procedures, terms and conditions which are substantially similar and in some cases identical to those found in the Region 6 general permit. In addition, the individual permit issuance process which will apply to those areas outside the general permit coverage have been streamlined so as to avoid unnecessary cost and delay.

With respect to the commenter's concern that the border between the Central and Eastern Planning Areas as the demarcation for general permit coverage is political and not scientific, the border between these areas was established by DOI and has long been used for lease sales. The border is not, as the commenter states, a political border between Alabama and Florida but actually is a distance West of the Alabama and Florida line. It should be noted that MMS also recognizes the distinction between the areas and has instituted additional requirements for leases in the Eastern Planning Area for the purpose of environmental protection, using the same border for demarcation. Because MMS uses this border for lease sales, resulting in the historical and projected level of activity between these two areas differing substantially, and scientific information available between the two areas differing substantially, the border is also an appropriate border for general permit coverage.

Comment 72: OOC stated that photodocumentation surveys should not be required prior to, but only after that data from the geohazards survey has been interpreted, and that for one of the areas designated as areas of biological concern, the Pinnacle Trend, this area is also recognized by the MMS as a habitat that should be protected by lease stipulation and that Region 4's disgnation of the area as an Area of Biological Concern conflicts with protective measures of EPA Region 6 and MMS. Regarding other Areas of Biological Concern, the commenter stated that these areas (Southeast Banks, Southwest Rocks and 17 Fathom Hole) are common on the inner and middle shelf off South Carolina , as well as Central Western and Louisiana, suggesting that the invertebrates seen here have a wide tolerance of fluctuating environmental conditions such as temperature and turbidity. Further, the commenter claims these assemblages of organisms are the same as those seen growing on petroleum platforms in similar water depths and are not sufficiently unique or so ecologically sensitive tht they require special protection from oil and gas operations. The commenter believes that designating these areas as Areas of Biological Concern is inconsistent with both the policies of both MMS and EPA Region 4, by designating these areas as areas of biological concern.

Response: The Region notes that the commentor is aware that these unique features exist in the Eastern Gulf of Mexico. NPDES General Permits for the Eastern Gulf of Mexico provides reasonable assurances that these unique areas identified will be protected for the duration of the 5-year permit. EPA believes it is most expeditious for the industry to provide EPA adequate survey information up front for before granting coverage under the general permit. The term ''live bottom'' is confused with high relief hardbottom habitat. EPA is concerned with the protection of any living marine communities regardless of the geomorphology of the benthos. The data provided by the geohazard survey may detect high relief habitat if the sidescan sonar was set to obtain the highest possible resolution, depending on how the survey was conducted. It cannot detect communities not associated with relatively high relief benthic structure. Sub-bottom profiling will do neither. Regarding comments about communities on the Southeast Banks, Southwest Rocks and 17 Fathom Hole: all communities are variable over different space and time scales due to natural environmental factors. These facts do not preclude their protection from anthropogenic impacts. Biological productivity is only one of many community characteristics to be considered when making a judgement regarding its value and the level of protection afforded to it.

Comment 73: Stated that General Permit would prohibit discharges of drilling fluids within 1000-meters of areas of biological concern. Mentioned MMS lease stipulations have prevented drilling muds from reaching ABC's , and consequently there are very few studies that have investigated the effects of drilling muds and cuttings discharges on live bottom within 1000 meters. Stated in Destin Dome 57, investigators found that shunted drilling discharges 480 meters from a high relief feature, did reach the hard bottom feature, but that there was no measurable effect of the discharges on the epibiota.

A prohibition of cuttings and produced water discharges within 1000 meters is not justified.

Mentioned studies and numerous studies including produced water bioaccumulation study.

Response: Based on the Region's information concerning drilling muds, cuttings, and produced water discharges the no discharge of these wastestreams within 1000 meters of an ABC is justified. As the commentor mentioned, shunted discharges based on data reviewed did not reach certain ABC's that were closer than 1000 meters. However, the general permit must provide adequate protection based on current environmental data for these discharges. Discharges that must be shunted based on data that reveals potential hard bottoms closer than 1000 meters, may also require individual permits and require site specific monitoring programs designed to address impacts related to that discharge based on communities involved, the frequency and volumes of discharges plus prevailing oceanographic conditions at the time of discharge, since shunting may only be a temporary mitigative alternative and not consider long term impacts. The singular case of the Destin Dome Block 57 project cannot lead to the conclusion that no impacts can occur as a result of drilling discharges within 1000 meters.

Comment 74: Workover and abandonment operations should be added to the listing of operations covered.

Response: The Region has added this category of operations, since workover fluids are used in this category and allowed to be discharged under the general permit.

Comment 75: Stated that a provision to the permit should be added requiring permittees to inform all contractors of the discharge limitations of their permit. Particularly important in the case of individual permits where discharge limitations may be imposed more stringent than those of the General permit.

Response: The operator is liable and responsible that the information on monitoring requirements, limitations and conditions comply with the general permit.

Comment 76: Stated that EPA should change its proposed identification system and use API's and MMS coding system. Stated that MMS will be analyzing DMR's as part of its initiatives

to meet the requirements of Government and Performance Results Act and to take full advantage of the DMR information submitted to EPA, we ask that operators link discharge information to discharge locations by using API and MMS codes.

Response: The current structure of EPA data fields does not allow the Region the flexibility to implement the American Petroleum Institute/Minerals Management Service numbers and currently are not amenable to change.

Comment 77: Stated that they disagree with the newly proposed site-specific photodocumentation surveys for the Central Planning Area, since enough information exists on areas of biological concerning the CPA to make a pre-determination of their location without requiring the applicant to conduct the surveys and would lead to increased operator costs without significant benefit. Clarify issue of synthetic mud use as it applies to the definitions of Drilling Fluids and Drill Cuttings and address whether drilling muds and drilling cuttings discharged at the seafloor in substantial quantities using riserless drilling would be included in the definition of Muds, Cuttings and Cement at the seafloor.

Response: The EPA does not agree that adequate site-specific information exists in the Central Planning Area (CPA) to assure that all types of potentially sensitive habitat have been identified. The EPA believes that the proposed photodocumentation requirement in the CPA will provide that same level of information to the agency made available to it in the Eastern Planning Area where photodocumentation is mandated by the MMS. The Region has clarified the synthetics mud issue in response to comments. While synthetic muds are included under the revised definition of drilling fluids and can be used if needed in drilling operations, these synthetic fluids cannot be discharged. The Region also believes the current definition of Muds, Cuttings and Cement at the seafloor is adequate as proposed and will not be revised.

Comment 78: EPA should select Alternative A (general permits for the entire Eastern Gulf OCS) because: (1) most, if not all, operations are located shoreward of the 200-meter isobath and would thus be burdened with individual permitting which is cumbersome, uncertain, and causes costly delays; (2) the MMS program already offers adequate protections to Gulf resources; (3) EPA has not proven that general permits could not be adequately protective of Gulf resources, and in fact the ODCE has determined that the discharges will not cause unreasonable degradation of the marine environment; (4) EPA could simply design alternative, more restrictive general permit limits and requirements for areas requiring special protection.

Response: EPA has carefully considered the comments of MMS and several industry commenters regarding applying (Alternative A) general permit coverage for the entire Region 4 jurisdiction. EPA has decided to extend General Permit coverage to its jurisdictional portion of the MMS Central Planning Area, with the exclusion of the 11 lease blocks subject to the MMS Pinnacles Stipulation and three other natural structural bottom features. Please refer to EIS Figure 3–2 for the location of these features. Section 2.4 of the Final EIS and the permit Fact Sheet contain complete descriptions of the permitting strategy.

EPA is comfortable extending General Permit coverage to the MMS Central Planning Area for several reasons. First, the Central Planning Area has been extensively surveyed for the locations of numerous (past and present) drilling and production sites, and few features that EPA would define as Areas of Biological Concern have been documented. Second, scientific survey literature of the Mississippi-Alabama shelf notes the general lack of firm bottom substrate for attachment of bottom life, high water column turbidity in much of the east-central inner shelf, and a trend of increased water clarity and light penetration eastward (Vittor 1985). The area is not normally under the influence of the sub-tropical Loop Current that elsewhere stabilizes water temperatures more suitable to increased epifaunal diversity. It has also been documented that the bottom area offshore Mississippi-Alabama experiences substantial deposition of fine particle sediments emanating from coastal rivers (Rabalais and Boesch 1987) that would tend to cover previously exposed hard substrate. Third, those features that the Region is now defining as Areas of Biological Concern are pronounced in terms of topography and are fairly well discernable by survey. Brooks and Giammona (1991) found predominately soft sediments punctuated in some areas with rock outcrops and topographic (the pinnacle trend) high features. EPA Region 4 believes that the condition requiring applicants seeking General Permit coverage to provide photo documentation and geohazards surveys will allow the agency to clear specific project sites for General Permit coverage fairly quickly, because EPA will require the same survey procedures as specified by MMS. The photo documentation survey procedures are found in the MMS ''Revised Guidelines for Photo documentation Surveys'' dated January 31, 1989; the geohazards survey requirement is in the MMS Notice to Lessees 88–3 ''Outer Continental Shelf Shallow Hazards Requirements for the Gulf of Mexico OCS Region'' of September 7, 1983. EPA concludes that its decision for NPDES permitting in the CPA is basically consistent with that preferred by MMS.

Due to the reasons and attached permit conditions explained above, EPA Region 4 is able to make the ''no unreasonable degradation'' determination for OCS waters off Mississippi and Alabama, and for waters outside the 200-meter depth contour of the Eastern Planning Area. In contrast, EPA is not able to make this determination for the Eastern Planning Area waters shoreward of the 200-meter isobath. EPA believes that the exclusion of general permit coverage for these waters in the Eastern Planning Area is entirely suitable considering the unknowns about the presence of significant environmental resources, and the unknown sensitivity of the area to oil and gas activities. This approach is corroborated by the MMS consideration of the Destin Dome as a frontier area, requiring production projects to receive full EIS review.

Exclusion of certain OCS areas from General Permit coverage is not expected to cause operator delays, lost jobs, or reduced royalty revenues because the individual permitting process fits nicely with the MMS review times. Region 4 has recently issued several individual permits for exploratory drilling and one for production in the Central Planning Area. In all cases, the applicants have been cooperative. When industry is aware of the time frames needed for review and issuance of permits, the experience has been satisfactory to both the Agency and the applicant. One commentor pointed out that drill rigs are quite expensive and their use must be scheduled well in advance. This fact should then allow the permit applicant adequate time within which to accommodate the permitting process. It is important to note that EPA would not normally prepare an Environmental Assessment for an exploratory well, so the individual permitting time would be normally 2–3 months. EPA does not believe that the type of NPDES permit needed would have any bearing on industry's decisions whether to proceed with production.

Moreover, because there are historically few lease applications for the Eastern Planning Area, the delay, if any, of individual permitting will be

minimal. Regardless of the permitting mechanism, EPA is required to make a 403(c) ocean discharge criteria determination regarding the discharge. Where information necessary for the ocean discharge criteria determination is provided, there should be no delay in permit issuance where appropriate. With respect to this general permit, extension of the general permit coverage area would not expedite the permitting process, as there is currently little information regarding the marine environment and associated impacts from offshore oil and gas facilities in the Eastern Planning Area to make area wide determinations regarding Ocean Discharge Criteria at this time. Rather than delay the issuance of this general permit until sufficient information is available, EPA has determined that general permit coverage as provided herein is appropriate. Any person discharging from offshore oil and gas facilities may apply for and obtain an individual NPDES permit. This approach enables EPA to prescribe conditions to assure compliance with Ocean Discharge Criteria, as required by Sections 402 and 403 of the Act, and comports with EPA's general discretion regarding the issuance of permits. Individual permits may contain the same effluent limitations and conditions as the general permit, or may contain additional conditions based upon specific determinations regarding a facility as necessary to comply with the requirements of federal law.

EPA is aware of the type of environmental documentation MMS requires in applicants' development and exploration plans. EPA expects to utilize this same information in most cases for its permit review needs. Of the three NEPA documentation levels used by MMS, the categorical exclusion has minimal public review opportunities but is used much more than either the EA or EIS process. EPA believes that increased public review and a careful review of applicants' survey information by EPA could be a good check and balance to ensure activities are not damaging significant marine resources.

The modified two-tiered general permitting procedure suggested by two commenters is in EPA's opinion inconsistent with its guidelines for instituting a general permit. In places where site conditions are uncertain, greater scrutiny is needed to consider site-specific permit conditions. Regulations call for an individual permit review for such situations. EPA is striving for a maximum level of certainty on the part of industry. EPA Region 4 is researching literature and other information sources about live bottom and other significant fish habitat and designating them areas of biological concern, in order to have these features identified prior to potential applicants seeking permits.

Comment 79: Several commenters opined that general permit coverage should be extended to the entire OCS in the Eastern Gulf, stating that EPA regulations favor the issuance of general permits.

Response: Pursuant to Section 402 of the Clean Water Act, EPA retains discretionary authority to issue permits for the discharge of pollutants (*Dedham Water Co.* v. *Cumberland Farms Dairy,* 805 F.2d 1074; 1st Cir. 1986). As the commenters pointed out, EPA's regulation governing General Permits at 40 CFR 122.28 provides that the Administrator shall, *except as provided below,* issue general permits covering discharges from offshore oil and gas exploration and production facilities ''within the Region's jurisdiction.'' However, the commenters are incorrect that EPA must extend coverage of the general permit for offshore oil and gas exploration and production facilities to the entire Eastern Gulf. The regulations do not support such an interpretation, but rather state that for federally leased lands, the general permit area should ''generally be no less extensive than the lease sale area defined by the Department of Interior.'' Consistent with the provisions of the Clean Water Act and decisions by the federal courts, EPA interprets this language as providing the Agency with discretion in the establishment of the appropriate geographical limitations for the general permit. In the preamble to the final regulation, EPA states, ''EPA is committed to the issuance of all permits when, and only when, an adequate amount of information has been gathered with which to determine permit conditions.'' Final Rulemaking, 48 FR. At 39,617 (Sept. 1, 1983). Additionally, the commenters have failed to note that the Department of Interior has not offered in many years (if at all) the entire Eastern Gulf OCS area for lease sale. DOI has previously offered only limited areas in the Eastern Gulf OCS for lease sale, and many potential lease blocks offered for sale were not actually leased. DOI has identified only limited areas which will be offered for lease sale in the Eastern Planning Area during the pendency of this General Permit. There is therefore no rationale supported by 40 CFR 122.28 under which general permit coverage would be extended to the entire Eastern Gulf. As the commenters themselves point out, EPA's regulations authorize the issuance of individual permits for offshore oil and gas facilities, which is the approach EPA has selected as most appropriate for the area shoreward of the 200-meter isobath in the Eastern Planning Area.

EPA's decision regarding general permit coverage area is based upon the analysis set forth in NEPA documentation and requirements set forth in the CWA. In issuing NDPES permits for offshore discharges, EPA has an obligation under section 403(c) of the CWA to determine whether or not unreasonable degradation of the marine environment will occur as a result of the discharge. In accordance with guidelines published pursuant to Section 403(c), the Agency must make this determination prior to permit issuance, which often includes a complex analysis to develop adequate permit limitations. No permit can be issued if unreasonable degradation will occur. If there is insufficient information to make a determination as to unreasonable degradation, no NPDES permit can be issued unless the Agency determines such discharge will not cause irreparable harm to the marine environment. CWA § 403; 40 CFR § 122.124; *See Natural Resources Defense Council, Inc.* v. *EPA,* 19 Env. L. Rep. 20225 (9th Cir. 1988); *American Petroleum Institute* v. *EPA,* 787 F.2d 956 (5th Cir. 1986). In developing the Environmental Impact Statement (EIS) and other documentation required pursuant to the National Environmental Policy Act, EPA analyzed the alternative of extending general permit coverage to the entire Eastern Gulf. In the draft EIS, EPA determined that issuance of general permits seaward of the 200 meter isobath (alternative B) will not cause unreasonable degradation of the marine environment. As stated in the draft EIS, EPA is not able to make such a determination regarding discharges to any and all areas shoreward of the 200 meter isobath due to uncertainties about the presence of and impacts to sensitive and valuable marine resources. Draft EIS at ES–13 (Dec. 1996). With respect to the Eastern Planning Area, as the commenters point out, there are relatively few leases on which exploratory activities have taken place. Accordingly, there is little information regarding the marine environment and associated impacts from offshore oil and gas facilities in the Eastern Planning Area, as EPA stated in the EIS and fact sheets for the general permit. In support of their comment that general permit coverage should be extended to the entire Eastern Gulf, the commenters cite the variability of conditions encountered in oil and gas exploration.

This same variability and uncertainty, due to a lack of available information, makes a general permit for the entire Eastern Gulf inadvisable.

Comment 80: Regarding the Central Planning Area, several commenters pointed out that previous lease sales and ongoing activities have resulted in additional information regarding discharges from offshore oil and gas facilities for this region.

Response: EPA has confirmed, in consultation with the MMS, that EIS's prepared pursuant to these activities in the Central Planning Area have resulted in analysis of degradation to the marine environment from offshore oil and gas activities in this region, and inclusion of appropriate conditions and limitations in permits issued for offshore oil and gas discharges in the Central Planning Area. With respect to the Central Planning Area within Region 4's jurisdiction, EPA agrees that general permit coverage should be extended to the Central Planning Area with the exception of areas of biological concern (ABC's). EPA has identified in the general permit four ABCs for which general permit coverage is not provided, and reserves the right to identify additional ABCs in the future. As set forth in the general permit, ABCs are excluded from general permit coverage and therefore no discharges from offshore oil and gas facilities may commence without an individual permit.

Comment 81: Two commenters contended that this general permit violates interagency agreements between EPA and the Department of the Interior.

Response: The provisions of the interagency agreements cited by the commenters clearly establish, however, that EPA will issue permits ''whenever possible,'' and the agreements themselves do not abrogate EPA's discretion in issuing NPDES permits and do not confer rights upon third parties. Furthermore, the interagency agreements specifically state that the types and timing of NPDES permits are dependent upon the development and exchange of information sufficient to address CWA section 403(c) Ocean Discharge Criteria. EPA is required by the CWA and its regulations to certify that any ocean discharge allowed by its permit will not cause an unreasonable degradation of the marine environment. In this situation, the issuance of general permits for the entire Eastern Gulf is clearly inappropriate. EPA's fact sheet for this general permit sets forth the basis and rationale for the geographic delineation of general permit coverage.

Comment 82: EPA does not sufficiently justify its selection of the 200 meter isobath as a general permit cutoff line. Studies conducted on facilities located in depths less than 200 meters, which are cited in both the EIS and ocean discharge evaluation report, indicated no widespread or long-term degradation to marine resources.

Response: EPA has extensively examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that the areas over the continental shelf and shelf transition zone (approximated by the area out to the 200 meter isobath) contain an abundance of sensitive biological resources, particularly offshore Florida and Alabama in the Eastern Planning Area and in the excluded features offshore Mississippi. Consistent with its authorities noted above, EPA concludes that the abundance and sensitivity of the biological resources in the area offshore Florida and Alabama in the Eastern Planning Area warrant the extra protection afforded by the thorough, case-by-case review possible with individual permitting.

The absence of study results is not sufficient grounds for concluding that facilities in water depths less than 200 meters would cause no widespread or long-term degradation to marine resources in the eastern Gulf. Few, if any, studies have been conducted in the waters of the Florida Shelf. Moreover, the effects of produced water discharges, particularly the potential for bioaccumulation, are neither well studied nor well understood.

While the 100 meter isobath may account for most or all live bottom communities, waters up to 200 meters appear important for some fish species. Moreover, MMS' live bottom protections cannot be solely relied upon because they are not attached to all lease sales and because the determination of what protective measures to require is at the discretion of the MMS Director, in consideration of what would be ''environmentally, economically, and technically appropriate''. Therefore, EPA's selected alternative allows no activities in the Mobile or Viosca Knoll lease areas before the operator documents the absence of a live bottom through a bottom survey.

Comment 83: Many commenters expressed a preference for Alternative C—No issuance of general permits. A few of these commenters explained that individual permitting is preferred because it allows for a more thorough review of impacts. Other comments noted uncertainties about impacts. One commenter expressed a desire for public input into the permitting of each well.

Response: The current National Pollutant Discharge Elimination System (NPDES) permitting process was determined by the U.S. Congress and is outlined in the Clean Water Act. According to the NPDES regulations, EPA is allowed to promulgate general permits for discharges into federal waters. The Minerals Management Service of the Department of the Interior issues permits for oil and gas drilling operations. EPA is authorized to consider whether permits for the discharges generated from these drilling and production operations should be issued.

EPA however, has identified regions within the Gulf of Mexico that are more sensitive and require discharges to be reviewed on a case by case basis. These areas are within the 200 meter isobath in the MMS Eastern Planning Area and within 1,000 meters of areas of biological concern. The general permit does not cover these areas and instead EPA is requiring operators to submit an application for an individual permit. Additionally, there are 4 features that are described in the Revised permit and Fact Sheet that may warrant case-by-case review and will be subject to a public notice comment period. Therefore, the Regional Administrator has the authority to issue individual permits after proper notice has been provided to the permittee and solicit public input on these individual permits during the public notice comment period.

While EPA has concerns about activities near areas of biological concern, we believe that the standards that would be imposed on operators are adequate to protect most marine environments. Based on the factors and considerations required under the Ocean Discharge Criteria regulations (40 CFR 125) the ODCE evaluated available information and, under these regulations, has concluded there is sufficient information to determine there will be no unreasonable degradation of the marine environment from permitted discharges with all permit conditions, limitations, and monitoring in place. While there are areas of outstanding data needs, these needs are not considered sufficient to materially affect this determination. For example, although data are insufficient to ''conclude that regional-scale impacts are not occurring,'' the impacts referred to are low magnitude, chemical alterations in sediments that are not expected to result in any appreciable ecological or human health impacts. Although impacts on deep water

communities are not known with a high degree of certainty, no appreciable impacts are foreseeable based on knowledge of impacts in shallow environments.

Information gathered from the required monitoring will be used, along with other new information that becomes available, to determine whether and how to modify permit conditions in the future permit reissuances that occur every five years. Most hydrocarbon resources are anticipated to be in the form of natural gas. EPA would consider additional conditions specific to an oil discovery. In addition, MMS stipulations and regulations, and the EPA option to exercise its own live bottom stipulation, are in place to protect sensitive benthic resources. EPA does not have the authority to not issue permits without a reasonable certainty that proposed actions would violate environmental quality standards.

EPA agrees that the individual permitting strategy for the MMS Eastern Planning Area provides for much greater public awareness and involvement. However, the Agency regulations encourage the implementation of general permitting where suitable. Environmental safeguards are being put in place with the proposed General Permit.

Comment 84: Alternative B provides special protection for shallow water through Individual Permits at the expense of deep water protection that only require General Permits. This is a double standard.

Response: Regulations promulgated under the Clean Water Act (40 CFR 122.28(C)(1)) require EPA to issue general permits unless the area includes areas, ''such as areas of biological concern, for which separate permit conditions are required.'' EPA has determined that the Gulf OCS offshore Florida and Alabama in the Eastern Planning Area within water depths shallower than 200 meters includes extensive live bottom and other particularly valuable marine habitats that have not been adequately located nor fully characterized. In addition, greater dilutions are generally achieved in deeper waters and discharges must cover greater distances to reach sensitive resources. For these reasons, EPA has decided to require individual permits inside the 200-meter isobath within the MMS Eastern Planning Area. In contrast to the areas shoreward of the 200 meter isobath, the biological communities at greater depths are widely scattered, protected by an MMS notice-to lessees (NTL 88–11) that applies to all leases, and is of localized significance only. The Gulf OCS offshore Mississippi (with the exception of the excluded areas), does not have the physiographic characteristics making it likely to have an abundance of live bottoms. Nevertheless, EPA is requiring operators in this area to undertake a live bottom survey as a condition of EPA approval before conducting activities in the Mobile and northeast Viosca Knoll lease areas.

For these various reasons stated above, EPA considers that the conditions in the general permit, along with existing measures, are adequately protective of these resources.

Comment 85: There is an absence of evidence showing that there is no irreplaceable or irrevocable harm to the environment. Alternative C is the only acceptable option.

Response: The effluent discharge criteria allow a certain degree of adverse impact to sensitive life stages of organisms within the zone of mixing, so virtually every wastewater discharge will have some limited impact to the marine environment. Regarding the sufficiency of environmental impact data, EPA is stating that it is able to make a finding of ''no unreasonable degradation'' in accordance with Clean Water Act Section 403(c), the Ocean Discharge Criteria Evaluation, for its portion of the MMS Central Planning Area, and seaward of the 200-meter isobath of the MMS Eastern Planning Area. The agency is not comfortable with such a blanket determination in shallower waters.

Comment 86: Persons commented that EPA should require zero discharge of effluent for some or all facilities. Some persons commented that EPA should not issue any permits.

Response: Based on its reviews and impact evaluations conducted in support of the Ocean Discharge Criteria Evaluation and the draft EIS, EPA concludes that the proposed permits offer the fullest protection allowed by law. Allowing no discharges would place an unreasonable burden on operators, one that is not justified by the incremental environmental protection. EPA understands the public concern about drilling and the recommendation for no discharges within 100 miles of shore. EPA cannot support that broad of a constraint but does preclude general permit coverage of discharges within 1000 meters of areas of biological concern. EPA evaluates during permit reviews whether discharges are acceptable in a given location. Unless areas of biological concern are present, or the proposed discharge would violate water quality standards, discharges are usually approved since the effluent limitations are set to minimize adverse impacts. At any time, an applicant could elect to undertake a no-discharge project; ''no discharge'' is therefore not equivalent to ''no drilling''. There is thus no difference in the risk of an oil spill between a facility having a no-discharge limitation for wastewater and facilities with permitted discharges.

Comment 87: Many persons commented variously that there should be no drilling in the Eastern Gulf, no drilling off of Florida, or no drilling within a certain distance of the coast. Some commenters noted that Congress and/or the President should place a moratorium on offshore drilling. One commentor suggested collection of tax money on various energy uses and use of the revenues to buy back the leases.

Response: EPA has no authority to prohibit offshore hydrocarbon exploration or production. Such authority lies to a limited extent with U.S. DOI's MMS, which manages the Outer Continental Shelf leasing program, and ultimately with the U.S. Congress and the President, which can enact and declare leasing and drilling moratoria and can authorize the buying back of outstanding leases. The only alternatives available to EPA to consider are issuance of general permits (various versions of such permits are possible) and No Action, which is non-issuance of general permits. EPA must accept and act upon applications for NPDES and air permits. Further, even if EPA would deny an NPDES permit to an applicant, that entity could possibly elect to operate without discharging any effluent, and therefore not require an NPDES permit.

Persons who own or wish to operate facilities which may discharge any pollutant must submit a complete application for such permit as provided in 40 CFR Part 122, or comply with the requirements for application for coverage by a general permit. EPA's decision regarding permit issuance and/or conditions of permits would be subject to the requirements of the Clean Water Act and regulations. EPA does not expect applications for individual permits (or general permit coverage) to be made where the activity is prohibited by federal law or the laws of other sovereign entities. However, CWA regulations do not preclude a person from making application for an NPDES or air permit for discharge for an activity which is prohibited by federal law or other sovereign entities. Pursuant to Section 511 of the Clean water Act, 33 U.S.C. § 1371, nothing in the Clean Water Act may be construed as limiting the authority or functions of any officer or agency of the United States under any

other law or regulation. Accordingly, should such federal moratoria or lease-buy back be enacted, EPA actions with respect to any permit application would not supersede or override such moratoria or lease buy back.

EPA evaluates during permit reviews whether discharges are acceptable in a given location. Such review includes the assessment of environmental impacts as set forth in the Clean Water Act and regulations, including 40 CFR Part 122, 124, 125, 129, 130, 131, 132, and 133. EPA may impose conditions for permits on a general or case-by-case basis, to provide for and assure compliance with all applicable requirements of the Clean Water Act and regulations or as the Administrator determines are necessary to carry out the provisions of the Clean Water Act. CWA § 402, 33 U.S.C. § 1342. Conditions applicable to all NPDES permits are set forth in, *inter alia*, 40 CFR Part 122–133. When applicable, EPA includes effluent limitations and standards as provided in the Clean Water Act and regulations. Such conditions, effluent limitations, and standards would be established to minimize any adverse impacts which may result from the proposed discharge of pollutants, including conditions necessary due to the presence of areas of biological concern, or necessary to protect or achieve water quality standards. At any time, an applicant could elect to undertake a no-discharge project. EPA may also deny issuance of a permit where the discharge fails to comply with the Clean Water Act and regulations.

The EIS identifies one moratorium area (Eastern Planning Area, south of 26 N latitude) as being excluded from proposed General Permit coverage. According to the MMS, that area has been under a moratorium for oil and gas activity and leasing imposed by President Bush in 1990. The MMS has since then bought back the leases in that moratorium area. While there have been annual leasing moratoria imposed by the President and/or Congress pertaining to MMS new lease sales in the entire Eastern Planning Area since 1992, the only moratorium relevant to the EPA and therefore excluded from any NPDES permitting is that area south of 26 N latitude. Leasing moratoria are prohibitions against offering the covered area in a lease sale; they do not affect those lessees holding valid leases and seeking permits. EPA believes there are no leases held in OCS areas within EPA Region 4 jurisdiction presently under any exploration or production activity moratoria.

Comment 88: By allowing industry to drill for oil and gas in the Eastern Gulf of Mexico, the government ignores huge gaps in information on the effects of drilling.

Response: EPA has noted the commenters statements regarding impacts of discharges into the Gulf of Mexico and agrees that in some instances information may not be available regarding the environmental effects of drilling for portions of the Gulf. For this reason, EPA chose the alternative set forth in the draft EIS consistent with available information. In addition, EPA acknowledges that all environmental effects of discharges into marine waters cannot be measured and known with certainty. However, Section 403(c)of the Clean Water Act provides EPA with the authority to make the determination based on existing information if EPA determines that the discharge will cause no unreasonable degradation of the marine environment under the NPDES permit.

EPA has evaluated available data, including information submitted pursuant to public comment on the draft EIS and permit, and has found it to be adequate to assess the potential impacts to marine waters, endangered species, marine life including the benthos for those areas of the Gulf of Mexico covered by this general permit. EPA has determined that, though some impact may occur, ''unreasonable degradation'' will not result due to the permit issuance, which is the preliminary determination of the Ocean Discharge Criteria Evaluation.

Comment 89: EPA should revise Alternative B to include general permits seaward of the 200 meter isobath line or a distance of 100 miles, whichever is greater. In a similar vein, two commenters offered that general permit coverage should begin at some (unspecified) minimum distance from the coast.

Response: EPA considered various distances from important coastal resources for suitability of a general permit, including several distances from coastal barrier islands. EPA Region 4 selected the 200-meter depth contour because it has scientific basis.

Regulations promulgated under the Clean Water Act (40 CFR 122.28(C)(1)) require EPA to issue general permits unless the area includes areas, ''such as areas of biological concern, for which separate permit conditions are required.'' EPA has extensively examined the available literature on the distribution of important benthic communities, fisheries habitats, and marine mammal habitats and has found that, particularly offshore Florida and Alabama in the Eastern Planning Area, the areas over the continental shelf and shelf transition zone (approximated by the area out to the 200 meter isobath) contains an abundance of sensitive biological resources. Consistent with its authorities noted above, EPA concludes that the abundance and sensitivity of the biological resources in this area warrant the extra protection afforded by individual permitting in waters offshore Florida and Alabama in the Eastern Planning Area and a live bottom survey requirement in the Mobile and Viosca Knoll lease areas. In contrast, demarcating a 100-mile cutoff for a permitting decision has no scientific, ecological basis, and as such is not supported by EPA's regulatory authority.

Comment 90: Areas of Biological Concern warrant the use of individual permits. These communities are scattered throughout the eastern Gulf and their exact locations are not known. The use of individual permits will allow the state (Florida) to work with EPA to adequately define resource issues and areas of biological concern.

Response: EPA believes that the potential for areas of biological concern in the Mobile and Viosca Knoll lease areas warrants the requirement for operators to conduct a live bottom survey before hydrocarbon exploration and development activities can take place in these areas. EPA has concluded that, because the resources in the Gulf offshore Florida and Alabama in the Eastern Planning Area are less well known, and somewhat different than the resources to the west, individual permits (for activities in waters less than 200 meters depth) are appropriate. See Section 2.4 of the Final EIS.

Comment 91: EPA does not have enough information to issue permits for offshore drilling near Florida shores.

Response: The Agency has reviewed available information and has determined that there is sufficient information to issue the general permit for the areas covered. The analyses are presented in the ODCE.

Comment 92: There should be a process to provide transition coverage to leases that would lose general permit coverage so that activities can proceed uninterrupted while a new permit is being developed and issued. EPA could grant non-operational leases the same interim coverage proposed for operational leases.

Response: EPA appreciates lessees' concern about when the old General Permit coverage expires and the new General Permit becomes effective. In the proposed new General Permit area (Region 4 Central Planning Area

jurisdiction and outside the 200-meter isobath of the Eastern Planning Area) EPA would accept from a lessee a Notice of Intent for coverage under the new general permit within 60 days of the new General Permit becoming effective. The lessee's project would be considered operational if the Notice of Intent received indicates a discharge has occurred within 2 years of the effective date of the new General Permit, and may proceed with old General Permit coverage if that lease had old permit coverage. New General Permit coverage commences when EPA notifies the operator of such coverage. Otherwise, non-operational projects have no coverage until EPA grants coverage following filing of an Exploration Plan with MMS. Please also refer to Table 1 in the Supplemental Information Section IV.

Comment 93: The draft general permits will have a deleterious effect on drilling and workover operations by requiring a new permit for each rig moved to a new drilling location or to work over an existing well, and the permitting process would take six months. Workover rigs may be needed immediately to secure and safeguard operational problems.

Response: The NPDES regulations allow such activities to be covered in a single permit. Further, EPA customarily follows the MMS procedure of ''unitizing'' a project having multiple site (lease block) activities where the activities are part of one development and production plan and thus subject to a single NPDES permit.

Comment 94: The permit should allow transfer for coverage from one operator to another. This provision would be consistent with the Region 6 permit.

Response: The previous current existing general permit allows transfer of coverage upon proper notification to EPA Region 4, but due to the confusion in agreements and leases sometimes changing hands a few times every year, Region 4 has now placed the burden of giving proper notification to the agency in the hands of the operator. This will allow general permit coverage to be updated on all leases by the agency as they occur in EPA's permit compliance system. Additionally, it will give EPA more information at the time the notice is filed on drilling proposals of development plans that are being developed for the proposed areas in question and whether the facility is eligible for coverage under either the new source or existing source general permit. The Region believes that filing these notices for transfer of leases by the operator fulfills the requirement under minor modifications (40 CFR 122.63) when transfers do occur and allows the Region to have an accurate record of transfers as they occur in the Region 4 jurisdictional area.

Comment 95: The second paragraph in Part I.A.2 of the permit should be revised to say: ''leases occurring below the 26 degree parallel which are currently under moratorium are excluded from coverage under these general permits.'' The existing permit language would deny an operator the benefits of the permit—even for leases outside of the moratorium area if he merely held leases in the moratorium area. It was EPA's intent to deny coverage to the leases in the moratorium area, instead of the operator. A similar concern applies to ineligibility for coverage within 1,000 meters of an area of biological concern.

Response: The comment represents an unreasonable interpretation of the general permit provisions. The general permit language clearly prohibits discharges within 1000 meters of an Area of Biological Concern and operations below the 26 parallel, and excludes from general permit coverage operations of any operator who seeks to discharge within the 1000 meter buffer zone and below the 26 parallel. The language should be read in context of the section in which the language is placed.

Comment 96: EPA has the ability to impose various restrictions on discharges in specific areas that are determined to be of high habitat or resource value. By placing Areas of Biological Concern off limits, EPA has greatly reduced its uncertainty about causing unreasonable degradation.

Response: EPA agrees with that the current permit contains discharge limitations, such as the requirement to apply for an individual permit for facilities located within 1,000 m of areas of biological concern, that ensure no unreasonable degradation of marine waters will occur within the permit coverage area. EPA has reached this conclusion in the process of conducting the Ocean Discharge Criteria Evaluation (ODCE) for the proposed permit. The ODCE outlined potential environmental impacts resulting from the permit and found that the permit will not cause unreasonable degradation of the marine environment.

Comment 97: EPA has the ability to impose various restrictions on discharges in specific areas that are determined to be of high habitat or resource value. By placing Areas of Biological Concern off limits, EPA has greatly reduced its uncertainty about causing unreasonable degradation.

Response: EPA agrees with that the current permit contains discharge limitations, such as the requirement to apply for an individual permit for facilities located within 1,000 m of areas of biological concern, that ensure no unreasonable degradation of marine waters will occur within the permit coverage area. EPA has reached this conclusion in the process of conducting the Ocean Discharge Criteria Evaluation (ODCE) for the proposed permit. The ODCE outlined potential environmental impacts resulting from the permit and found that the permit will not cause unreasonable degradation of the marine environment.

Comment 98: Metals are tightly bound to drilling fluid solids and do not readily leach off into the aqueous phase of the mud following discharge to the ocean (Trefry et al., 1986).

Response: Metals found in the drilling fluid discharges are predominantly associated with drilling fluid solids. However, a small fraction of the metals bound to the drilling fluid solids is known to solubilize into the water column and sediment pore water. This fraction is expressed as the leach percentage. The ODCE drilling mud dilution analysis has been revised to include the leach percentage factor of the corresponding metal for two scenarios: mean seawater leach and pH5/7.8 maximum seawater leach. The leach percentages used in the ODCE are derived from Liss et al. (1980), Kramer et al. (1980), McCulloch et al. (1980), and Trefry et al. (1986).

Comment 99: [ODCE Comment] No information is given about whether the concentrations of metals reported in Table 3–2 of the ODCE for barite are ''typical'', mean, or upper limit concentrations for drilling mud grade barite. Some of the concentrations seem high, particularly those for chromium, nickel, and tin, when compared to the data presented in EPA (1985a), Table 2–3. However, the mercury and cadmium concentrations listed in Table 3–2 are below permit limits.

Response: Stock barite that meets metals limitations is referred to by EPA as ''clean'' barite (EPA, 1993b). The data presented in Table 3–2 of the ODCE represent mean metals concentrations for ''clean'' barite. These barite characterization data are found in the Offshore Oil and Gas Effluent Guidelines Development public record and were provided by industry as EPA Region 10 Discharge Monitoring Report Data.

Comment 100: [ODCE Comment] The use of diesel fuel in drilling fluid destined for ocean disposal is prohibited and the use has therefore

decreased. Thus the discussion in the ODCE may not be completely representative of current practice in the U.S. Gulf of Mexico.

Response: The use of diesel fuel has decreased since the early 1980s and alternatives, such as synthetic based muds, have increased. Although drilling fluids containing diesel are not permitted to be discharged, there is no prohibition on their use. The ODCE was drafted prior to promulgation of final offshore effluent limitations guidelines and has been updated to reflect current drilling fluid usage trends.

Comment 101: [ODCE Comment] Regarding the ODCE, the inclusion of a paragraph on oil-based drilling muds without any qualifications leaves the impression that oil-based drilling fluids and oily cuttings are discharged to U.S. waters.''

Response: EPA agrees and has noted in the ODCE the discharge prohibition of oil-based muds.

Comment 102: [ODCE Comment] The commenter requests clarification on the characterization of pollutant concentrations for drilling fluids as presented in the ODCE.

Response: The ODCE used pollutant concentrations as developed for the final offshore effluent limitations guidelines.

Comment 103: [ODCE Comment] Drill cuttings do not contain up to 60 percent by volume adhering drilling fluids as is documented in the draft ODCE. The amount of drilling fluid that remains attached to cuttings after treatment in the mud and cuttings treatment system on the platform varies. According to Neff, et al. (1987), a typical cuttings discharge contains 5 to 10 percent drilling fluids solids. The 60 percent estimate is attributable to Ayers et al. (1980a) by EPA (1985a), but this estimate could not be found in Ayers et al. Also, the concentration units in Table 3–4 of the ODCE are not µg/l as reported, but rather percent by weight.

Response: EPA stands by the technical accuracy of its statement in the ODCE. The statement in USEPA (1985a) could have been better structured to more clearly reflect its intention to state that the ''other data'' as presented in Ayers et al. (1980a) is the source of the 40% to 60% estimate of adherent fluids, not Ayers et al. themselves. EPA's estimate of adherent fluids is based on the data presented in Table 10 of Ayers et al. (1980a).

With regard to Table 3–4 of the draft ODCE, the commenter is correct that the units of the table should be percent by weight. This has been corrected in the final document.

Comment 104: [ODCE Comment] The commenter questioned the source of the data presented in Table 3–5 of the ODCE and whether the concentrations listed represent means, typical concentrations, or highest expected concentrations. Lower values are given in Table 3–5 of the EIS and are based on BCT/BAT/NSPS-level treatment with improved gas flotation. In order to meet the new effluent standards for oil and grease in produced water (42/29 mg/L), operators will have to adopt the advanced produced water treatment technology (Otto and Arnold, 1996). Therefore, the concentrations in Table 3–5 of the EIS (EPA, 1996) are more appropriate to represent likely chemical concentrations in ''typical'' produced water, rather than the overall ''average'' values listed in Table 3–5 of the ODCE document. The commenter also questioned the concentrations of several pollutants in Table 3–5 namely, benzo(a)pyrene, chlorobenzene, di-n-butylphthalate, and p-chloro-m-cresol .

Response: The commenter is correct that current offshore produced water discharges must meet oil and grease limitations of 42 mg/l daily maximum and 29 mg/l monthly average based on improved performance gas flotation. The ODCE was drafted prior to promulgation of final offshore effluent limitation guidelines (ELG). EPA revised Table 3–5 of the final ODCE to reflect the current characteristics of offshore produced water effluent. Data presented in Table 3–5 are consistent with those provided in the Environmental Impact Statement (EIS). The characterizations of produced water effluent from improved gas flotation were obtained through ''a statistical analysis of data collected by EPA and submitted by industry'' and was used in the offshore ELG development (EPA, 1993). Pollutant concentrations, including benzo(a)pyrene, chlorobenzene, di-n-butylphthalate, and p-chloro-m-cresol are significantly lower in produced water discharged after treatment using improved gas flotation.

Comment 105: [ODCE Comment] The high concentration of organic carbon in produced water is not attributable primarily to volatile aromatic hydrocarbons and aliphatic hydrocarbons as stated in the ODCE. Most of the organic matter in produced water is in solution and consists of a mixture of low molecular weight carboxylic acids which are common in marine sediments and are not toxic to marine organisms. Also Gulf produced waters also contain phenols which, although toxic to marine organisms, biodegrade rapidly in the marine environment.

Response: The information submitted by the commenter is noted and the ODCE has been updated to reflect the additional information. Although it is true that many of the constituents present in effluent discharges are also common in marine sediments, some are not. While it is true that phenol biodegrades rapidly, it is phenol (not any metabolic product) that is discharged in the permitted effluent and which must be evaluated against water quality criteria.

Comment 106: [ODCE Comment] Two comment letters expressed the opinion that the text of the ODCE misrepresents the volumes of produced water discharged by individual platforms.

Response: The ODCE presents the range of produced water volume discharged from offshore facilities in the central and western Gulf of Mexico as rates between 134 bbl/day to 150,000 bbl/day. The distribution of produced water discharges for offshore platforms has been studied and published by EPA in the Offshore ELG Development Document (EPA, 1993b). Information presented in the ODCE regarding produced water volumes discharged in the Eastern Gulf of Mexico has been updated.

Comment 107: The modeling of drilling fluid dispersion as presented in the ODCE is not representative of drilling fluid discharge conditions that might occur in the eastern Gulf of Mexico.

Response: EPA agrees that a 5-meter depth scenario is not realistic for conditions in the Eastern Gulf of Mexico. However, the general permit must be adequately protective in all areas of its coverage. Therefore, drilling fluid dilution modeling must assess the shallowest area under the maximum permit allowable discharge rate, high mud weight, (ie., worst-case) scenario.

EPA has revised the presentation of the drilling fluid dilution model data in the ODCE and EIS. Several different water depths are used to represent different depth ranges of the permit coverage area. In addition, dilution at the edge of the 100m mixing zone is used for water quality analyses as opposed to dispersions as presented in the previous version of the ODCE.

The water depths and corresponding mean dilutions selected from the OOC Model results are: 15m (mean dilution = 562), 40m (mean dilution = 787), and 70m (dilution = 1,721). All other parameters, that is, the discharge rate, the mud weight, and the current speed were not changed in any of the chosen model scenarios. The discharge rate at each of the above-mentioned depths was 1,000 bbl/hr as in the original ODCE

since this parameter is the maximum allowable discharge rate under the permit. Using this high discharge rate as well as the OOC model mud weight and current speed, EPA presents in the ODCE the results of dilutions under the most conservative conditions provided by the permit. EPA has noted in the current ODCE that the results are conservative and that normal operations in the Gulf of Mexico would result in greater dilutions of solids at the edge of the 100m mixing zone.

Comment 108: Several of the human health criteria (fish consumption) are unrealistic or inappropriate based on comparison to ambient concentrations (arsenic) or to carcinogenic PAHs (anthracene vs. benzo[a]pyrene).

Response: The water quality criteria used for the water quality analysis have been updated to include the most recently published criteria. Water quality criteria are proposed and subject to public comment as with any EPA rulemaking. For the purpose of the water quality analysis, the criteria are used as guidelines for determining potential effects.

Comment 109: [ODCE Comment] In discussing physical fate, the ODCE refers to ''dilution'' and ''dispersion.'' Unfortunately, ''dispersion'' is commonly used to refer to the far-field mixing that occurs under the influence of turbulent eddies, a quite different usage than that in the ODCE. The phrase ''differential settling and removal to the bottom'' should be used instead of ''dispersion'' in the ODCE.

Response: The discussion in the ODCE has been revised to clarify the terms ''dilution'' and ''dispersion.''

Comment 110: [ODCE Comment] In several places, the ODCE refers to horizontal distances at which some amount of drilling effluent deposition occurred. These distances are only for the specific literature citations mentioned. For example, the results in Ayers, et al. (1980) were for a total settling distance of 20 meters. In general, the greater the settling distance (discharge pipe to bottom) the greater the time for settling and the distance traveled. Also, dispersion increases. These factors may lead to greater or lesser amounts of deposition at specific distances, depending on currents and particle settling velocities.

Response: EPA agrees that, in general, the greater the drilling effluent settling distance (i.e., discharge pipe to bottom) the greater the time for settling and the distance traveled. The ODCE describes in detail the processes or pathways that affect both the upper and lower plumes. The ODCE was revised to include settling distance as a factor affecting the physical transport processes.

Comment 111: [ODCE Comment] The following ODCE statement should be restated: ''Density stratification contributes to the dissipation of dynamic forces in the dynamic collapse phase of the plume, which represents the point at which passive diffusion and settling of the individual particle become the predominant dispersive mechanisms.'' If a plume is trapped in a stratified water column, the density is the mechanism that drives the collapse of the plume (the spreading out of the plume at its level of neutral buoyancy). After sufficient spreading, the spreading rate caused by dynamic forces declines to the spreading rate that occurs from turbulent dispersion (the so called far-field dispersion that dominates thereafter).

Response: EPA agrees with the commenter's restatement of the dynamic of plume collapse. The clarifications have been incorporated into the discussions of the ODCE as appropriate.

Comment 112: [ODCE Comment] Sediment reworking by bioturbation, if it has any effect at all on the environmental impacts of deposited drilling fluid solids, will tend to decrease their impacts by mixing and diluting the solids in the sediment column.

Response: EPA has noted in the ODCE that bioturbation is the process by which organisms rework the sediment, thereby mixing surface material and deeper sediment layers. This process incorporates drilling fluid solids into the sediment and disperses drilling fluid solids. However, this process also may resuspend previously settled solids and may expose more benthic organisms to drilling fluid solids.

Comment 113: [ODCE Comment] Contrary to statements in the ODCE, metals do not ''always increase in sediments near drilling rigs due to deposition of drilling fluids (Boothe and Presely, 1985)''

Response: The ODCE does not suggest that several metals always increase in sediments near drilling rigs. The ODCE states clearly ''the only two metals clearly associated with drilling fluids that appear to be elevated are barium and chromium.''

Comment 114: [ODCE Comment] The data source presented in the ODCE to demonstrate that mercury and other metals from drilling fluids are likely to accumulate in sediments and organisms near drilling operations were subsequently found to attribute the mercury source to erosion (Crippen et al., 1980) or to be proven erroneous (Mariani et al., 1980; Gillmore et al., 1985).

Response: The comment is noted and the final ODCE contains updated information and revisions.

Comment 115: The area of potential effects of water-based drilling fluid discharges on the benthos nearly always is less than 1,000 m from the discharge, except in very shallow waters with restricted mixing and circulation. There have been no documented cases where petroleum hydrocarbons accumulated from water-based drilling muds or produced water in sediments to high enough concentrations to cause substantial adverse effects over a wide area. While the effects of oil-based muds may extend out to 1,000 meters or so, the discharge of such muds and cuttings is prohibited.

Response: The current ODCE has been revised to discuss the impact of water-based drilling fluid discharge on the benthos rather than impacts of oil-based mud discharge.

Comment 116: [ODCE Comment] Most of the studies reviewed concerning the fate of produced water are for shallow coastal waters, not representative of most of the OCS of the eastern Gulf of Mexico. Several more recent references are also available.

Response: The comment is noted and the final ODCE contains updated information and revisions.

Comment 117: Two comment letters questioned the application of the CORMIX model to analyze the fate of produced water discharges. They also contended that the statement of Brook's equation for the 4/3 law farfield dilution is wrong in the ODCE.

Response: In developing the final general permit for the Eastern Gulf of Mexico, EPA Region 4 has used the most recent CORMIX model (Version 3.20), which is supported by EPA Headquarters. The produced water discharge scenarios were rerun with updated facility discharge data (i.e., produced water discharge rates) using this revised version of CORMIX. Brooks' 4/3 power is not used in the updated CORMIX version.

Comment 118: Chronic effects of produced water discharges are extremely unlikely in the water column. In all but the most poorly mixed enclosed water bodies, mixing is sufficient to prevent a chronic increase in concentrations of hydrocarbons and metals in the water column near the discharge. Environmentally significant accumulation of hydrocarbons in sediments near produced water discharges occurs only in shallow coastal and enclosed waters, such as

Trinity Bay, TX (2–3 m deep) (Armstrong et al., 1979).

Response: EPA agrees and notes that the ODCE and EIS have statements to the effect of those made by the commenters.

Comment 119: The source of the high radium concentrations in coastal and offshore waters of west Florida is runoff from phosphate mining and natural phosphate deposits, rich in radium isotopes, in the area (Fanning et al., 1982; Miller et al., 1990).

Response: The permit coverage area does not cover the cited Florida coastal waters and radium concentrations found in open Gulf waters are more appropriate for comparison with discharges occurring under the permit.

Comment 120: The products used in drilling are toxic. Spills, small and large will occur and the toxins will ruin our beaches and waters. [72]

Response: The effects of discharges of drilling fluids were examined in the DEIS and Ocean Discharge Criteria Evaluation.

Comment 121: The environmental consequences summarized in the ODCE should be consistent with those summarized in the DEIS (e.g., number of pollutant discharges in drilling fluids that exceed AWQC). [112]

Response: The commenter is correct that the DEIS and the draft ODCE contain different conclusions of water quality criteria exceedences from drilling fluids discharges. Both conclusions are based on the same Offshore Operators Committee Muds Model data and water quality compliance criteria. The difference is attributable to selecting and summarizing results of the water quality analysis and not in the methods or criteria used to determine water quality compliance. Both analyses are derived from data used and presented for the development of the effluent limitations guidelines for the offshore subcategory. The model results (presented in Table 4–5 of the original ODCE) were used for both analyses. The DEIS used results as presented in the RIA for the Effluent Limitations Guidelines rulemaking (U.S. EPA, 1993a, as extracted from Avanti, 1993). This analysis presented effluent concentrations at the edge of a 100-meter mixing zone based on the average dispersions attained at water depths of 5 m, 19.8 m, and 50 m using two leachability assumptions (mean seawater extraction and pH 5 extraction). The results reported in the DEIS are based on the results of the mean seawater leach condition at a 50-meter water depth. The discussion in the ODCE reports a more conservative case—using the pH 5 extraction—at a 20-meter depth.

Both the FEIS and Revised ODCE present a revised and consistent methodology for the water quality analysis, using two commonly accepted extraction factors (the maximum seawater pH and pH 5/7.8), and dilution estimates for three water depths (15, 40, and 70 meters) which represent the range of depths in the central planning area portion of the permit coverage area. The FEIS text reflects these changes and the Revised ODCE presents the detailed methodology. Also, some changes have occurred to the Federal Water Quality Criteria and these are reflected in the water quality analyses of the FEIS and ODCE.

Comment 122: The proposed NPDES general permits are an improvement over prior regulations, but Alternative B does not sufficiently protect water quality. The Gulf is already receiving a large amount of the nation's toxic pollutants (the five Gulf states rank high among the top 10 states with the largest Toxic Release Inventory releases). The present regulatory programs do not protect nor improve water quality.

Response: In preparing for its Ocean Discharge Criteria Evaluation (ODCE), EPA examined existing studies of water quality and toxicity effects of drilling and production discharges and has conducted discharge modeling of drilling fluids and produced water. EPA has made the ODCE determination that, based on the available information, the permit limitations are sufficient to determine that no unreasonable degradation should result from the permitted discharges. The potential impacts of effluent discharges would be minimized by the effluent discharge limits established in the permits and dispersion of surface discharges. Short-term biological effects are expected to be limited to less than 1,000 meters from drilling and production sites. Monitoring parameters would be applied to determine concentrations in discharges and surrounding waters as a basis to adjust limitations in the future.

Comment 123: Pollutants are having a cumulative impact on the Gulf, affecting marine mammals, causing red tides, creating dead zones, increasing fecal coliform counts, decreasing the seafood harvest, and causing mercury contamination of seafood. Human exposure via swimming in contaminated waters is also a concern.

Response: Pollutant modeling results have shown pollutant concentrations associated with produced water discharges are diluted to levels below federal and state water quality standards within 100 meters of the discharge. Concentrations of certain pollutants in drilling fluids (arsenic, beryllium, chromium, copper, lead, and mercury) do exceed some of the federal and state water quality standards when measured at the edge of a 100-meter mixing zone. However, the exceedances are not great, such that concentrations would reduce to background levels at least several miles (for discharges at the shoreward limit of federal OCS waters) from where any swimming would be taking place.

Comment 124: Routine offshore drilling operations and pipeline installation dumps thousands of pounds of toxic drilling muds into the ocean.

Response: The effects of the toxic constituents in offshore drilling discharges have been examined in the Ocean Discharge Criteria Evaluation and draft EIS. EPA concludes that the discharges will not result in an unreasonable degradation of the marine environment. The potential impacts of these discharges are minimized by the effluent discharge limits established in the permits, including the ''clean barite'' requirement, the prohibition on the discharge of cuttings contaminated with oils, and the aquatic toxicity limitation.

Comment 125: Siltation is briefly mentioned in the EIS, but it needs its own study.

Response: The EIS mentions that localized impacts of siltation may occur from trenching related to pipeline emplacements. Because of its highly localized nature, this effect is not considered as a substantial impact on Gulf of Mexico resources. The effects of drilling mud discharges and resuspension of sediments are examined at various points throughout chapter three of the draft EIS and are concluded to not have a substantial impact.

Comment 126: Support vessels also affect offshore waters since discharges occur from these sources.

Response: Recent MARPOL regulations pertaining to ships are applicable to service vessels, and these regulations place much tighter restrictions on bilge discharges. The issue of course is enforcement and the U.S. Coast Guard has this responsibility but MMS also does limited inspection of barges at rigs and platforms.

Comment 127: Most of the major bays experience hypoxic conditions during the summer, and Mobile Bay is experiencing hypoxic conditions during the winter. Panama City Waters, Choctawhatchee Bay and Mobile Bay contain shellfish with high organic compounds. These valuable resources can't be further degraded.

Response: One of the most severe environmental stresses to the Gulf that the Commentor mentions is hypoxia, or

depressed dissolved oxygen. The Gulf of Mexico Program has identified excess nutrient loadings primarily of river discharge origin as the source of this over-enrichment. Nitrogen and phosphorus loading and organic material reaching the Gulf have increased dramatically in recent years. Scientists believe this over-enrichment causes excessive primary productivity in the form of algal blooms. Organic loadings from riverine sources coupled with the organic production within the Gulf exert massive biological oxygen demand. The result is an area of severely depressed oxygen levels in Gulf bottom waters that is increasing in size but varying seasonally. All major wastewater components of offshore operations (muds and cuttings, produced waters, and domestic wastewater) have oxygen consuming components. The domestic wastewater discharge from the sewage treatment facility yields organic wastes that exert a biological oxygen demand, but all of these wastes are negligible compared to the riverine and other coastal inputs. The estuarine hypoxia problems in Mobile and other bays, mentioned by the Commentor, is pronounced. The sediments of confined inland waters act as sinks for the nutrient and organic inputs. Wave action and currents plus the almost continual dredging activities within estuaries tend to increase the resuspension of these pollutants. While offshore supply boat traffic contributes turbidity, the industry collectively has little impact to this problem in the estuary.

Comment 128: Minimizing the impacts of effluent discharges by establishing limits in General Permits is certainly no solution to the problems. Dispersion of surface discharges into deeper waters is a deplorable practice. The only environmentally-friendly practice for discharging effluents into the sea can be the purification of the waste-water prior to discharge. Solids need to be disposed of separately on land. Dilution and dispersion are not solutions to pollution.

Response: EPA's goal and Congressional mandate per the Clean Water Act is to reduce pollution in the nation's waters. In order to achieve this mandate, EPA promulgates regulations, the effluent limitations guidelines, for all industrial sources, including the oil and gas industry. The effluent guidelines are implemented through the NPDES permitting process. In 1993, EPA promulgated effluent guidelines for the offshore subcategory of the oil and gas industry. During the process of developing these guidelines, EPA evaluated the treatment technologies as well as disposal options available to the oil and gas industry.

NPDES permits require water quality-based analyses, and for marine dischargers, must include a CWA Section 403 ''Ocean Discharge Criteria Evaluation (ODCE). The ODCE is a document published by EPA to evaluate the environmental impact of the NPDES general permit of discharges from the offshore oil and gas industry. The ODCE determined that the conditions and limitations in the general permit protected the water quality of the eastern Gulf of Mexico and preserved the health of the aquatic life.

For the offshore subcategory, treatment of produced water effluent using improved gas flotation and limitations on drilling fluid discharges were determined to be both economically achievable and providing significant reduction in pollutants compared to existing regulations. Therefore, treatment of effluent to municipal wastewater levels is not a currently feasible technologically nor economically. Disposing drilling solids on land was considered by EPA in 1993, but was determined not to be feasible for the offshore oil and gas industry given the large distances and costs associated with land disposal.

EPA agrees that dilution is not an appropriate method for treating discharges. However, the general permit does not rely on ''the dilution of discharges to reduce the level of toxics'' to avoid unreasonable degradation.

The conditions and limitations in the general permit for the eastern Gulf were determined to protect water quality and preserve the health of benthic and other marine organisms. These permit conditions and limitations include no discharge of free oil, no discharge of oil-based muds, no discharge of diesel oil, no discharge of produced sand, no discharge within 1,000 meters of areas of biological concern, oil and grease limitation on produced water, cadmium and mercury concentration limitation in barite, discharge rate limitations around live-bottom areas, and limitations on the whole effluent toxicity of both drilling fluids and produced water.

Comment 129: Estimates of dilution 100 meters from discharges and areas receiving drilling effluents at specified criteria or more can be generated in a form suitable for a general permit.

Response: While it is technically possible to construct a table of estimated dilutions for various operational and environmental parameters, EPA does not believe this approach offers any significant administrative or regulatory relief to operators and would require substantial Agency resources. EPA does believe such an approach is an entirely feasible option for operators, given published criteria, should they decide they have an individual requirement, to further control their water quality impacts based on available environmental and operational data.

Comment 130: The proposed current speed of 4 cm/sec represents the median of data collected from offshore Alabama using a current meter placed at a 10 meter water depth in 30 meters of total water depth. EPA should evaluate the relevancy of this constant parameter, since the model will be applied to discharges in water depths for 200 meters or greater. This will result in more accurate projection of the effluent concentration at 100 meters (edge of mixing zone) which is used to calculate the toxicity limitations for each production platform modeled.

Response: EPA believes that Gulf currents at depths more than 200 meters deep are nil. The modeling performed relative to the issuance of new source performance standards and the revisions to best available technology evaluated the water currents in waters much shallower and under greater current magnitudes and fluctuations, representing worst case potential concentrations at the edge of a 100-meter mixing zone.

Comment 131: EPA should consider existing compliance levels in deciding whether to issue more NPDES permits.

Response: EPA regulations do not allow the Agency to consider an applicants's track record when deciding on new permits for a facility.

Comment 132: There should be a requirement for adequate emergency response.

Response: The MMS requires on-site containment capabilities as well as rapid response from shore bases.

Comment 133: EPA should consider the level of toxicity of the discharged material and should strongly consider a prohibition on toxic discharges.

Response: The effluent limitations prohibit toxic concentrations beyond a 100-meter zone of mixing.

Comment 134: The State of Florida must have the ability to opt for more stringent discharge conditions, if warranted, based on resources at a specific site. There must be a formal mechanism for State participation in general permit decisions.

Response: EPA is willing to enter into an agreement (Memorandum of Understanding) with the State of Florida regarding input to decisions on NPDES permitting review.

Other Changes to General Permit at the Time of Final Permit Issuance.

Based on comments received or review of draft permit, changes were made to the Fact Sheet and Permit as noted below prior to final issuance.

Fact Sheet Changes

Section 1.D(1)

The Phrase ''therefore sites where exploration has occurred are not considered existing sources'', is changed to ''therefore, sites where exploration has occurred are not considered new sources.''

Section I.H

The phrase ''one in Block 990 discharging approximately 160 BPD; and one in Block 821 discharging approximately 240 BPD.'' should be updated. Following this sentence, the Region has incorporated an update into the final Fact Sheet which reads as: Based on a 1998 survey, the Region gained information that Mobile Block 990 produced water discharge has increased to 450 BPD and Mobile Block 821 produced water has increased to 1500 BPD and incorporated this revised information in the Ocean Discharge Criteria Evaluation.

Section I.i

Cormix Expert System (v. 1.4; Doneker and Jirka, 1990) has been revised to use the most recent Cormix Model (Version 3.2). Since Brooks 4/3 power law is not used in the revised version of Cormix references using the Brooks 4/3 power law should also be deleted. The reference manual (EPA/600/4–85/013) was changed to (EPA/600/4–90/027F). The phrase ''The LC 50s must be reported monthly, accompanied by a copy of the full laboratory report'' is changed to '' The LC50s must be reported bi-monthly, accompanied by a copy of the full laboratory report. The reference to using sheepshead minnows for conducting toxicity tests is changed to inland silverside.

Part III,—1st Paragraph,—the wastestream, ''Uncontaminated Freshwater'' was added and has been included in the final permit under ''Miscellaneous Discharges'.

Section V.N—Clarifications

End-of-Well Sample—The previous definition will not be changed as proposed, and can be located in the definition Section of the Final NPDES General Permit.

Permit Changes

Part I. Section A.1

Added well workover and abandonment operations as a category of operations covered.

Part I. Section A.4

Under Notification Requirements, Item No. 4, 10 and Item No. 11were revised based on regulations and to exempt initial photo-documentation for certain facilities. NCO requirements were changed from 30 days prior to placement to 30 days after placement. NCO requirements for produced water discharge was changed from within 30 days prior to initiation of produced water to within 90 days after initiation of produced water discharge.

Part I. Section B.3.b

The reference to Cormix1(Version 1.4) is changed to Cormix (Version 3.2)The reference to (EPA/600/4–85/013) is changed to (EPA/600/4–90/027F). The phrase ''The results for both species shall be reported on the monthly DMR'' has been changed to '' The results for both species shall be reported on the monthly DMR, once every 2-months.

Part II. Section D.3

Transfers reference Part I.A.3 has been is changed to Part I.A.4. Tables 2 & 3—For the Discharge parameter for Produced Water, the Toxicity requirement was changed from once/month to once-every two months, and one species was changed from sheepshead minnows to inland silverside minnow.

Appendix A—The type of species was revised based on comments. EPA added another parameter that may be used in the CORMIX toxicity calculation and will be reported by the operator.

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Appendix A
Table A–1. CORMIX Input Parameters for Toxicity Limitation Calculation
Appendix B. Map identifying Areas of Biological Concern in the Central Planning Area.

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq.), operators of lease blocks located in OCS Federal waters seaward of 200 meters in the Eastern Planning Area and seaward of the outer boundary of the territorial seas in the Central Planning Area with existing source or new source discharges originating from exploration or development and production operations are authorized to discharge to receiving waters in accordance with effluent limitations, monitoring requirements, and other conditions set forth in parts I, II, III, and IV hereof.

Operators of operating facilities within the proposed NPDES general permit area must submit written notification to the Regional Administrator, prior to discharge, that they intend to be covered by either the existing source general permit or the new source general permit (See part I.A.4). Upon receipt of notification of inclusion by the Regional Administrator, owners or operators requesting coverage are authorized to discharge under either the existing source or new source general permit. Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of intent to be covered by this general permit are not authorized under the general permit to discharge pollutants from their potential new or existing source facilities. This permit does not apply to non-operational leases, i.e., those on which no discharge has taken place in 2 years prior to the effective date of the new general permits. EPA will not accept Notice of Intents (NOI's) from such leases, and these general permits will not cover such leases. Non-operational leases will lose general permit coverage on the effective date of these new general permits.

This permit shall become effective at midnight, Eastern Standard Time, on November 16, 1998.

For operational facilities, coverage under the old general permit shall terminate on the effective of this permit, unless the owner/operator submits an notice of intent (NOI) to be covered within 60 days thereafter, or an application for an individual permit within 120 days thereafter. If an NOI is filed, coverage under the old general permit terminates upon receipt of notification of inclusion by letter from the Director of the Water Management Division, Region 4. If a permit application is filed, the old general permit terminates when a final action is taken on the application for an individual permit.

This permit and the authorization to discharge shall expire at midnight, Eastern Standard Time, on *October 31, 2003.*

Signed this 7th day of October, 1998.

John H. Hankinson, Jr.,

Regional Administrator, EPA Region 4.

Part I. Requirements for NPDES Permits

Section A. Permit Applicability and Coverage Conditions

1. Operations Covered

These permits establish effluent limitations, prohibitions, reporting requirements, and other conditions for discharges from oil and gas facilities engaged in production, field exploration, drilling, well completion, well workover and abandonment operations, and well treatment operations from potential new sources and existing sources.

The permit coverage area includes Federal waters in the Gulf of Mexico seaward of the 200 meter water depth for offshore Alabama and Florida in the Eastern Planning Area, and seaward of the outer boundary of the territorial seas for offshore Mississippi and Alabama in the Central Planning Area. This permit only covers facilities located in and discharging to the Federal waters listed above and does not authorize discharges from facilities in or discharging to the territorial sea (within 3 miles of shore) of the Gulf coastal states or from facilities defined as ''coastal'' or ''onshore'' (see 40 CFR, part 435, subparts C and D).

2. Operations Excluded

Any operator who seeks to discharge drill fluids, drill cuttings or produced water within *1000* meters of an area of biological concern is ineligible for coverage under these general permits and must apply for an individual permit.

Any operator with leases occurring below the 26° parallel which are currently under moratorium are excluded from inclusion under these general permits.

No coverage will be extended under either of the new general permits to non-operational leases.

3. General Permit Applicability

In accordance with 40 CFR 122.28(b)(3) and 122.28(c), the Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved;

(f) It is determined that the facility is located in an area of biological concern.

(g) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required. Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than *180* days before an activity is scheduled to commence on the lease block. When an individual NPDES permit is issued to an operator otherwise subject to this permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be

revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source after the notification of intent to be covered is filed (see I.A.4, below).

4. Notification Requirements (Existing Sources and New Sources)

Written notification of intent (NOI) to be covered in accordance with the general permit requirements shall state whether the permittee is requesting coverage under the existing source general permit or new source general permit, and shall contain the following information:

(1) The legal name and address of the owner or operator;

(2) The facility name and location, including the lease block assigned by the Department of Interior, or if none, the name commonly assigned to the lease area;

(3) The number and type of facilities and activity proposed within the lease block;

(4) The waters into which the facility is or will be discharging; including a map with longitude and latitude of current or proposed outfall locations. Current produced water discharges shall also include Appendix A.

(5) The date on which the owner/operator commenced on-site construction, including:

(a) Any placement assembly or installation of facilities or equipment; or

(b) The clearing, excavation or removal of existing structures or facilities;

(6) The date on which the facility commenced exploration activities at the site;

(7) The date on which the owner/operator entered into a binding contract for the purchase of facilities or equipment intended to be used in its operation within a reasonable time (if applicable);

(8) The date on which the owner/operator commenced development; and

(9) The date on which the owner/operator commenced production.

(10) Technical information on the characteristics of the sea bottom within 1000 meters of the discharge point, including but not limited to information regarding geohazards (Notice To Lessees 88–3, Outer Continental Shelf Shallow Hazards Requirements for the Gulf of Mexico OCS Region dated September 7, 1983), topographical formations, live bottom, and chemosynthetic communities.

(11) MMS photo documentation survey according to most current MMS guidelines, (Revised Guidelines for Photodocumentation Surveys dated January 31, 1989), for facilities in less than 100 meters water depth in the Central Planning Area. (Exception: Current active discharging facilities on the effective date of the new general permit will be exempt from photo-documentation surveys for the life of that discharge: (Refer to Comment No. 69 for clarification)

All notices of intent shall be signed in accordance with 40 CFR § 122.22.

EPA will act on the NOI in a reasonable period of time.

For operating leases, the NOI shall be submitted within sixty (60) days after publication of the final determination on this action. Non-operational facilities are not eligible for coverage under these new general permits. No NOI will be accepted from either a non-operational or newly acquired lease until such time as an exploration plan or development production plan has been prepared for submission to EPA. Operators obtaining coverage under the existing source general permit for exploration activities must send a new NOI for coverage of development and production activities under the new source general permit sixty (60) days prior to commencing such operations. All NOI's requesting coverage should be sent by certified mail to: Director, Water Management Division, Surface Water Permits & Facilities Branch, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

For drilling activity, the operator shall submit a Notice to Drill (NTD) sixty (60) days prior to the actual move-on date. This NTD shall contain: (1) the assigned NPDES general permit number assigned to the lease block, (2) the latitude and longitude of the proposed discharge point, (3) the water depth, and (4) the estimated length of time the drilling operation will last. This NTD shall be submitted to Region 4 at the address above, by certified mail to: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

In addition, a notice of commencement of operations (NCO) is required to be submitted for each of the following activities: placing a production platform in the general permit coverage area (within 30 days after to placement); and discharging waste water within the coverage area (within 90 days after initiation of produced water discharges). The NCO required for discharging waste water shall be accompanied by the information requested in Appendix A for calculation of the toxicity limitation for produced water discharges. Within ninety (90) days after produced water discharge begins, the permittee shall perform adequate tests to establish a bbl/day estimate to be used in the Cormix model. This information must then be provided to EPA in the Notice of Commencement of Operations for produced water discharges.

All NOIs, NTDs, NCOs, and any subsequent reports required under this permit shall be sent by certified mail to the following address: Director, Water Management Division, Surface Water Permits Section, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

5. Termination of Operations

Lease block operators shall notify the Director (at the address above) within 60 (sixty) days after the permanent termination of discharges from their facility.

6. Intent To Be Covered by a Subsequent Permit

This permit shall expire on *October 31, 2003.* However, an expired general permit continues in force and effect until a new general permit is issued. Lease block operators authorized to discharge by this permit shall by certified mail notify the Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960, on or before April 30, 2003, that they intend to be covered by a permit that will authorize discharge from these facilities after the termination date of this permit on October 31, 2003.

Permittees must submit a new NOI in accordance with the requirements of this permit to remain covered under the continued general permit after the expiration of this permit. Therefore, facilities that have not submitted an NOI under the permit by the expiration date cannot become authorized to discharge under any continuation of this NPDES general permit. All NOI's from permittees requesting coverage under a continued permit should be sent by certified mail to: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

Section B. Effluent Limitations and Monitoring Requirements

1. Drilling Fluids

The discharge of drilling fluids shall be limited and monitored by the permittee as specified in both tables and below.

Note: The permit prohibitions and limitations that apply to drilling fluids, also apply to fluids that adhere to drill cuttings. Any permit condition that applies to the

drilling fluid system, therefore, also applies to cuttings discharges.

(a) Prohibitions. Oil-Based Drilling Fluids. The discharge of oil-based drilling fluids and inverse emulsion drilling fluids is prohibited.

Oil-Contaminated Drilling Fluids. The discharge of drilling fluids to which waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication have been added, is prohibited.

Diesel Oil. Drilling fluids to which any diesel oil has been added as a lubricant or pill may not be discharged.

No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern the discharge of drilling fluids is not allowed.

(b) Limitations. Mineral Oil. Mineral oil may be used only as a lubricity additive or pill. If mineral oil is added to a water-based drilling fluid, the drilling fluid may not be discharged unless the 96-hr LC50 of the drilling fluid is greater than 30,000 ppm SPP and it passes the static sheen test for free oil.

Cadmium and Mercury in Barite. There shall be no discharge of drilling fluids to which barite has been added if such barite contains mercury in excess of 1.0 mg/kg (dry weight) or cadmium in excess of 3.0 mg/kg (dry weight).

The permittee shall analyze a representative sample of each supply of stock barite prior to drilling each well and submit the results for total mercury and cadmium in the Discharge Monitoring Report (DMR). If more than one well is being drilled at a site, new analyses are not required for subsequent wells, provided that no new supplies of barite have been received since the previous analysis. In this case, the results of the previous analysis should be used for completion of the DMR.

Alternatively, the permittee may provide certification, as documented by the supplier(s), that the barite being used on the well will meet the above limits. The concentration of the mercury and cadmium in the barite shall be reported on the DMR as documented by the supplier.

Analyses shall be conducted by absorption spectrophotometry (see 40 CFR Part 136, flame and flameless AAS) and the results expressed in mg/kg (dry weight).

Toxicity. Discharged drilling fluids shall meet both a daily minimum and a monthly average minimum effluent toxicity limitation of at least 30,000 ppm, (v/v) of a 9:1 seawater:mud suspended particulate phase (SPP) based on a 96-hour test using Mysidopsis bahia. The method is published in the final effluent guidelines at 58 FR 12507. Monitoring shall be performed at least once per month for both the daily minimum and the monthly average minimum. In addition, an end-of-well sample is required (see definitions). The type of sample required is a grab sample, taken from beneath the shale shaker. Results of toxicity tests must be reported on the monthly DMRs. Copies of the laboratory reports also must be submitted with the DMRs.

Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to discharges and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided in Part IV.A.3, as published in the final effluent guidelines (58 FR 12506). The discharge of drilling fluids that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Maximum Discharge Rate. All facilities are subject to a maximum discharge rate of 1,000 barrels per hour. Discharge rates must be recorded and the hourly discharge rate reported on the monthly DMR in barrels/hour.

(c) Monitoring Requirements. In addition to the above limitations, the following monitoring and reporting requirements also apply to drilling fluids discharges.

Drilling Fluids Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their total volume or mass added downhole for each well. Information shall be recorded but not reported unless specifically requested by EPA.

Volume. Once per month, the total monthly volume (bbl/month) of discharged drilling fluids must be estimated and recorded. The volume shall be reported on the monthly DMR.

Oil Content. There is no numeric limitation on the oil content of discharged drilling muds (except that muds containing any waste oil, or diesel oil as a lubricity agent shall not be discharged). However, note that the oil added shall not cause a violation of either the toxicity or free oil limitations discussed above.

All discharged drilling fluids, including those fluids adhering to cuttings must meet the limitations of this section except that discharge rate limitations do not apply before installation of the marine riser.

2. Drill Cuttings

The discharge of drill cuttings shall be limited and monitored by the permittee as specified in both tables and below.

Note: The permit prohibitions and limitations that apply to drilling fluids also apply to fluids that adhere to drill cuttings. Any permit condition that applies to the drilling fluid system, therefore, also applies to cuttings discharges. Monitoring requirements, however, may not be the same.

(a) Prohibitions. Cuttings from Oil-Based Drilling Fluids. Prohibitions that apply to drilling fluids, set forth above in B.1(a), also apply to drill cuttings. Therefore, the discharge of cuttings is prohibited when they are generated while using an oil-based or invert emulsion mud.

Cuttings from Oil Contaminated Drilling Fluids. The discharge of cuttings that are generated using drilling fluids that contain waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication is prohibited.

Cuttings generated using drilling fluids which contain diesel oil. Drill cuttings generated using drilling fluids to which any diesel oil has been added as a lubricant may not be discharged.

Cuttings generated using mineral oil. The discharge of cuttings generated using drilling fluids which contain mineral oil is prohibited except when the mineral oil is used as a carrier fluid (transporter fluid), lubricity additive, or pill.

No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern discharge of drilling cuttings is not allowed.

(b) Limitations. Mineral Oil. Limitations that apply to drilling fluids also apply to drill cuttings. Therefore, if mineral oil pills or mineral oil lubricity additives have been introduced to a water-based mud system, cuttings may be discharged if they meet the limitations for toxicity and free oil.

Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to bulk discharges and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided in Part IV.A.3. The discharge of cuttings that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Toxicity. Discharged cuttings generated using drilling fluids with a daily minimum or a monthly average minimum 96-hour LC50 of less than

30,000 ppm, (v/v) of a 9:1 seawater to drilling fluid suspended particulate phase (SPP) volumetric ratio using Mysidopsis bahia shall not be discharged.

(c) Monitoring Requirements. Volume. Once per month, the monthly total discharge must be estimated and recorded. The estimated volume of cuttings discharged (bbl/month) shall be reported on the DMR.

3. Produced Water

The discharge of produced water shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions. No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern discharge of produced water is not allowed.

(b) Limitations. Oil and Grease. Produced water discharges must meet both a daily maximum limitation of 42 mg/l and a monthly average limitation of 29 mg/l for oil and grease. A grab sample must be taken at least once per month. The daily maximum samples may be based on the average concentration of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The gravimetric method is specified at 40 CFR part 136. The highest daily oil and grease concentration and the monthly average concentration shall be reported on the monthly DMR.

Toxicity. Produced water discharges must meet a toxicity limitation projected to be the limiting permissible concentration (0.01 x LC50) at the edge of a 100-meter mixing zone. The toxicity limitation will be calculated by EPA based on each facility's site-specific water column conditions and discharge configuration. The methods for this determination are presented in Appendix A of this permit using the Cornell Mixing Zone Expert System (CORMIX). The CORMIX (Version 3.2), which is explained in Chapter 4, Section 4.4 of the Ocean Discharge Criteria Evaluation will be used to evaluate the toxicity of the produced water outfalls.

Compliance with the toxicity limitation shall be demonstrated by conducting 96-hour toxicity tests each month using Mysidopsis bahia and inland silverside minnow. The method is published in ''Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms'' (EPA/600/4–90/027F). The results for both species shall be reported on the monthly DMR, once every two months. The operator shall also submit a copy of all laboratory reports with the DMR.

(c) Monitoring Requirements. Flow. Once per month, an estimate of the total flow (bbl/month) must be reported on the DMR.

4. Deck Drainage

The discharge of deck drainage shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations. Free Oil. No free oil shall be discharged. Monitoring shall be performed on each day of discharge using the visual sheen test method in accordance with the method provided at Part IV.A.4. The discharge of deck drainage that fails the visual sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

(b) Monitoring Requirements. Volume. Once per month, the monthly total discharge (bbls/month) must be estimated and reported on the DMR.

5. Produced Sand

The discharge of produced sand is prohibited under this general permit. Wastes must be hauled to shore for treatment and disposal.

6. Well Treatment Fluids, Completion Fluids, and Workover Fluids

The discharge of well treatment fluids, completion fluids, and workover fluids shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations. Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to discharge and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided at Part IV.A.3. The discharge of well treatment, completion, or workover fluids that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Oil and Grease. Well treatment fluids, completion fluids, and workover fluids discharges must meet both a daily maximum of 42 mg/l and a monthly average of 29 mg/l limitation for oil and grease. A grab sample must be taken at least once per month when discharging. The daily maximum concentration may be based on the average of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The analytical method is the gravimetric method, as specified at 40 CFR part 136.

Priority Pollutants. For well treatment fluids, completion fluids, and workover fluids, the discharge of priority pollutants is prohibited except in trace amounts. Information on the specific chemical composition of any additives containing priority pollutants shall be recorded.

Note: If materials added downhole as well treatment, completion, or workover fluids contain no priority pollutants, the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

(b) Monitoring Requirements. Volume. Once per month, an estimate of the total volume discharged (bbls/month) shall be reported on the DMR.

7. Sanitary Waste (Facilities Continuously Manned by 10 or More Persons)

The discharge of sanitary waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions. Solids. No floating solids may be discharged. Observations must be made once per day, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meals and at the time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(b) Limitations. Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharges of sanitary waste must contain a minimum of 1 mg residual chlorine/l and shall be maintained as close to this concentration as possible. The approved analytical method is Hach CN–66–DPD. A grab sample must be taken once per month and the concentration reported.

(Exception) Any facility which properly maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

(c) Monitoring Requirements. Flow. Once per month, the average flow (MGD) must be estimated and recorded for the flow of sanitary wastes.

8. Sanitary Waste (Facilities Continuously Manned by 9 or Fewer Persons or Intermittently by Any Number).

The discharge of sanitary waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions. Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day when the facility is manned, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(Exception) Any facility which properly maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

9. Domestic Waste. The discharge of domestic waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions. Solids. No floating solids shall be discharged. In addition, food waste, comminuted or not, may not be discharged within 12 nautical miles from nearest land.

(b) Limitations. Solids. Comminuted food waste which can pass through a 25-mm mesh screen (approximately 1 inch) may be discharged 12 or more nautical miles from nearest land.

(c) Monitoring Requirements. Solids. An observation must be made during daylight in the vicinity of domestic waste outfalls following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

10. Miscellaneous Discharges. Desalination Unit Discharge; Blowout Preventer Fluid; Uncontaminated Ballast Water; Uncontaminated Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater, Excess Cement Slurry, Diatomaceous Earth Filter Media.

The discharge of miscellaneous discharges shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations. Free Oil. No free oil shall be discharged. Monitoring shall be performed using the visual sheen test method once per day when discharging on the surface of the receiving water or by use of the static sheen method at the operator's option. Both tests shall be conducted in accordance with the methods presented at IV.A.3 and IV.A.4. Discharge is limited to those times that a visual sheen observation is possible. The number of days a sheen is observed must be recorded.

(Exception): Miscellaneous discharges may be discharged from platforms that are on automatic purge systems without monitoring for free oil when the facility is not manned. Discharge is not restricted to periods when observation is possible; however, the static (laboratory) sheen test method must be used during periods when observation of a sheen is not possible, such as at night or during inclement conditions. Static sheen testing is not required for miscellaneous discharges occurring at the sea floor.

Section C. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam from any source other than in trace amounts.

2. Halogenated Phenol Compounds

There shall be no discharge of halogenated phenol compounds as a part of any waste streams authorized in this permit.

3. Dispersants, Surfactants, and Detergents

The facility operator shall minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and MMS. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. The restriction is imposed because detergents disperse and emulsify oil, potentially increasing toxic impacts and making the detection of a discharge of free oil more difficult.

4. Rubbish, Trash, and Other Refuse

The discharge of any solid material not authorized in the permit (as described above) is prohibited.

This permit includes limitations set forth by the U.S. Coast Guard in regulations implementing Annex V of MARPOL 73/78 for domestic waste disposal from all fixed or floating offshore platforms and associated vessels engaged in exploration or exploitation of seabed mineral resources (33 CFR 151). These limitations, as specified by Congress (33 U.S.C. 1901, the Act to Prevent Pollution from Ships), apply to all navigable waters of the United States.

This permit prohibits the discharge of ''garbage'' including food wastes, within 12 nautical miles from nearest land. Comminuted food waste (able to pass through a screen with a mesh size no larger than 25 mm, approx. 1 inch) may be discharge when 12 nautical miles or more from land. Graywater, drainage from dishwater, shower, laundry, bath, and washbasins are not considered garbage within the meaning of Annex V. Incineration ash and non-plastic clinkers that can pass through a 25-mm mesh screen may be discharged beyond 3 miles from nearest land. Otherwise, ash and non-plastic clinkers may be discharged beyond 12 nautical miles from nearest land.

5. Areas of Biological Concern

There shall be no discharge of drilling muds, drill cuttings and produced water within 1000 meters of Areas of Biological Concern. If at any time it is determined that a facility is located within 1000 meters of an area of biological concern, the operator shall immediately cease discharge from these outfalls in the area and shall file an application for an individual permit as provided in 40 CFR 122.28(b)(3). The operator may not resume discharging from these outfalls until an individual permit has been issued.

Part II. Standard Conditions for NPDES Permits

Section A. Introduction and General Conditions

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended, as well as ALL applicable regulations.

1. Duty To Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply and obtain an individual NPDES permit.

2. Penalties for Violations of Permit Conditions—33 USC § 1319(c)

(a) Criminal Penalties. (1) Negligent Violations. The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less $2,500 nor more than $25,000

per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000 per day of violation for individuals or up to $1 million for organizations, or by imprisonment for not more than 15 years, or both.

(4) False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309(c) of the Clean Water Act).

(b) Civil Penalties—33 USC § 1319(d). The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for such violation. A single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(c) Administrative Penalties. The Act at Section 309 allows that the Regional Administrator may assess a Class I or Class II civil penalty for violations of Sections 301, 302, 306, 307, 318, or 405 of the Act. A Class I penalty may not exceed $10,000 per violation nor shall the maximum amount exceed $25,000. A Class II penalty may not exceed $10,000 per day for each day during which the violation continues except that the maximum amount shall not exceed $125,000. An upset that leads to violations of more than one pollutant parameter will be treated as a single violation.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Flexibility

These permits may be modified, revoked and reissued for the causes set forth at 40 CFR § 122.62. The permits may be terminated for the following reasons (see 40 CFR 122.62):

(a) Violation of any terms or conditions of this permit;

(b) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

(c) A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or

(d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. Toxic Pollutants

Notwithstanding Part II.A.4, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

6. Civil and Criminal Liability

Except as provided in permit conditions on ''Bypassing'' and ''Upsets'' (see II.B.3 and II.B.4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance with permit conditions. Any false or misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable CFR regulations, which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, any exclusive privileges, authorize any injury to private property, any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

10. Onshore or Offshore Construction

This permit does not authorize or approve the construction of any onshore or offshore physical structure of facilities or the undertaking of any work in any waters of the United States.

11. Severability

The provisions of this permit are severable. If any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

12. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The

permittee shall also furnish to the Regional Administrator upon request, copies of records required to be kept by this permit.

Section B. Proper Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

2. Need To Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

(a) Definitions. (1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section B.3(c) and 3(d) below.

(c) Notice. (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, submit notice of an unanticipated bypass as required in Section D.7 (24-hour reporting).

(d) Prohibition of bypass. (1) Bypass is prohibited and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required under Section B.3(c).

(2) The Regional Administrator may approve an anticipated bypass after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in Section B.3(d)(1).

4. Upset Conditions

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Section B.4(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions Necessary for a Demonstration of Upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by Section D.7 below; and,

(4) The permittee complied with any remedial measures required by Section A.3, above.

(d) Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. Any substance specifically listed within this permit may be discharged in accordance with specified conditions, terms, or limitations.

Section C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Discharge Rate/Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected, maintained, and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ±10% from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit in Part IV, below.

4. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or imprisonment for not more than 2 years, or both.

5. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for

continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time. The operator shall maintain records at development and production facilities for 3 years, wherever practicable and at a specific shore-based site whenever not practicable.

6. Record Contents

Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

7. Inspection and Entry

The permittee shall allow the Regional Administrator or an authorized representative, upon the presentation of credentials and other documents as may be required by the law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Planned Changes

The permittee shall give notice to Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(a) The alteration or addition to a facility permitted under the existing source general permit may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b) (58 FR 12454; final effluent guidelines for the offshore subcategory); or

(b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1) (48 FR 14153, April 1, 1963, as amended at 49 FR 38049, September 26, 1984).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person. Any new owner or operator shall submit a notice of intent to be covered under this general permit according to procedures presented at Part I.A.4.

4. Monitoring Reports

See Part III.A of this permit.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased monitoring frequency also shall be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment (this includes any spill that requires reporting to the state regulatory authority). Information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitation in the permit;

(c) Violations of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II of the permit to be reported within 24 hours.

The reports should be made to Region 4 by telephone at (404) 562–9746. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.7 at the time monitoring reports are submitted. The reports shall contain the information listed at II.D.7.

9. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

10. Changes in Discharges of Toxic Substances

For any toxic pollutant that is not limited in this permit, either as an additive itself or as a component in an additive formulation, the permittee shall notify the Regional Administrator as soon as he knows or has reason to believe that:

(a) Any activity has occurred or will occur which would result in the discharge of such toxic pollutants on a routine or frequent basis, if that discharge will exceed the highest of the ''notification levels'' described at 40 CFR 122.42(a)(1)(i) and (ii);

(b) Any activity has occurred or will occur which would result in any discharge of such toxic pollutants on a non-routine or infrequent basis, if that discharge will exceed the highest of the ''notification levels'' described at 40 CFR 122.42(a)(2)(i) an (ii).

11. Duty To Reapply

If the permittee wishes to continue an activity regulated by this permit after

the expiration date of this permit, the permittee must submit an NOI to be covered or must apply for a new permit. Continuation of expiring permits shall be governed by regulations at 40 CFR Part 122.6 and any subsequent amendments.

12. Signatory Requirements

All NOIs, applications, reports, or information submitted to the Director shall be signed and certified as required at 40 CFR 122.22.

(a) All permit applications shall be signed as follows: (1) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

(b) Authorized Representative. All reports required by the permit and other information requested by the Regional Administrator shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Regional Administrator.

(c) Changes to Authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or application to be signed by an authorized representative.

(d) Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

13. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the Regional Office. As required by the Act, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

Part III. Monitoring Reports and Permit Modification

Section A. Monitoring Reports

The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block. If there is more than one facility in each lease block (platform, drilling ship, semi-submersible), the discharge shall be designated in the following manner: 101 for the first facility; 201 for the second facility; 301 for the third facility, etc.

Monitoring results obtained for each month shall be summarized for that month and reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320–1), postmarked no later than the 28th day of the month following the completed calendar month. (For example, data for January shall be submitted by February 28.) Signed copies of these and all other reports required by Part II.D shall be submitted to the following address: Director, Water Management Division, Clean Water Act Enforcement Section, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960.

All laboratory reports submitted with DMRs should clearly indicate the permit number, outfall number, and any other identification information necessary to associate the report with the correct facility, waste stream, and outfall.

If no discharge occurs during the reporting period, sampling requirements of this permit do not apply. The statement ''No Discharge'' shall be written on the DMR form. If, during the term of this permit, the facility ceases discharge to surface waters, the Regional Director shall be notified (at the address above) within 60 (sixty) days after the permanent termination of discharges from their facility. This notification shall be in writing.

Section B. Permit Modification

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation, or sludge disposal requirement issued or approved under sections 301(b)(2) (C) and (D), 307(a)(2), and 405(d)(2)(D) of the Act, as amended, if the effluent standard or limitation, or sludge disposal requirement so issued or approved:

(a) Contains different conditions or is otherwise more stringent than any conditions in the permit; or

(b) Controls any pollutant or disposal method not addressed in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

Part IV. Test Procedures and Definitions

Section A. Test Procedures

1. Samples of Wastes

If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. Drilling Fluids Toxicity Test

The approved sampling and test methods for permit compliance are provided in the final effluent guidelines published at 58 FR 12507 on March 4, 1993 as Appendix 2 to Subpart A of Part 435.

3. Static (Laboratory) Sheen Test

The approved sampling and test methods for permit compliance are provided in the final effluent guidelines published at 58 FR 12506 on March 4, 1993 as Appendix 1 to Subpart A.

4. Visual Sheen Test

The visual sheen test is used to detect free oil by observing the surface of the receiving water for the presence of a sheen while discharging. A sheen is defined as a ''silvery'' or ''metallic''

sheen, gloss, or increased reflectivity; visual color; iridescence; or oil slick on the surface (see 58 FR 12507). The operator must conduct a visual sheen test only at times when a sheen could be observed. This restriction eliminates observations at night or when atmospheric or surface conditions prohibit the observer from detecting a sheen (e.g., during rain or rough seas, etc.). Certain discharges can only occur if a visual sheen test can be conducted.

The observer must be positioned on the rig or platform, relative to both the discharge point and current flow at the time of discharge, such that the observer can detect a sheen should it surface down current from the discharge. For discharges that have been occurring for at least 15 minutes previously, observations may be made any time thereafter. For discharges of less than 15 minutes duration, observations must be made both during discharge and 5 minutes after discharge has ceased.

5. Produced Water Acute Toxicity Test

The method for determining the 96-hour LC50 for effluents is published in ''Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms'' (EPA/600/4–90/027F). The species to be used for compliance testing for this permit are *Mysidopsis bahia* and inland silverside minnows (*Menidia beryllina*)

Section B. Definitions

1. *Act* means the Clean Water Act (CWA), as amended (33 U.S.C. 1251 et. seq.).

2. *Administrator* means the Administrator of EPA, Region 4, or an authorized representative.

3. *Areas of Biological Concern* for waters within the territorial seas (shoreline to 3-miles offshore) are those defined as ''no activity zones'' for biological reasons by the states of Alabama, Florida or Mississippi. For offshore waters seaward of three miles, areas of biological concern include ''no activity zones'' defined by the Department of the Interior (DOI) for biological reasons, or identified by EPA in consultation with the DOI, the states, or other interested federal agencies, as containing biological communities, features or functions that are potentially sensitive to discharges associated with the oil and gas industry. Areas of Biological Concern include, but are not limited to, the following: Southwest Rock (30 06.1′N, 88 12.3′W), Southeast Banks (30 00.9′N; 87 57.1′W); 17 Fathom Hole (29 55.6″N 88 03.4′W) and lease blocks with Pinnacle Trend Features. These areas are geographically and in greater detail in Appendix B. EPA may, from time to time, identify additional Areas of Biological Concern.

4. *Applicable Effluent Standards and Limitations* means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

5. *Average Daily Discharge Limitation* means the highest allowable average of discharges over a 24-hour period, calculated as the sum of all discharges or concentrations measured divided by the number of discharges or concentrations measured that day.

6. *Average Monthly Discharge Limitation* means the highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during a calendar month divided by the number of discharges measured that month. The limitation may be the average of discharge rates or concentrations.

7. *Batch or Bulk Discharge* is any discharge of a discrete volume or mass of effluent from a pit, tank, or similar container that occurs on a one-time, infrequent, or irregular basis.

8. *Blowout-Out Preventer Control Fluid* means fluid used to actuate the hydraulic equipment on the blow-out preventer or subsea production wellhead assembly.

9. *Boiler Blowdown* means discharges from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

10. *Bulk Discharge* means any discharge of a discrete volume or mass of effluent from a pit tank or similar container that occurs on a one-time, infrequent, or irregular basis.

11. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

12. *Clinkers* are small lumps of residual material left after incineration.

13. *Completion Fluids* are salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production. These fluids move into the formation and return to the surface as a slug with the produced water. Drilling muds remaining in the wellbore during logging, casing, and cementing operations or during temporary abandonment of the well are not considered completion fluids and are regulated by drilling fluids requirements.

14. *Daily Average Discharge* (also known as monthly average) limitations means the highest allowable average daily discharge(s) over a calendar month, calculated as the sum of all daily discharge(s) measured during a calendar month divided by the number of daily discharge(s) measured during that month.

15. *Daily Discharge* means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant or waste stream discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day. Daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the average (weighted by flow value) of all samples collected during that sampling day.

16. *Daily Maximum* discharge limitations are the highest allowable daily discharge rate or concentration measured during a calendar day.

17. *Deck Drainage* is all waste resulting from platform washings, deck washings, deck area spills, equipment washings, rainwater, and runoff from curbs, gutters, and drains, including drip pans and wash areas.

18. *Desalination Unit Discharge* means waste water associated with the process of creating freshwater from seawater.

19. *Development Drilling* means the drilling of wells required to efficiently produce a hydrocarbon formation or formations.

20. *Diatomaceous Earth Filter Media* is the filter media used to filter seawater or other authorized completion fluids and subsequently washed from the filter.

21. *Diesel Oil* is the distillate fuel oil, as specified in the American Society for Testing and Materials (ASTM) Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids, which contains a number of toxic pollutants. For the purpose of any particular operation under this permit, diesel oil shall refer to the fuel oil present on the facility.

22. *Domestic Waste* is the discharge from galleys, sinks, showers, safety showers, eye wash stations, hand

washing stations, fish cleaning stations, and laundries.

23. *Drill Cuttings* are particles generated by drilling into the subsurface geological formations including cured cement carried to the surface with the drilling fluid.

24. *Drilling Fluids* are any fluids sent down the hole used in rotary drilling of wells to clean and condition the hole and counterbalance formation pressure, from the time a well is begun until final cessation of drilling in that hole and includes the four classes of drilling fluids: water-based, oil-based, enhanced mineral oil, and synthetic-based. (1) A water-based drilling fluid has water as the continuous phase and the suspending medium for solids, whether or not oil is present. (2) An oil-based drilling fluid has diesel oil, mineral oil, or some other oil, but neither a synthetic material nor enhanced material oil, as its continuous phase with water as the dispersed phase. (3) An enhanced mineral oil-based drilling has an enhanced mineral oil as its continuous phase with water as the dispersed phase. (4) A synthetic-based drilling fluid has a synthetic material as its continuous phase with water as the dispersed phase.

25. *End of well Sample* means the sample taken after the final log run is completed and prior to bulk discharge.

26. *Excess Cement Slurry* means the excess mixed cement, including additives and wastes from equipment washdown after a cementing operation.

27. *Existing Sources* are facilities conducting exploration activities and those that have commenced development or production activities that were permitted as of the effective date of the Offshore Guidelines (March 4, 1993).

28. *Free Oil* is oil that causes a sheen, streak, or slick on the surface of the test container or receiving water; which methodology for compliance is determined in the permit.

29. *Garbage* ''means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78.''

30. *Grab Sample* means an individual sample collected in less than 15 minutes.

31. *Graywater* is drainage from dishwater, shower, laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and drainage from cargo areas (see MARPOL 73/78 regulations).

32. *Inverse Emulsion Drilling Fluids* are oil-based drilling fluids which also contain large amounts of water.

33. *Live Bottom Areas* are those areas that contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascideians sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with fishes and other fauna.

34. *Maximum Hourly Rate* is the greatest number of barrels of drilling fluids discharged within one hour, expressed as barrels per hour.

35. *Muds, Cuttings, and Cement at the Seafloor* means discharges that occur at the seafloor prior to installation of the marine riser and during marine riser disconnect, well abandonment, and plugging operations.

36. *National Pollutant Discharge Elimination System (NPDES)* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, 403, and 405 of the Act.

37. *New Source* means any facility or activity of this subcategory that meets the definition of ''new source'' under 40 CFR 122.2 and meets the criteria for determination of new sources under 40 CFR 122.29(b) applied consistently with all of the following definitions: (i) The term water area as used in the term ''site'' in 40 CFR 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development or production activities, (ii) the term significant site preparation work as used in 40 CFR 122.29 shall mean the process of surveying, clearing, or preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

38. *No Activity Zones* include those areas identified by MMS where no structures, drilling rigs, or pipelines will be allowed. These zones are identified as lease stipulations in U.S. Department of the Interior, MMS, August 1990, Environmental Impact Statement for Sales 131, 135, and 137 Western, Central, and Eastern Gulf of Mexico. Additional no activity zones may be identified by MMS during the life of this permit, and by the States of Alabama, Mississippi and Florida within their territorial waters (up to 3 miles offshore) where no structures, drilling rigs, or pipelines will be allowed.

39. *No Discharge Areas* are areas specified by EPA where discharge of pollutants may not occur.

40. *Non-Operational Leases* are those leases on which no discharge has taken place within 2 years prior to the effective date of the new general permits.

41. *Operating Facilities* are leases on which a discharge has taken place within 2 years of the effective date of the new general permits.

42. *Packer Fluids* are low solids fluids between the packer, production string, and well casing. They are considered to be workover fluids.

43. *Priority Pollutants* are the 126 chemicals or elements identified by EPA, pursuant to section 307 of the Clean Water Act and 40 CFR 401.15.

44. *Produced Sand* is slurried particles used in hydraulic fracturing, the accumulated sands and scales particles generated during production. Produced sand also includes desander discharge from produced water waste stream and blowdown of water phase from produced water treating systems.

45. *Produced Water* is water and particulate matter associated with oil and gas producing formations. Produced water includes small volumes of treating chemicals that return to the surface with the produced fluids and pass through the produced water treating system.

46. *Sanitary Waste* means human body waste discharged from toilets and urinals.

47. *Severe Property Damage* means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

48. *Sheen* means a silvery or metallic sheen, gloss, or increased reflectivity; visual color; iridescence; or oil slick on the water surface.

49. *Source Water and Sand* are the water and entrained solids brought to the surface from non-hydrocarbon bearing formations for the purpose of pressure maintenance or secondary recovery.

50. *Spotting* means the process of adding a lubricant (spot) downhole to free stuck pipe.

51. *Territorial Seas* means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

52. *Trace Amounts* means that if materials added downhole as well treatment, completion, or workover fluids do not contain priority pollutants then the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

53. *Uncontaminated Ballast/Bilge water* means seawater added or removed to maintain proper draft.

54. *Uncontaminated Seawater* means seawater that is returned to the sea without the addition of chemicals. Included are (1) discharges of excess seawater that permit the continuous operation of fire control and utility lift pumps, (2) excess seawater from pressure maintenance and secondary recovery projects, (3) water released during the training and testing of personnel in fire protection, (4) seawater used to pressure test piping, and (5) once through non-contact cooling water.

55. Uncontaminated Freshwater ''freshwater which is discharged without the addition of chemicals; examples include: (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water released during fire protection tests and training, and (4) water used to pressure test piping.''

55. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

56. *Well treatment fluids* are any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents, and propping agents.

57. *Workover fluids* are salt solutions, weighted brines, polymers, and other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures. High solids drilling fluids used during workover operations are not considered workover fluids by definition and therefore must meet drilling fluid effluent limitations before discharge may occur. Packer fluids, low solids fluids between the packer, production string, and well casing are considered to be workover fluids and must meet only the effluent requirements imposed on workover fluids.

58. The term MGD means million gallons per day.

59. The term mg/l means milligrams per liter or parts per million (ppm).

60. The term ug/l shall means micrograms per liter or part per billion (ppb).

Existing Sources

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/ method	Recorded/ reported value
Drilling Fluids	Oil-based Drilling Fluids.	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge.			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity [a]	30,000 ppm daily minimum 30,000 ppm monthly average minimum.	Once/month Once/end of well [b]. Once/month	Grab/96-hr LC50 using *Mysidopsis bahia;* Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory.	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/ method	Recorded/ reported value
	Within 1000 Meters of an Areas of Biological Concern (ABC).	No discharge.			
Drill Cuttings	NOTE: Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except *Maximum Discharge Rate.*				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/ Gravimetric.	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(b) and Appendix A of this permit.	Once/2 months	Grab/96-hour LC50 using *Mysidopsis bahia* and inland silverside minnow (Method in EPA/600/4-90/027F).	Minimum LC50 for both species and full laboratory report
	Flow (bbl/ month).		Once/month	Estimate	Monthly rate
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed
	Volume (bbl/ month).		Once/month	Estimate	Monthly total
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [e].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/ Gravimetric.	Daily max. and monthly avg.
	Priority Pollutants.	No priority pollutants		Monitor added materials.	
	Volume (bbl/ month).		Once/month	Estimate	Monthly total
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight.	Observation	Number of days solids observed
	Residual Chlorine.	At least (but as close to) 1 mg/l	Once/month	Grab/Hach CN–66–DPD.	Concentration
	Flow (MGD)		Once/month	Estimate.	
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any) [f].	Solids	No floating solids	Once/day, in daylight.	Observation	Number of days solids observed
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Miscellaneous Discharges—Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water, Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Fresh Water; Excess Cement Slurry; Diatomaceous Earth Filter Media.	Free Oil	No free oil	Once/day when discharging.	Visual sheen	Number of days sheen observed

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

New Sources

TABLE 3.— EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids.	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge.			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity[a]	30,000 ppm daily minimum 30,000 ppm monthly average minimum.	Once/month Once/end of well[b]. Once/month	Grab/96-hr LC50 using *Mysidopsis bahia;* Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory.	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.

TABLE 3.— EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
	Within 1000 Meters of an Areas of Biological Concern (ABC).	No discharge.			
Drill Cuttings	NOTE: Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric.	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(b) and Appendix A of this permit.	Once/2 months	Grab/96-hour LC50 using *Mysidopsis bahia* and inland silverside minnow (Method in EPA/600/4-90/027F).	Minimum LC50 for both species and full laboratory report
	Flow (bbl/month).		Once/month	Estimate	Monthly rate
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed
	Volume (bbl/month).		Once/month	Estimate	Monthly total
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [e].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric.	Daily max. and monthly avg.
	Priority Pollutants.	No priority pollutants		Monitor added materials.	
	Volume (bbl/month).		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight.	Observation	Number of days solids observed.
	Residual ChlorineAt least (but as close to) 1 mg/l.	Once/month	Grab/Hach CN–66–DPD.	Concentration..	
	Flow (MGD)		Once/month	Estimate.	
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any) [f].	Solids	No floating solids	Once/day, in daylight.	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.

TABLE 3.— EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Miscellaneous Discharges Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water, Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater, Excess Cement Slurry, Diatomaceous Earth Filter Media.	Free Oil	No free oil	Once/day when discharging.	Visual sheen	Number of days sheen observed.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

Appendix A

Effluent concentrations at the edge of a 100-m mixing zone will be modeled by EPA for each produced water outfall listed in an operator's notice of commencement of production operations. This projected effluent concentration will be used to calculate the permit limitation for produced water toxicity (0.01 x projected effluent concentration). The discharge will be modeled using each facility's measured water column conditions and discharge configurations as input for the CORMIX expert system for hydrodynamic mixing zone analysis.

The notice of commencement of production operations will be accompanied by a completed CORMIX input parameter table presented as Table A–1. The input parameters required are the following.

Anticipated average discharge rate (bbl/day)
Water depth (meters)
Discharge pipe location in the water column (meters from surface or bottom)
Discharge pipe orientation with respect to the prevailing current (degrees; 0° is coflowing)
Discharge pipe opening diameter (meters)
Discharge horizontal angle between port direction in the horizontal plane and the direction of ambient flow: (sigma)

These parameters are site-specific parameters that the operator must determine through monitoring or measurement and certify as true to the best of their knowledge. All other input parameters for the CORMIX model are established as the following.

Discharge density: 1070.2 kg/m^3
Discharge concentration: 100%
Legal mixing zone: 100 meters
Darcy-Wiesbach constant: 0.2
Current speed: 5 cm/sec
Discharge pipe orientation: Coflowing with current
Linear water column density profile;
Surface density: 1,023.0 kg/m^3
Density gradient: 0.163 kg/m^3/m

The Region will conduct the model using the operator's input parameters and report the toxicity limitation to the operator. If the parameters supplied by the operator change during the life of the permit (e.g., average discharge rate increases or decreases, a change in discharge pipe orientation, etc.), the operator should submit the new input parameters to the Region so that a new toxicity limitation can be calculated.

Compliance with the toxicity limitation will be demonstrated by conducting 96-hour toxicity tests using mysids (*Mysidopsis bahia*) and the Inland silverside minnow (*Menidia beryllina*) once every two months. The LC50 for each species will be reported on the DMR and a copy of the complete laboratory report shall be submitted.

Facilities that pass six consecutive produced water toxicity tests for six will be allowed to change to a frequency of once/every six months; otherwise bimonthly testing shall continue.

Table A–1. CORMIX (Version 3.2) Input Parameters for Toxicity Limitation Calculation

Permit number: _____
GMG28 _____
Company: _____
Contact name/Phone number: _____
_____
Lease block/number: _____
Facility name: _____

Parameter
Discharge Rate
Water depth

Units
____ Average bbl/day
____ meters

Discharge pipe location in the water column
_____
meters from _____
water surface, or _____
seafloor _____

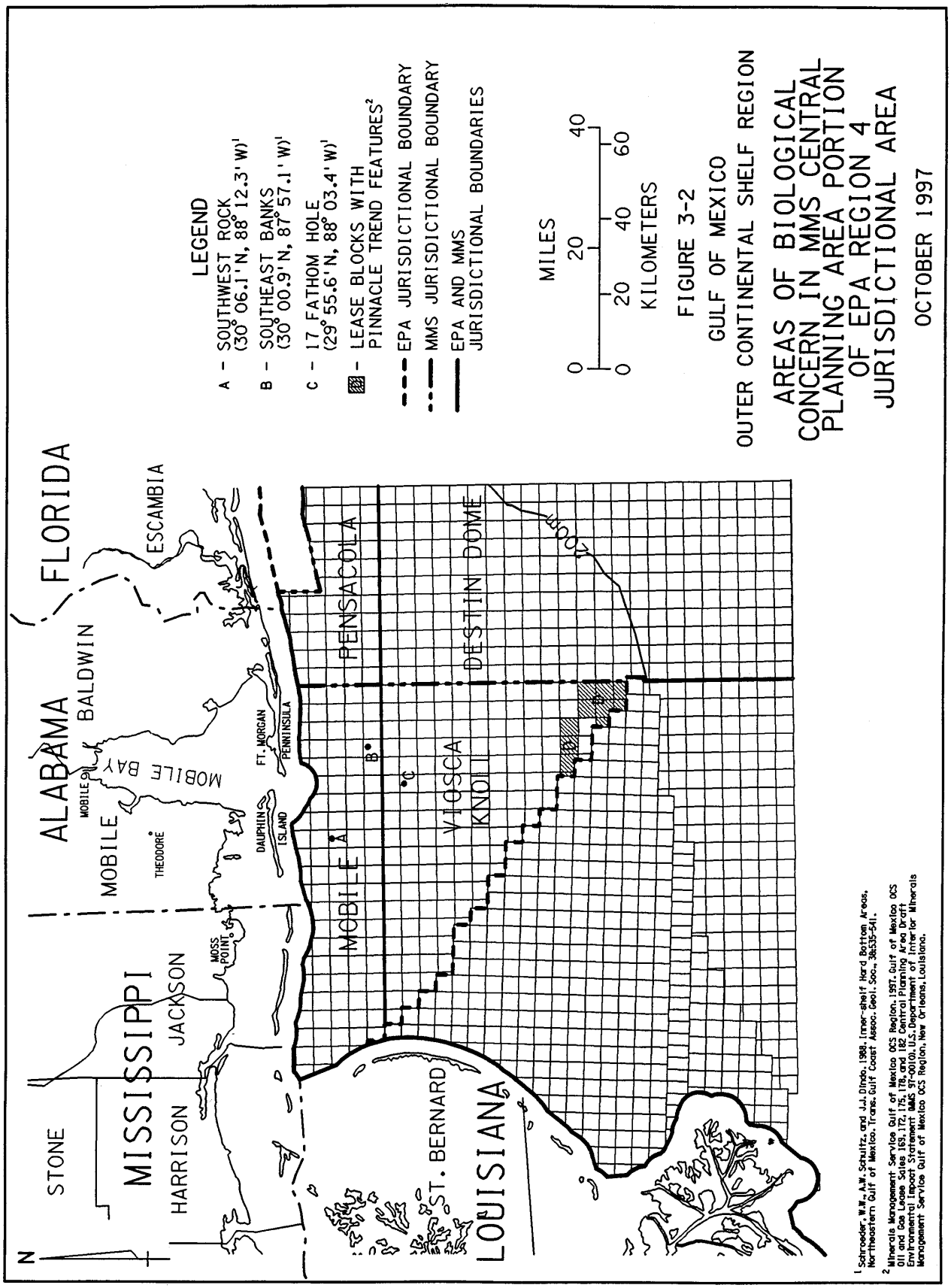
Discharge pipe orientation (vertical angle) with respect to the seafloor: Theta
_____
degrees
(90° is directed toward the surface)
(−90° is directed toward the seafloor)

Discharge pipe opening diameter:
_____
meters

Discharge horizontal angle between port direction in the horizontal plane and the direction of ambient flow: (sigma)
_____
degrees
(0° is coflowing with ambient current)
(90° is perpendicular to ambient flow)

Billing Code 6560–50–P

Appendix B



[FR Doc. 98–27701 Filed 10–15–98; 8:45 am]

BILLING CODE 6560–50–C

federal register

Friday
October 16, 1998

Part IV

Department of Education

Rehabilitation Training: Rehabilitation Long-Term Training—Comprehensive System of Personnel Development; Final Priority and Applications for New Awards for Fiscal Year 1999; Notices

DEPARTMENT OF EDUCATION

Rehabilitation Training: Rehabilitation Long-Term Training

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority for fiscal year 1999 and subsequent fiscal years.

SUMMARY: The Secretary announces a final funding priority for fiscal year 1999 and subsequent fiscal years under the Rehabilitation Training: Rehabilitation Long-Term Training program. The Secretary takes this action in order to assist State vocational rehabilitation (VR) agencies in carrying out their Comprehensive System of Personnel Development (CSPD) plans.

EFFECTIVE DATE: This priority takes effect on November 16, 1998.

FOR FURTHER INFORMATION CONTACT: Beverly Steburg, U.S. Department of Education, 61 Forsyth Street, SW., Room 18T91, Atlanta, Georgia 30303. Telephone: (404) 562–6336. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (404) 562–6347. Internet address: Beverly__Steburg@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains a final priority under the Rehabilitation Training: Rehabilitation Long-Term Training program. This program provides financial assistance for—

(1) Projects that provide training leading to academic degrees or academic certificates in areas as identified by the Secretary; and

(2) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

On June 11, 1998 the Secretary published a notice of proposed priority for this program in the **Federal Register** (63 FR 32106). This notice of final priority contains one change from the notice of proposed priority, adding language to clarify that projects must fund only academic degree or academic certificate granting programs. The change is fully explained in the Analysis of Comments and Changes located elsewhere in this notice.

Note: This notice of final priority does *not* solicit applications. In any year in which the Secretary chooses to use this priority, the Secretary invites applications through a notice in the **Federal Register**. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the invitation in the notice of proposed priority, 14 parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Comment: Five commenters offered suggestions concerning the format of the training. Suggestions were made encouraging the support of programs that will provide an academic certificate in specialty areas that could be counted toward a Masters degree; be based on adult learning principles; demonstrate collaboration between State VR agencies and training programs; accommodate schedules of working staff (e.g., distance learning programs, competency-based programs, and other non-traditional approaches), cover tuition as well as non-tuition costs, such as books, travel, and fees; and allow part-time students.

Discussion: This priority is premised on the concept that applicants should design the training approach best suited to provide academic degrees and academic certificates to VR counselors. Many of these and other approaches were included in the Supplementary Information section of the proposed priority as examples of possible approaches. If an applicant proposes to carry out any of these approaches, the peer review process will be used to evaluate the merits of the approach. However, the Secretary has no basis for requiring all applicants to carry out any of these approaches.

Changes: None.

Comment: One commenter suggested that the priority require a written agreement between the State VR agency or agencies and the training institution.

Discussion: There must be a strong link between the training institution and State VR agencies involved in this effort. In fact, the regulations require an applicant to allow the State VR agency an opportunity to review and comment upon the application before it is submitted. The importance of this linkage is also recognized in one of the selection criteria, which pertains to the ''relevance to the State-Federal rehabilitation service program.'' While an applicant may enter into a written agreement with a State VR agency, the Secretary has no basis for requiring it. For example, an applicant may propose to include a distance learning training component, which cuts across State lines. As the distance learning training program develops, it may become available to students nationwide. This would require a training institution to have a written agreement with every participating State, which would not be feasible for the training institution to manage. Thus, the Secretary believes that the requirement of State agency review and the review criteria of relevance to the State-Federal service program will adequately address the concerns of linkage between the State agency and the training institution.

Changes: None.

Comment: One commenter suggested limiting the competition to training institutions that are accredited by the Council on Rehabilitation Education (CORE), as opposed to allowing institutions that have applied for, but not yet received, CORE accreditation to compete.

Discussion: Training institutions that have applied for CORE accreditation are eligible to compete for Rehabilitation Long-Term Training program grants in the field of rehabilitation counseling. There is no basis upon which to limit eligibility in this regard. However, the Secretary notes that the support of those institutions has been used in the past to foster the growth of accredited programs.

Changes: None.

Comment: Two commenters suggested waiver of the requirement that 75 percent of the project funds be used for student scholarships and stipends. One commenter suggested that this be done to allow for the building of educational infrastructure, especially in the first year of a grant. Another commenter noted that the 75 percent requirement eliminates a continuing education approach by programs that operate on ''soft money'' (i.e., grant funds).

Discussion: Under the regulations for the Rehabilitation Long-Term Training program, the Secretary may waive this requirement under certain circumstances, including the establishment of new training programs. The 75 percent requirement ensures that training grants provide a sufficient number of qualified personnel to the public rehabilitation program (primarily State agencies and providers of services to State agencies) because the program requires a payback obligation on scholarship recipients, which requires them either to work in the public rehabilitation program or to repay the cost of the scholarship. Waiving the 75 percent requirement would reduce payback obligations under the grant. While providing waivers in certain

situations, such as in the first year of a project aimed at building infrastructure, seems reasonable and may be permitted, the number and extent of waivers provided under this competition need to be appropriate in relation to the purpose of the program. In addition, this priority is established to provide academic degrees and academic certificates, not to provide general continuing education.

Changes: Language in the priority has been added to clarify that, consistent with section 302(b)(1) of the Rehabilitation Act of 1973, as amended (Act), projects funded under this priority must fund only academic degree or academic certificate programs.

Comment: One commenter offered specific language for the priority relating to innovative approaches and increasing professional knowledge and skills. The commenter referred to activities such as lifelong learning, participating in dynamic learning environments, enhanced personal knowledge and skills, and building professional networks.

Discussion: If an applicant proposes to include those activities, the reviewers of the application will evaluate its merits. However, the Secretary has no basis for requiring all applicants to carry out any of these approaches.

Changes: None.

Comment: One commenter suggested that the priority require curriculum for counselors that includes the various disciplines that provide services to individuals with disabilities, specifically communication disorders, such as deafness, hearing loss, and speech and language disorders.

Discussion: The Secretary agrees with the importance of training in the various disciplines involved in rehabilitation. However, this is a curriculum matter that would be addressed by the academic training institution.

Changes: None.

Comment: One commenter suggested that the priority not be limited to Masters degree programs, but include undergraduate degrees in cases in which that degree applies.

Discussion: The priority does not limit efforts to training at the Master's degree level. Training to provide academic degrees and academic certificates at the undergraduate level can be provided.

Changes: None.

Comment: One commenter recommended that the priority give preference to programs that do not require or would waive the requirement for a Graduate Record Exam (GRE) or other entrance exam as a condition for acceptance into the program.

Discussion: The Secretary notes that the purpose of this training is to improve the academic credentials of State VR agency employees. Giving preference to programs that waive customary academic requirements, such as GREs, may be counterproductive. Furthermore, the admissions policies of academic training institutions are not an issue in which the Department becomes involved.

Changes: None.

Comment: Two commenters raised issues concerning the requirement that trainees pay back two years of paid employment within the public rehabilitation system or nonprofit rehabilitation or rehabilitation-related agencies for every year of support they receive. Three primary issues were raised. First, one commenter suggested that we allow payback only at VR agencies. A commenter asked if there is any difference in the payback obligations if the grantee is a State VR agency as opposed to a training institution. A commenter also asked whether, if a State policy requires payback in the State agency, a State agency may enforce that requirement when using Rehabilitation Services Administration (RSA) training funds.

Discussion: The Secretary reminds the commenters that the statute (section 302(b) of the Act) and the regulations governing the Rehabilitation Long-Term Training program (34 CFR part 386) require payback at one of the settings identified previously. Neither the Secretary nor the grantee may impose more stringent requirements. The Secretary reminds State VR agencies that they may use State Vocational Rehabilitation Unit In-service Training program funds or VR program funds for the purposes of CSPD and can impose State payback requirements.

Change: None.

Comment: One commenter suggested that awards be made only to State VR agencies, which then could negotiate with training institutions.

Discussion: The program statute does not permit limiting the competition to State agencies.

Changes: None.

Comment: Two commenters suggested that the Department distribute funds to States based on need (e.g., number of staff that need to be trained or training resources available).

Discussion: These competitions are not limited to States. The awards are competitive and will be judged on factors in the selection criteria. The Secretary agrees that need is an important factor and intends for applicants to demonstrate need in their applications. In addition, other factors will be assessed during the peer review process.

Changes: None.

Comment: One commenter suggested that the Secretary give preference to projects that demonstrate collaboration between State VR agencies and institutions of higher education.

Discussion: Section 302(b)(2) of the Act requires collaboration with VR agencies for all long-term training grants.

Changes: None.

Priority

Rehabilitation Training: Rehabilitation Long-Term Training

Background

The Secretary has determined that it is in the best interest of the VR program to support creative, innovative approaches for assisting State agencies to meet their statutory and regulatory personnel requirements for VR counselors and to carry out their CSPD plans. Training approaches proposed by applicants must address the unique learning needs of currently employed VR counselors, reflect their learning styles and professional experiences, and be accessible at a time and in a place that would maximize participation. In an effort to maximize benefit to the VR program while minimizing costs, potential applicants may wish to consider collaborative models with, for example, community rehabilitation programs, other public agencies, or private entities. The notice of proposed priority published on June 11, 1998 in the **Federal Register** (63 FR 32106) included more detail in the **SUPPLEMENTARY INFORMATION** section of the notice.

Final Priority

Under 34 CFR 75.105(c)(3) and section 302(a)(1) of the Rehabilitation Act of 1973, as amended (the Act), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects must—

(1) Provide training leading to academic degrees or academic certificates to current vocational rehabilitation counselors, including counselors with disabilities, ethnic minorities, and those from diverse backgrounds, toward meeting designated State unit (DSU) personnel standards required under section 101(a)(7) of the Act, commonly referred to as the Comprehensive System of Personnel Development (CSPD);

(2) Address the academic degree and academic certificate needs specified in the CSPD plans of those States with which the project will be working; and

(3) Develop innovative approaches (e.g., distance learning, competency-based programs, and other methods) that would maximize participation in, and the effectiveness of, project training.

Multi-State projects and projects that involve consortia of institutions and agencies are also authorized, although other projects will be considered.

The regulations in 34 CFR 386.31(b) require that a minimum of 75 percent of project funds be used to support student scholarships and stipends. The regulations also provide that the Secretary may waive this requirement under certain circumstances, including new training programs.

Finally, the Secretary intends to approve a wide range of approaches for providing training and different levels of funding, based on the quality of individual projects. The Secretary takes these factors into account in making grants under this priority.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This final priority would address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The final priority furthers the objectives of this Goal by focusing available funds on projects that improve the skills of State VR agency rehabilitation counselors, which will improve the responsiveness of the VR system to adults with disabilities and their vocational pursuits.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Applicable Program Regulations: 34 CFR parts 385 and 386.

Program Authority: 29 U.S.C. 721(b) and (e) and 796(e).

(Catalog of Federal Domestic Assistance Number: 84.129W, Rehabilitation Training: Rehabilitation Long-Term Training)

Dated: October 9, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–27785 Filed 10–15–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129W]

Rehabilitation Training: Rehabilitation Long-Term Training—Comprehensive System of Personnel Development; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: To assist State vocational rehabilitation agencies in carrying out their Comprehensive System of Personnel Development (CSPD) plans.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Training: Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: December 18, 1998.

Deadline for Intergovernmental Review: February 16, 1999.

Applications Available: October 16, 1998.

Available Funds: $2,000,000.

Estimated Range of Awards: $75,000–$500,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limits: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating the application. The applicant must limit Part III to the equivalent of no more than 45 pages, using the following standards:

(1) A ''page'' is 8.5″ × 11″, on one side only with 1'' margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we won't consider your application for funding.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Priority: The Rehabilitation Training: Rehabilitation Long-Term Training priority in the notice of final priority for this program, as published elsewhere in

this issue of the **Federal Register**, applies to this competition.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, SW (Room 3317, Switzer Building), Washington, DC 20202–2649; or call (202) 205–8351. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. The preferred method for requesting applications is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Information Contact: Beverly Steburg, U.S. Department of Education, Rehabilitation Services Administration, 61 Forsyth Street, SW, Room 18T91, Atlanta, Georgia 30303. Telephone (404) 562–6336.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 774.

Dated: October 9, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–27786 Filed 10–15–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
October 16, 1998

Part V

Office of Personnel Management

Science and Technology Laboratory Personnel Management Demonstration Project, Department of the Army; Notice

OFFICE OF PERSONNEL MANAGEMENT

Science and Technology Laboratory Personnel Management Demonstration Project, Department of the Army: the Army Engineer Waterways Experiment Station (WES); the Army Construction Engineering Research Laboratories (CERL); the Army Topographic Engineering Center (TEC); and the Army Cold Regions Research and Engineering Laboratory (CRREL)

AGENCY: Office of Personnel Management.

ACTION: Notice to expand coverage of all provisions of the WES Personnel Management Demonstration Project to include employees at CERL, TEC, and CRREL.

SUMMARY: 5 U.S.C. 4703 authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such changes in personnel policy or procedures would result in improved Federal personnel management.

Pub. L. 103–337, October 5, 1994, permits the Department of Defense (DoD), with the approval of OPM, to carry out personnel demonstration projects at DoD Science and Technology (S&T) Reinvention Laboratories. This notice identifies the expanded coverage of the WES Personnel Management Demonstration Project to include employees assigned to CERL, TEC, and CRREL .

DATES: This notice to expand the WES Demonstration Project may be implemented at CERL, TEC, and CRREL effective on October 19, 1998.

FOR FURTHER INFORMATION CONTACT:

WES: Dr. C. H. Pennington, U.S. Army Engineer Waterways Experiment Station, ATTN: CEWES–ZT–E, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199, phone 601–634–3549.

CERL: Mr. John M. Deponai, III, U.S. Army Construction Engineering Research Laboratories, ATTN: CECER–ZC, PO Box 9005, Champaign, IL 61826–9005, phone 217–373–7201.

TEC: Mr. Bobbie F. Kerns, Jr., U.S. Army Topographic Engineering Center, ATTN: CETEC–SD, 7701 Telegraph Road, Alexandria, VA 22315–3864, phone 703–428–7703.

CRREL: Ms. Susan F. Koh, U.S. Army Cold Regions Research and Engineering Laboratory, ATTN: CECRL–HR, 72 Lyme Road, Hanover, NH 03755–1290, phone 603–646–4500.

OPM: Ms. Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7460, Washington, DC 20415, phone 202–606–1138.

SUPPLEMENTARY INFORMATION:

1. Background

OPM has approved ''Science and Technology Laboratory Personnel Management Demonstration Projects'' and published the WES final plan in the **Federal Register** on Tuesday, March 3, 1998, Volume 63, Number 41, Part IV, with a corrected version published on Wednesday, March 25, 1998, Volume 63, Number 57, Part V. The WES Demonstration Project involved simplified job classification, pay banding, performance-based compensation systems, employee development provisions, and modified reduction-in-force procedures.

2. Overview

The Headquarters Corps of Engineers recently made a decision to consolidate the management structure of its four laboratories into one Research and Development (R&D) organization. Under re-engineering activities, the Corps will integrate R&D program planning and oversight activities and consolidate support operations under a single commander located at WES. The Corps projects that these efforts will ultimately result in significant reductions in operating costs. The integrated program management will increase the Corps' efficiency in executing the R&D program and consequently improve the ability to serve the Army and the Nation.

Dated: September 29, 1998.

Office of Personnel Management.

Janice R. Lachance,

Director.

I. Executive Summary

The Department of the Army established the WES Personnel Management Demonstration Project to be generally similar to the system in use at the Navy Personnel Demonstration Project known as China Lake. The project was built upon the concepts of linking performance to pay for all covered positions, simplified paperwork in the processing of classification and other personnel actions, emphasizing partnerships among management, employees, and unions, and delegating other authorities to line managers.

II. Introduction

A. Purpose

The Demonstration Project at the WES attempts to provide managers, at the lowest practical level, the authority, control, and flexibility needed to achieve quality laboratories and quality products. The purpose of this notice is to expand the coverage of the WES Personnel Management Demonstration Project to CERL, TEC, and CRREL as a result of laboratory consolidation. The project will allow the Corps' Laboratories to compete more effectively for high-quality personnel and strengthen the manager's role in personnel management. All provisions of the approved WES Personnel Management Demonstration Project will apply.

Employee notification will be made by delivery of a copy of the corrected version of the WES plan and this notice. Training for supervisors and employees will be accomplished by information briefings and training sessions prior to implementation.

B. Duty Locations

Employees assigned to CERL, TEC, and CRREL work at the locations shown in Table 1.

TABLE 1.—DUTY LOCATIONS

Location	Total number of employees
Hanover, NH	304
Anchorage, AK	5
Fairbanks, AK	11
Arlington, VA	1
Alexandria, VA	346
Ft. Huachuca, AZ	1
Champaign, IL	351

C. Participating Employees

The project will cover all General Schedule (GS) employees assigned to CERL, TEC, and CRREL. Federal Wage System (FWS) employees, Civilian Intelligence Personnel Management System (CIPMS) employees covered by Title 10, and 5 U.S.C. 3105 Scientific and Technical (ST) employees are not covered, but will follow the same employee development provisions of this plan, except, in the case of CIPMS employees, where the provisions are found to be in conflict with CIPMS. The additional occupational series of employees included in the project are identified by occupational family in Table 2. All GS employees at CERL, TEC, and CRREL with appointments exceeding one year will be covered by the provisions of this project. GS employees with appointments limited to one year or less will be covered for pay banding, the performance appraisal process, and salary adjustments. Senior Executive Service (SES) employees will not be included in the project. It is intended to expand coverage of the project to all FWS employees 1 to 2 years following the date of implementation. In the event of

expansion to FWS employees beyond the employee development provisions, full approval will be obtained from DA, DoD, and OPM.

TABLE 2.—ADDITIONAL OCCUPATIONAL SERIES INCLUDED IN THE DEMONSTRATION PROJECT

Engineers and scientists	E&S technicians	Administrative	General support
0020 Community Planning Series.	0404 Biological Science Technician Series.	0340 Program Management Series.	0350 Equipment Operator Series.
0190 General Anthropology Series.	1374 Geodetic Technician Series.	0342 Support Services Administration Series.	1087 Editorial Assistance Series.
0457 Soil Conservation Series ...		083 Technical Writing & Editing Series.	
0460 Forestry Series		1103 Industrial Property Management Series.	
0890 Agricultural Engineering Series.		1640 Facility Management Series.	
1321 Metallurgy Series		1701 General Education and Training Series.	
1340 Meteorology Series		2003 Supply Program Management Series.	
1370 Cartography Series		2010 Inventory Management Series.	
1372 Geodesy			
1529 Mathematical Statistician Series			

The National Federation of Federal Employees (NFFE) Local 1017 represents approximately 96 non-professional, non-managerial/supervisory, non-confidential GS and FWS employees at CERL. NFFE Local 1472 represents approximately 150 non-professional, non-managerial/supervisory, non-confidential GS and FWS employees at CRREL. The project will be expanded to include the administrative and support employees at CERL, TEC, and CRREL no earlier than November 1, 1998. All other employees at CERL, TEC, and CRREL will be included for provisions of the project on or about October 1, 1999.

III. Demonstration Project Costs

Costs associated with the expansion of the Personnel Demonstration system include software automation, training, and project evaluation. The projected annual expenses for each area are summarized in Table 3.

TABLE 3.—PROJECTED COSTS ($K)

	FY 98	FY 99	FY 00	FY 01
Training	39	25	.....	.....
Project Evaluation	60	110	110	110
Automation	20	.....	.....	.....
Grand Total	119	135	110	110

[FR Doc. 98–27819 Filed 10–15–98; 8:45 am]

BILLING CODE 6325–01–P

federal register

Friday
October 16, 1998

Part VI

Department of Justice

Bureau of Prisons

28 CFR Parts 500, 503 and 551

Non-Discrimination Toward Inmates; Bureau of Prisons Central Office Regional Offices, Institutions, and Staff Training Centers; List of Bureau of Prisons Institutions; Final Rules and Notice

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

[BOP–1077–F]

RIN 1120–AA73

Non-Discrimination Toward Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rule.

SUMMARY: In this document, the Bureau of Prisons is revising its regulations on non-discrimination toward inmates for the sake of improved clarity of expression. This revision reaffirms that Bureau staff shall not discriminate against inmates on the basis of race, religion, national origin, sex, disability, or political belief. This includes the making of administrative decisions and providing access to work, housing and programs.

EFFECTIVE DATE: October 16, 1998.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on non-discrimination toward inmates (28 CFR part 551, subpart I). A final rule on this subject was published in the **Federal Register** April 4, 1980 (45 FR 23366) and was amended April 6, 1994 (59 FR 16406).

The Bureau's regulations previously stated that inmates may not be discriminated against on the basis of race, religion, nationality, sex, disability, or political belief, and that each Warden shall ensure that administrative decisions and work, housing, and program assignments are non-discriminatory. The Bureau is revising its regulations in order to restate the provisions in an active voice. The revised regulations make more clear the Bureau's intent that all staff are responsible for ensuring that their actions are in compliance. In restating the provisions in this manner, it is no longer necessary for the rules to identify the Warden as the person responsible for ensuring compliance. The Bureau's internal administrative procedures are sufficient to assure that the Warden is responsible for the institution's operations. With respect to the bases of discriminations, the Bureau has replaced the term ''nationality'' with the phrase ''national origin''.

Because this amendment is editorial in nature and does not change the intent of the previous regulations, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB. After review of the law and regulations, the Director, Bureau of Prisons certifies that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 551

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 551 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

1. The authority citation for 28 CFR 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

2. Subpart I of 28 CFR part 551 is revised to read as follows:

Subpart I—Non-Discrimination Toward Inmates

§ 551.90 Policy.

Bureau staff shall not discriminate against inmates on the basis of race, religion, national origin, sex, disability, or political belief. This includes the making of administrative decisions and providing access to work, housing and programs.

[FR Doc. 98–27879 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–05–U

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500 and 503

RIN–1120–AA82

[BOP–1087–F]

Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rule.

SUMMARY: In this document, the Bureau of Prisons is revising the listing of its Central Office, Regional Offices, institutions, and staff training centers in order to designate new institutions and to rename or realign existing institutions. The definition of ''institution'' is also being revised to reflect the various types of institutions currently in operation.

EFFECTIVE DATE: October 16, 1998.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its listing of Bureau of Prisons Central Office, Regional Offices, institutions, and staff training centers (28 CFR Part 503) which was published in the **Federal Register** on July 23, 1990 (55 FR 29990) and amended July 10, 1991 (56 FR 31531), November 12, 1992 (57 FR 53822) and August 20, 1993 (58 FR 44428).

This listing is being revised to reflect the opening of the following new Federal Correctional Institutions: Butner (Low), North Carolina; Beckley, West Virginia; Cumberland, Maryland; Elkton, Ohio; Edgefield, South Carolina; Forrest City, Arkansas; Waseca, Minnesota; Yazoo City, Mississippi; Greenville, Illinois; and Pekin, Illinois;

to designate new Federal Correctional Complexes at Beaumont, Texas (High, Medium, Low, and Administrative); Coleman, Florida (Medium, Low, and Administrative); and Florence, Colorado (Administrative Maximum (ADMAX), High, and Medium); to designate new Federal Medical Centers at Carswell, Texas; Devens, Massachusetts; to designate new Federal Detention Centers at SeaTac, Washington; Miami, Florida; and to designate a new Federal Transfer Center at Oklahoma City, Oklahoma.

This listing is also being revised to reflect the closing of the Federal Medical Center at Carville, Louisiana; and the Federal Prison Camp at Tyndall, Florida; the change in mission of the Federal Correction Institution at Ft. Worth, Texas to a Federal Medical Center at Ft. Worth, Texas; the Federal Prison Camp at Maxwell Air Force Base is now referred to as the Federal Prison Camp at Montgomery, Alabama; the Metropolitan Correctional Center at Miami, Florida is now referred to as the Federal Correctional Institution at Miami, Florida; the transfer of the Federal Correctional Institution at Memphis, Tennessee, from the Southeast Regional Office to the Mid-Atlantic Regional Office; the Federal Prison Camp at Millington, Tennessee is now part of the Federal Correctional Institution at Memphis, Tennessee; and minor editorial changes.

This listing is also being revised to emphasize the grouping of Bureau of Prisons institutions within Federal Correctional Complexes. Institutions listed under a Federal Correctional Complex (FCC), which may include a penitentiary, federal correctional institution, camp, or administrative facility, are not repeated in the paragraphs that identify facilities by security level. For example, the Federal Correctional Institution (Medium), Allenwood, Pennsylvania, is listed under § 503.2(c) Federal Correctional Complex, but is not listed separately in § 503.2(b) which lists other federal correctional institutions in the Northeast Region.

Finally, the definition of ''institution'' in 28 CFR 500.1(d) is being revised to reflect new types of institutions such as the Federal Medical Centers and to remove obsolete institutions such as Federal Community Treatment Centers.

Because this rule deals with agency organization and imposes no restrictions upon inmates, the Bureau finds good cause for exemption from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, and accordingly, it has not reviewed by OMB. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to agency organization and management, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects

28 CFR Part 500

Definitions.

28 CFR Part 503

Agency organization and functions.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), subchapter A of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

1. The authority citation for 28 CFR part 500 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 500.1, paragraph (d) is revised to read as follows:

§ 500.1 Definitions.

* * * * *

(d) *Institution* means a U.S. Penitentiary, a Federal Correctional Institution, a Federal Prison Camp, a Federal Detention Center, a Metropolitan Correctional Center, a Metropolitan Detention Center, a U.S. Medical Center for Federal Prisoners, a Federal Medical Center, or a Federal Transportation Center.

* * * * *

3. 28 CFR part 503 is revised to read as follows:

PART 503—BUREAU OF PRISONS CENTRAL OFFICE, REGIONAL OFFICES, INSTITUTIONS, AND STAFF TRAINING CENTERS

Sec.
503.1 Bureau of Prisons Central Office.
503.2 Bureau of Prisons Northeast Regional Office.
503.3 Bureau of Prisons Mid-Atlantic Regional Office.
503.4 Bureau of Prisons Southeast Regional Office.
503.5 Bureau of Prisons North Central Regional Office.
503.6 Bureau of Prisons South Central Regional Office.
503.7 Bureau of Prisons Western Regional Office.
503.8 Bureau of Prisons Staff Training Centers.

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4003, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

§ 503.1 Bureau of Prisons Central Office.

The Bureau of Prisons Central Office is located at 320 First Street NW., Washington, DC 20534.

§ 503.2 Bureau of Prisons Northeast Regional Office.

The Bureau of Prisons Northeast Regional Office is located at U.S. Customs House, 7th Floor, 2nd and Chestnut Street, Philadelphia, Pennsylvania 19106. The following institutions are located within this region.

(a) United States Penitentiary (USP) Lewisburg, Pennsylvania 17837.

(b) Federal Correctional Institutions (FCI):

(1) FCI Danbury, Connecticut 06811–3099;

(2) FCI Fairton, New Jersey 08320;

(3) FCI Fort Dix, New Jersey 08640;

(4) FCI Loretto, Pennsylvania 15940;

(5) FCI McKean, Pennsylvania 16701;

(6) FCI Otisville, New York 10963;

(7) FCI Ray Brook, New York 12977;

(8) FCI Schuylkill, Pennsylvania 17954.

(c) Federal Correctional Complex (FCC):

(1) USP Allenwood (High), Pennsylvania 17887;

(2) FCI Allenwood (Medium), Pennsylvania 17887;

(3) FCI Allenwood (Low), Pennsylvania 17887;

(4) FPC Allenwood, Pennsylvania 17752.

(d) Metropolitan Detention Center (MDC) Brooklyn, New York 11232.

(e) Metropolitan Correctional Center (MCC) New York, New York 10007.

(f) Federal Medical Center (FMC) Devens, Massachusetts 10432.

§ 503.3 Bureau of Prisons Mid-Atlantic Regional Office.

The Bureau of Prisons Mid-Atlantic Regional Office is located at Junction Business Park, 10010 Junction Drive, Suite 100N, Annapolis Junction, Maryland 20701. The following institutions are located within this region.

(a) United States Penitentiary (USP) Terre Haute, Indiana 47808.

(b) Federal Correctional Institutions (FCI):

(1) FCI Ashland, Kentucky 41101;

(2) FCI Beckley, West Virginia 25813;

(3) FCI Butner (Medium), North Carolina 27509;

(4) FCI Butner (Low), North Carolina 27509–1000;

(5) FCI Cumberland, Maryland 21502;

(6) FCI Elkton, Ohio 44415;

(7) FCI Manchester, Kentucky 40962;

(8) FCI Memphis, Tennessee 38134–7690;

(9) FCI Milan, Michigan 48160;

(10) FCI Morgantown, West Virgina 26505;

(11) FCI Petersburg, Virginia 23804–1000.

(c) Federal Prison Camps (FPC):

(1) FPC Alderson, West Virginia 24910;

(2) FPC Seymour Johnson, North Carolina 27531–5000.

(d) Federal Medical Center (FMC) Lexington, Kentucky 41101.

§ 503.4 Bureau of Prisons Southeast Regional Office.

The Bureau of Prisons Southeast Regional Office is located at 3800 North Camp Creek Parkway, SW., Building 2000, Atlanta, GA 30331–5099. The following institutions are located within this region.

(a) United States Penitentiary (USP) Atlanta, Georgia 30315–0182.

(b) Federal Correctional Institutions (FCI):

(1) FCI Edgefield, South Carolina 29824;

(2) FCI Estill, South Carolina 29918;

(3) FCI Jesup, Georgia 31599;

(4) FCI Marianna, Florida 32446;

(5) FCI Miami, Florida 33177;

(6) FCI Talladega, Alabama 35160;

(7) FCI Tallahassee, Florida 32301;

(8) FCI Yazoo City, Mississippi 39194.

(c) Federal Correctional Complex (FCC):

(1) FCI Coleman (Medium), Florida 33521–8997;

(2) FCI Coleman (Low), Florida 33521–8999;

(3) FCC Coleman (Administrative), Florida 33521–1029.

(d) Federal Prison Camps (FPC):

(1) FPC Eglin, Florida 32542;

(2) FPC Montgomery, Alabama 36112;

(3) FPC Pensacola, Florida 32509–0001.

(e) Federal Detention Center (FDC) Miami, Florida 33177.

(f) Metropolitan Detention Center (MDC) Guaynabo, Puerto Rico 00922–2146.

§ 503.5 Bureau of Prisons North Central Regional Office.

The Bureau of Prisons North Central Regional Office is located at Gateway Complex, Inc., Tower II, 8th Floor, 4th and State Avenue, Kansas City, Kansas 6610–2492. The following institutions are located within this region.

(a) United States Penitentiaries (USP):

(1) USP Leavenworth, Kansas 66048;

(2) USP Marion, Illinois 62959.

(b) Federal Correctional Institutions (FCI):

(1) FCI Englewood, Colorado 80123;

(2) FCI Greenville, Illinois 62246;

(3) FCI Oxford, Wisconsin 53952–0500;

(4) FCI Pekin, Illinois 61555–7000;

(5) FCI Sandstone, Minnesota 55072;

(6) FCI Waseca, Minnesota 56093.

(c) Federal Correctional Complex (FCC):

(1) USP (ADMAX) Florence, Colorado 81226;

(2) USP Florence (High), Colorado 81226;

(3) FCI Florence (Medium), Colorado 81226.

(d) Federal Prison Camps (FPC):

(1) FPC Duluth, Minnesota 55814;

(2) FPC Yankton, South Dakota 57078.

(e) U.S. Medical Center for Federal Prisoners (USMCFP) Springfield, Missouri 65808.

(f) Federal Medical Center (FMC) Rochester, Minnesota 55903–4600.

(g) Metropolitan Correctional Center (MCC) Chicago, Illinois 60605.

§ 503.6 Bureau of Prisons South Central Regional Office.

The Bureau of Prisons South Central Regional Office is located at 4211 Cedar Springs Road, Suite 300, Dallas, Texas 75219. The following institutions are located within this region.

(a) Federal Correctional Institutions (FCI):

(1) FCI Bastrop, Texas 78602;

(2) FCI Big Spring, Texas 79720–7799;

(3) FCI El Reno, Oklahoma 73036–1000;

(4) FCI Forrest City, Arkansas 72336;

(5) FCI La Tuna, Texas 88021;

(6) FCI Oakdale, Louisiana 71463;

(7) FCI Seagoville, Texas 75159;

(8) FCI Texarkana, Texas 75505;

(9) FCI Three Rivers, Texas 78071.

(b) Federal Correctional Complex (FCC):

(1) USP Beaumont (High), Texas 77720–6035;

(2) FCI Beaumont (Low), Texas 77720–6025;

(3) FCC Beaumont (Administrative), Texas 77720–6015.

(c) Federal Prison Camps (FPC):

(1) FPC Bryan, Texas 77803;

(2) FPC El Paso, Texas 79906–0300.

(d) Federal Medical Center (FMC):

(1) FMC Carswell, Texas 76127;

(2) FMC Fort Worth, Texas 76119–5996.

(e) Federal Detention Center (FDC) Oakdale, Louisiana 71463.

(f) Federal Transportation Center (FTC) Oklahoma City, Oklahoma 73189–8802.

§ 503.7 Bureau of Prisons Western Regional Office.

The Bureau of Prisons Western Regional Office is located at 7950 Dublin Boulevard, 3rd Floor, Dublin, California 94568. The following institutions are located within this region.

(a) United States Penitentiary (USP) Lompoc, California 93436.

(b) Federal Correctional Institutions (FCI):

(1) FCI Dublin, California 94568;

(2) FCI Lompoc, California 93436;

(3) FCI Phoenix, Arizona 85027;

(4) FCI Safford, Arizona 85548;

(5) FCI Sheridan, Oregon 97378–9601;

(6) FCI Terminal Island, California 90731;

(7) FCI Tucson, Arizona 85706.

(c) Federal Prison Camps (FPC):

(1) FPC Boron, California 93596;

(2) FPC Nellis, Nevada 89036–5000.

(d) Metropolitan Correctional Center (MCC) San Diego, California 92101–6078.

(e) Metropolitan Detention Center (MDC) Los Angeles, California 90012–1500.

(f) Federal Detention Center (FDC) SeaTac, Washington 98168.

§ 503.8 Bureau of Prisons Staff Training Centers.

The Bureau of Prisons Staff Training Centers are located at:

(a) Federal Law Enforcement Training Center, Building 21, Glynco, Georgia 31524;

(b) Management and Speciality Training Center, 791 Chambers Road, Aurora, Colorado 80011;

(c) National Legal Training Center, 791 Chambers Road, Aurora, Colorado 80011;

(d) Food Service and Trust Fund Training Center, c/o FCI, Fort Worth, Texas 76119.

[FR Doc. 98–27878 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: In this document, the Bureau of Prisons is publishing a consolidated listing of its institutions. The following institutions have been added to the listing: United States Penitentiary at Beaumont, Texas; Federal Correctional Institutions at Elkton, Ohio, Forrest City Arkansas, Yazoo City, Mississippi, Edgefield, South Carolina and Beaumont, Texas; a Federal Prison Camp at Beaumont, Texas; a Federal Detention Center at SeaTac, Washington; and a Federal Medical Center at Devens, Massachusetts.

ADDRESSES: Office of General Counsel, Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, (202) 514–6655.

SUPPLEMENTARY INFORMATION: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the **Federal Register** October 27, 1981 (at 46 FR 52339 *et seq.*) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), the authority to establish and designate Bureau of Prisons institutions. The last listing of the Bureau's institutions was published in the **Federal Register** on December 14, 1995 (60 FR 64258).

This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12866, Sec. 3(d).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 3621, 4001, 4003, 4042, 4081, and 4082 (repealed in part October 12, 1984) and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(q), it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Allenwood, Pennsylvania;
(2) Atlanta, Georgia;
(3) Beaumont, Texas;
(4) Florence, Colorado (ADMAX);
(5) Florence, Colorado (High Security);
(6) Leavenworth, Kansas;
(7) Lewisburg, Pennsylvania;
(8) Lompoc, California;
(9) Marion, Illinois; and
(10) Terre Haute, Indiana.

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions:

(1) Allenwood, Pennsylvania (Low Security);
(2) Allenwood, Pennsylvania (Medium Security);
(3) Ashland, Kentucky;
(4) Bastrop, Texas;
(5) Beaumont, Texas (Low Security);
(6) Beaumont, Texas (Medium Security);
(7) Beckley, West Virginia;
(8) Big Spring, Texas;
(9) Butner, North Carolina (Low Security);
(10) Butner, North Carolina (Medium Security);
(11) Coleman, Florida (Low Security);
(12) Coleman, Florida (Medium Security);
(13) Cumberland, Maryland;
(14) Danbury, Connecticut;
(15) Dublin, California;
(16) Edgefield, South Carolina;
(17) El Reno, Oklahoma;
(18) Elkton, Ohio;
(19) Englewood, Colorado;
(20) Estill, South Carolina;
(21) Fairton, New Jersey;
(22) Florence, Colorado;
(23) Forrest City, Arkansas;
(24) Fort Dix, New Jersey;
(25) Greenville, Illinois;
(26) Jesup, Georgia;
(27) La Tuna, Texas;
(28) Lompoc, California;
(29) Loretto, Pennsylvania;
(30) Manchester, Kentucky;
(31) Marianna, Florida;
(32) McKean, Pennsylvania;
(33) Memphis, Tennessee;
(34) Miami, Florida;
(35) Milan, Michigan;
(36) Morgantown, West Virginia;
(37) Oakdale, Louisiana;
(38) Otisville, New York;
(39) Oxford, Wisconsin;
(40) Pekin, Illinois;
(41) Petersburg, Virginia;
(42) Phoenix, Arizona;
(43) Ray Brook, New York;
(44) Safford, Arizona;
(45) Sandstone, Minnesota;
(46) Schuylkill, Pennsylvania;
(47) Seagoville, Texas;
(48) Sheridan, Oregon;
(49) Talladega, Alabama;
(50) Tallahassee, Florida;
(51) Terminal Island, California;
(52) Texarkana, Texas;
(53) Three Rivers, Texas;
(54) Tucson, Arizona;
(55) Waseca, Minnesota; and
(56) Yazoo City, Mississippi.

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Alderson, West Virginia;
(2) Allenwood, Pennsylvania;
(3) Beaumont, Texas;
(4) Boron, California;
(5) Bryan, Texas;
(6) Duluth, Minnesota;
(7) Eglin, Florida;
(8) El Paso, Texas;
(9) Montgomery, Alabama;
(10) Nellis, Nevada;
(11) Pensacola, Florida;
(12) Seymour Johnson, North Carolina; and
(13) Yankton, South Dakota.

D. The Bureau of Prisons institutions at the following locations house inmates who are primarily pre-trial detainees and are designated as:

Federal Detention Centers:
(1) Miami, Florida;
(2) Oakdale, Louisiana; and
(3) SeaTac, Washington.

Metropolitan Correctional Centers:
(1) Chicago, Illinois;
(2) New York, New York; and
(3) San Diego, California.

Metropolitan Detention Centers:
(1) Brooklyn, New York;
(2) Guaynabo, Puerto Rico; and
(3) Los Angeles, California.

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institutions at the following locations are designated as Federal Medical Centers:

(1) Carswell, Texas;
(2) Devens, Massachusetts
(3) Fort Worth, Texas;
(4) Lexington, Kentucky; and
(5) Rochester, Minnesota.

G. The Bureau of Prisons institution at Oklahoma City, Oklahoma is designated as the Federal Transportation Center.

Kathleen Hawk Sawyer,

Director, Federal Bureau of Prisons.

[FR Doc. 98–27877 Filed 10–15–98; 8:45 am]

BILLING CODE 4410–05–P

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  - Labeling warnings and directions for topical/inhalant antitussive drug products containing campor and/or menthol; final monograph; comments due by 10-19-98; published 7-20-98

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 3096/P.L. 105–247

To correct a provision relating to termination of benefits for convicted persons. (Oct. 9, 1998; 112 Stat. 1863)

H.R. 4382/P.L. 105–248

Mammography Quality Standards Reauthorization Act of 1998 (Oct. 9, 1998; 112 Stat. 1864)

H.J. Res. 133/P.L. 105–249

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S. 1355/P.L. 105–250

To designate the United States courthouse located at 141 Church Street in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse". (Oct. 9, 1998; 112 Stat. 1869)

S. 2022/P.L. 105–251

To provide for the improvement of interstate criminal justice identification, information, communications, and forensics. (Oct. 9, 1998; 112 Stat. 1870)

S. 2071/P.L. 105–252

To extend a quarterly financial report program administered by the Secretary of Commerce. (Oct. 9, 1998; 112 Stat. 1886)

H.J. Res. 131/P.L. 105–253

Waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999. (Oct. 12, 1998; 112 Stat. 1887)

H.J. Res. 134/P.L. 105–254

Making further continuing appropriations for the fiscal year 1999, and for other purposes. (Oct. 12, 1998; 112 Stat. 1888)

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