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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Docket No. FV98–925–3 FIR]

Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision in Minimum Grade, Container, and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which revised the minimum grade requirements for grapes grown in southeastern California and for grapes imported into the United States for a portion of the 1998 shipping season. The interim final rule also revised container and pack requirements prescribed for California grapes for a limited time. In combination, the revisions allowed California grape handlers to market consumer packages of grapes more economically by increasing the range of allowable bunch sizes for a portion of the 1998 season. Master containers of consumer grape packages were allowed to be marketed if the grape clusters/bunches in the packages consisted of at least 2 berry clusters and the clusters/bunches were not greater than 19 ounces in weight. The increased bunch size range also applied to imported grapes. This action was in the interest of handlers, producers, importers, and consumers.

EFFECTIVE DATE: August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 925 (7 CFR Part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

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

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

An interim final rule (63 FR 28475, May 26, 1998), increased the range of allowable sizes of grape bunches that California handlers could pack in certain containers during the period June 1, 1998, through August 15, 1998. Master containers, containing individual consumer packages of grapes weighing 1½ pounds or less, net weight, were allowed to be marketed if the grape clusters/bunches in the packages consisted of at least 2 berry clusters and the clusters/bunches were not greater than 19 ounces in weight. The increased bunch size range also applied to imported grapes, but no container specifications applied. Grapes packed in this manner by handlers in California had to be marked ''DGAC Consumer No. 1 Institutional.'' The changes in domestic requirements were recommended by the California Desert Grape Administrative Committee (Committee), the agency responsible for local administration of the order. The results of the test marketing effort are being evaluated by the Committee. A decision on whether or not to allow such shipments in future seasons will be made at a later time.

The interim final rule also updated or removed certain obsolete references appearing in § 925.304 of the order's rules and regulations and in § 944.503 of the import regulation. The final rule finalizes these actions.

Under the terms of the order, fresh market shipments of grapes grown in southeastern California are required to be inspected and meet grade, size, maturity, pack, and container

requirements. Current requirements include minimum grade and net weight requirements. Grapes must also be packed in authorized containers. Such containers must be marked with the minimum net weight of the grapes contained therein, the variety of the grapes, the name of the shipper, and the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

Section 925.52(a)(2) of the grape order provides authority to limit the handling of any grade, size, quality, maturity, or pack of grapes for different varieties, or any combination of the foregoing during any period or periods.

Section 925.304(a) of the order's administrative rules and regulations requires grapes to meet the minimum grade requirements of U.S. No. 1 Table, or U.S. No. 1 Institutional, or to meet all the requirements of U.S. No. 1 Institutional, except that a tolerance of 33 percent is provided for off-size bunches. Grapes meeting U.S. No. 1 Institutional requirements are required to be marked ''U.S. No. 1 Institutional.'' Grapes meeting the modified U.S. No. 1 Institutional requirements may be marked ''DGAC No. 1 Institutional.'' The requirements for the U.S. No. 1 Table and U.S. No. 1 Institutional grades are set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.914) (Standards).

Section 925.52(a)(4) of the order provides authority to regulate the size, capacity, weight, dimensions, markings, materials, and pack of containers which may be used in the handling of grapes.

Section 925.304(b)(1) of the order's administrative rules and regulations requires grapes to be packed in new and clean boxes which meet the requirements of sections 1380.14, 1380.19, 1436.37, and 1436.38 of Title 3: California Code of Regulations (CCR). That section also authorizes nine containers that can be used for domestic and export shipments and specifies dimensions for each such container. An additional container, defined in terms of a net weight of 5 kilograms, is authorized for export shipments only. All 10 of the authorized containers may be used for export shipments. Only the first nine can be used for domestic shipments. Section 925.304(b)(1) also authorizes the Committee to approve other containers for experimental or research purposes.

Section 925.304(b)(2) of the order's administrative rules and regulations provides that grapes in any containers weigh at least 20 pounds based on the average net weight of grapes in a representative sample of containers. An exception is provided for grapes packed in experimental containers, or packed in bags or wrapped in plastic or paper. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds. There are no weight requirements specified for experimental containers.

The Committee met on March 24, 1998, and unanimously recommended modifying § 925.304 of the order's administrative rules and regulations to:

(1) Revise the minimum grade requirement for the period June 1, 1998, through August 15, 1998, to allow a pilot test for the marketing of grapes meeting all the requirements of U.S. No. 1 Institutional, except for the weight of clusters/bunches. The revision was intended to allow clusters/bunches as small as a 2 berry cluster and as large as 19 ounces in weight. Grapes meeting the revised quality requirements were to be marked ''DGAC Consumer No. 1 Institutional,'' but could not be marked ''Institutional Pack.''

(2) Authorize an experimental master container, containing individual consumer packages of grapes weighing 1½ pounds or less, net weight, for use during the pilot test period of June 1, 1998, to August 15, 1998. It further recommended that grapes meeting the ''DGAC Consumer No. 1 Institutional'' requirements be packed in this container and that this master container could only be used for packing the ''DGAC Consumer No. 1 Institutional'' grade.

(3) Update or remove certain obsolete references appearing in the regulation.

Revision in Minimum Grade Requirements

Until 1993, the minimum grade requirement under the order was U.S. No. 1 Table. One requirement of that grade is that grape bunches weigh at least 4 ounces.

In 1991, a new U.S. No. 1 Institutional grade was added to the Standards. This grade—used primarily for sales to restaurants and other food service firms—provides for grape lots which have very small bunches. At the request of the table grape industry, this grade was added to meet market demand for individual consumer sized servings of grapes. The Standards were further revised in 1996 to lower the minimum bunch size to a two berry cluster and to specify a separate 4 percent tolerance for off-size bunches.

The minimum grade requirements under the order were changed in 1993 to allow California grape handlers to pack the newly established U.S. No. 1 Institutional grade. Because handlers experienced difficulties in packing this grade, these requirements were further revised in 1994 to provide a tolerance of 33 percent for off-size bunches. This modified U.S. No. 1 Institutional grade is referred to as DGAC No. 1 Institutional.

California grape handlers can ship and importers can import grapes meeting at least U.S. No. 1 Table, U.S. No. 1 Institutional, or DGAC No. 1 Institutional during the period April 20 through August 15 each year. During the period June 1 through August 15, 1998, grapes also could be shipped and imported meeting the requirements of DGAC Consumer No. 1 Institutional. Grapes meeting this requirement were required to meet all of the requirements of the U.S. No. 1 Institutional grade, except for the cluster/bunch size requirements. California grapes meeting this requirement were packed in consumer packages.

The requirements of U.S. No. 1 Institutional are essentially the same as those of the U.S. No. 1 Table grade, with three major exceptions. The first difference relates to bunch size. Under the U.S. No. 1 Table grade, there is a minimum bunch size requirement of 4 ounces and no maximum bunch size. Under the U.S. No. 1 Institutional grade, grapes are to consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. A cluster is two or more berries sharing a common point of attachment.

The second difference is that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional must be legibly marked ''Institutional Pack.'' There are no marking requirements under the U.S. No. 1 Table grade.

The third difference relates to the tolerances for off-size bunches. For grapes grading U.S. No. 1 Table, an 8 percent tolerance is established for all grade requirements, including off-size bunches. The U.S. No. 1 Institutional grade has a separate tolerance of 4 percent for off-size clusters/bunches and an 8 percent tolerance for the remaining grade requirements.

Requirements for the DGAC No. 1 Institutional are the same as for the U.S. No. 1 Institutional, except that the tolerance for off-size bunches is 33 percent. Because grapes meeting these requirements do not meet the U.S. No. 1 Institutional grade requirements, they cannot be marked ''Institutional Pack.'' They may, however, be marked ''DGAC No. 1 Institutional.''

Prior to the start of the 1998 shipping season, grape handlers expressed

interest in packing grapes in individual consumer packages known as ''punits'' or ''clamshells.'' These containers, used most commonly to pack strawberries, are made of a clear, hard rigid plastic and typically hold a half pound or a pound of fruit. Some retailers prefer these containers because they are of the same net weight, and can be scanned at check-out. This is particularly convenient for retailers that do not have facilities for weighing produce, such as convenience stores and fast food outlets. Some consumers also prefer the convenience of prepackaged individual portions of fruit.

To meet changing market requirements, California grape handlers wanted to market grapes packed in these consumer packages. Bunch size requirements made it difficult because grape bunches normally range in weight from 1/4 pound to 3 pounds. Thus, portions of bunches needed to be used to fill the new packages to the weights desired by buyers. Handlers determined that increasing the range of permissible bunch sizes to allow for clusters/bunches of two berries to 19 ounces would provide handlers the flexibility needed to pack grapes in the desired consumer containers.

The interim final rule revised § 925.304(a) of the order's rules and regulations and § 944.503 of the import regulation. The revision to § 925.304(a) allowed handlers to ship a new grade of grapes known as ''DGAC Consumer No. 1 Institutional'' for a portion of the 1998 season. The name recognized that such grapes would be packed in consumer packages and that the grapes would not be packed to the minimum requirements of the U.S. No. 1 Table grade. Grapes meeting this requirement were required to meet the requirements of the U.S. No. 1 Institutional grade, except for the cluster/bunch size requirements. Specifically, the modified requirements allowed shipments with clusters/bunches ranging from 2 berry clusters to clusters/bunches of grapes up to 19 ounces in weight during the period June 1, 1998, to August 15, 1998. The revision to § 944.503 allowed grapes meeting the relaxed requirements to be imported during that period.

Container Requirements

The Committee recommended and the interim final rule established that grapes meeting the requirements of the new ''DGAC Consumer No. 1 Institutional'' be packed in individual consumer packages. The consumer packages were then required to be packed in a master container.

Typically, the individual consumer packages held either ½ or 1 pound of fruit. To allow for normal shrinkage during handling, handlers generally packed a slightly greater weight than is desired at retail. Section 925.304(b) was revised to provide that DGAC Consumer No. 1 Institutional grade grapes be packed in master containers containing individual consumer packages weighing 1½ pounds or less during the period June 1, 1998, to August 15, 1998.

Additionally, the master containers were required to be marked ''DGAC Consumer No. 1 Institutional'' to accurately reflect their contents. The individual consumer packages did not need to be so marked. Other container marking requirements appearing in the regulation applied to the master containers as well during the test period.

The master containers used for these grapes typically held 10 consumer packages weighing 1 pound each or 20 packages weighing ½ pound each. Thus, these containers were exempt from the net weight requirements of 18 or 20 pounds specified in § 925.304(b)(2) during the period June 1, 1998, to August 15, 1998.

Application to Imports

Section 8e of the Act specifies that whenever certain commodities, like grapes, are regulated under a Federal order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Pack and container requirements are not authorized by section 8e. Thus, the revised grade requirements implemented by the interim final rule applied to imported grapes; none of the container or container marking requirements applied, however. If desired, importers could have labeled containers of grapes meeting the modified U.S. No. 1 Institutional requirements as ''DGAC Consumer No. 1 Institutional.'' Specifically, the interim final rule modified language in § 944.503(a)(1) of Table Grape Import Regulation 4 for fresh grapes imported into the United States.

Clarification/Removal of Obsolete Language

This rule continues in effect the removal of language in the introductory text of § 925.304 that applied to the 1987 season and is no longer necessary.

This rule also continues in effect several other corrections in both the order's administrative rules and regulations and the import regulation. Specifically, the tolerance percentage of ''8 percent'' was changed to ''4 percent'' in §§ 925.304(a) of the order's administrative rules and regulations and in 944.503(a)(1) of the import regulation. This rule continues in effect a correction to those sections to accurately specify the current tolerance for off-size bunches in the U.S. No. 1 Institutional grade. This rule also continues in effect a correction to a Standards reference from section number ''51.913'' to section number ''51.914'' in §§ 925.304(a) of the order's rules and regulations and in 944.503(a)(1) of the import regulation. A change to a California Department of Food and Agriculture reference from ''California Administrative Code (Title 3)'' to ''Title 3: California Code of Regulations'' in paragraph (a)(1)(ii) of § 944.503 of the import regulation is continued in effect too.

Final Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 27 handlers of California grapes who are subject to regulation under the order and approximately 80 grape producers in the production area. In addition, there are approximately 127 importers of grapes. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. Ten of the 27 handlers subject to regulation have annual grape sales of at least $5,000,000, excluding receipts from any other sources. In addition, 70 of the 80 producers subject to regulation have annual sales of at least $500,000, and the remaining 10 producers have annual sales less than $500,000, excluding receipts from any other sources. Therefore, a majority of handlers and a minority of producers

are classified as small entities. The average importer receives $2.8 million in grape revenue, excluding receipts from other sources. Therefore, we believe that the majority of these importers are small entities.

This action finalizes an interim final rule (63 FR 28475, May 26, 1998), which increased the range of allowable sizes of grape bunches that California handlers could pack in certain containers during the period June 1, 1998, through August 15, 1998. Master containers, containing individual consumer packages of grapes weighing 1½ pounds or less, net weight, were allowed to be marketed if the grape clusters/bunches in the packages consisted of at least 2 berry clusters and the clusters/bunches were not greater than 19 ounces in weight. Grapes meeting the ''DGAC Consumer No. 1 Institutional'' requirements were required to be packed in the experimental container, and the container was to be used solely for packing the ''DGAC Consumer No. 1 Institutional'' grade. The changes in domestic requirements were recommended by the Committee, the agency responsible for local administration of the order. These changes were implemented during the test period and the Committee is evaluating the test results. A decision on a future course of action will be made at a later time. The increased bunch size range also applied to imported grapes during that time period, but no container specifications applied.

The interim final rule also updated or removed certain obsolete references appearing in § 925.304 of the order's rules and regulations and in § 944.503 (a)(1) of the import regulation.

Under the terms of the order, fresh market shipments of grapes grown in southeastern California are required to be inspected and meet grade, size, maturity, pack, and container requirements. Current requirements include minimum grade and net weight requirements. Grapes must also be packed in authorized containers. Such containers must be marked with the minimum net weight of the grapes contained therein, the variety of the grapes, the name of the shipper, and the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

Section 925.52(a)(2) of the grape order provides authority to limit the handling of any grade, size, quality, maturity, or pack of grapes for different varieties, or any combination of the foregoing during any period or periods.

Section 925.304(a) of the order's administrative rules and regulations requires grapes to meet the minimum grade requirements of U.S. No. 1 Table, or U.S. No. 1 Institutional, or to meet all the requirements of U.S. No. 1 Institutional, except that a tolerance of 33 percent is provided for off-size bunches. Grapes meeting U.S. No. 1 Institutional requirements are required to be marked ''U.S. No. 1 Institutional.'' Grapes meeting the modified U.S. No. 1 Institutional requirements may be marked ''DGAC No. 1 Institutional.'' The requirements for the U.S. No. 1 Table and U.S. No. 1 Institutional grades are set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.914) (Standards).

Section 925.52(a)(4) of the order provides authority to regulate the size, capacity, weight, dimensions, markings, materials, and pack of containers which may be used in the handling of grapes.

Section 925.304(b)(1) of the order's administrative rules and regulations requires grapes to be packed in new and clean boxes which meet the requirements of sections 1380.14, 1380.19, 1436.37, and 1436.38 of Title 3: California Code of Regulations (CCR). That section also authorizes nine containers that can be used for domestic and export shipments, and specifies dimensions for each such container. An additional container, defined in terms of a net weight of 5 kilograms, is authorized for export shipments only. All 10 authorized containers may be used for export shipments. Only the first nine can be used for domestic shipments. Section 925.304(b)(1) also authorizes the Committee to approve other containers for experimental or research purposes.

Section 925.304(b)(2) of the order's administrative rules and regulations provides that grapes in any containers weigh at least 20 pounds based on the average net weight of grapes in a representative sample of containers. An exception is provided for grapes packed in experimental containers, or packed in bags or wrapped in plastic or paper. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds. There are no weight requirements specified for experimental containers.

The Committee met on March 24, 1998, and unanimously recommended modifying § 925.304 of the order's administrative rules and regulations to:

(1) Revise the minimum grade requirement for the period June 1, 1998, through August 15, 1998, to allow a pilot test for the marketing of grapes meeting all the requirements of U. S. No. 1 Institutional, except for the weight of clusters/bunches. The revision was intended to allow clusters/bunches as small as a 2 berry cluster and as large as 19 ounces in weight. Grapes meeting the revised quality requirements were required to be marked ''DGAC Consumer No. 1 Institutional,'' but could not be marked ''Institutional Pack.''

(2) Authorize an experimental master container, containing individual consumer packages of grapes weighing 1½ pounds or less, net weight, for use during the pilot test period of June 1, 1998, to August 15, 1998. It further recommended that grapes meeting the ''DGAC Consumer No. 1 Institutional'' requirements be packed in this container and that this master container could only be used for packing the ''DGAC Consumer No. 1 Institutional'' grade.

During the period April 20 through August 15 each year, California grape handlers can ship grapes meeting at least U.S. No. 1 Table, U.S. No. 1 Institutional, or DGAC No. 1 Institutional. The revision implemented by the interim final rule allowed handlers to ship DGAC Consumer No. 1 Institutional during the period June 1, 1998, to August 15, 1998.

The requirements of the U.S. No. 1 Institutional are essentially the same as those of the U.S. No. 1 Table grade, with three major exceptions. The first difference relates to bunch size. Under the U.S. No. 1 Table grade, there is a minimum bunch size requirement of 4 ounces and no maximum bunch size. Under the U.S. No. 1 Institutional grade, grapes are to consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. A cluster is two or more berries sharing a common point of attachment.

The second difference is that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional must be legibly marked ''Institutional Pack.'' There are no marking requirements under the U.S. No. 1 Table grade.

The third difference relates to the tolerances for off-size bunches. For grapes grading U.S. No. 1 Table, an 8 percent tolerance is established for all grade requirements, including off-size bunches. The U.S. No. 1 Institutional grade has a separate tolerance of 4 percent for off-size clusters/bunches and an 8 percent tolerance for the remaining grade requirements.

Requirements for the DGAC No. 1 Institutional are the same as for the U.S. No. 1 Institutional, except that the tolerance for off-size bunches is 33 percent. Because grapes meeting these

requirements do not meet the U.S. No. 1 Institutional grade requirements, they cannot be marked ''Institutional Pack.'' They may, however, be marked ''DGAC No. 1 Institutional.''

Prior to the start of the 1998 shipping season, handlers expressed interest in packing grapes in individual consumer packages known as ''punits'' or ''clamshells.'' These containers, used most commonly to pack strawberries, are made of a clear, hard rigid plastic and typically hold a half pound or a pound of fruit. Some retailers prefer these containers because they are of the same net weight, and can be scanned at check-out. This is particularly convenient for retailers that do not have facilities for weighing produce, such as convenience stores and fast food outlets. Some consumers also prefer the convenience of prepackaged individual portions of fruit.

To meet changing market requirements, California grape handlers wanted to be able to pack these consumer packages. Bunch size requirements made it difficult. Grape bunches normally range in weight from ¼ pound to 3 pounds. Thus, portions of bunches were needed to fill the new packages to the weights desired by buyers. Handlers determined that increasing the range of permissible bunch sizes to allow for clusters/bunches of two berries to 19 ounces would provide handlers the flexibility needed to pack grapes in the desired consumer containers.

The interim final rule revised § 925.304(a) of the order's rules and regulations and § 944.503 of the table grape import regulation allowed handlers and importers to ship a new grade of grapes known as ''DGAC Consumer No. 1 Institutional.'' The name recognized that such grapes would be packed in consumer packages and that the grapes were not packed to the minimum requirements of the U.S. No. 1 Table grade. These grapes had to meet the requirements of the U.S. No. 1 Institutional grade, except for the cluster/bunch size requirements. Specifically, the modified requirements allowed shipments with clusters/bunches ranging from 2 berry clusters to clusters/bunches of grapes up to 19 ounces in weight during the period June 1, 1998, to August 15, 1998.

The Committee recommended and the interim final rule established that grapes meeting the requirements of the new ''DGAC Consumer No. 1 Institutional'' be packed in a certain way. The grapes were required to be packed in individual consumer packages. The consumer packages were then required to be packed in a master container.

Typically, the individual consumer packages held either ½ or 1 pound of fruit. To allow for normal shrinkage during handling, handlers generally packed a slightly greater weight than is desired at retail. Section 925.304(b) was revised to provide that DGAC Consumer No. 1 Institutional grade grapes be packed in master containers containing individual consumer packages weighing 1½ pounds or less.

Additionally, the master containers were required to be marked ''DGAC Consumer No. 1 Institutional'' to accurately reflect their contents. The individual consumer packages did not need to be so marked. Other container marking requirements appearing in the regulation applied to the master containers as well.

The master containers used for these grapes typically held 10 consumer packages weighing 1 pound each or 20 packages weighing 1/2 pound each. Thus, the containers were exempted from the net weight requirements of 18 or 20 pounds specified in § 925.304(b)(2) during the period June 1, 1998, to August 15, 1998.

Section 8e of the Act specifies that whenever certain commodities, like grapes, are regulated under a Federal order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Pack and container requirements are not authorized by section 8e. Thus, the revised grade requirements implemented by the interim final rule applied to imported grapes during the test period; none of the container or container marking requirements applied, however. If desired, importers could have labeled containers of grapes meeting the modified U.S. No. 1 Institutional requirements as ''DGAC Consumer No. 1 Institutional.'' Specifically, the interim final rule modified language in § 944.503(a)(1) of the Table Grape Import Regulation 4 for fresh grapes imported into the United States during the period June 1, 1998, to August 15, 1998.

The interim final rule provided handlers and importers more marketing flexibility, was estimated to result in increased shipments of consumer-sized grape packs, and was expected to have a positive impact on California grape handlers and importers of grapes. The changes addressed the marketing and shipping needs of the grape industry, and were in the interest of handlers, producers, importers, and consumers.

During the last several seasons, Mexico has been the largest exporter of grapes to the United States during the June 1 through August 15 period. Chile and Italy have exported small quantities of grapes to the U.S. during this same period. Chile is the dominant exporting country from December through May each year.

During the pilot test period of June 1, 1998, through August 15, 1998, imports were estimated to total 5.5 million lugs from Mexico, 33 thousand lugs from Chile, and approximately 4 thousand lugs from Italy. These estimates were based upon lug weights of 18 pounds.

According to Department inspection officials, minimal quantities of grapes meeting the institutional grades have been imported since the ''Institutional Pack'' was implemented. Based on historical data, it was estimated that approximately .5 percent to 1 percent of the imported lugs would meet the requirements of either the ''U.S. No. 1 Institutional'' or the ''DGAC No. 1 Institutional'' grades. It was further estimated that less than 1 percent of the imported lugs would meet the requirements of the ''DGAC Consumer No. 1 Institutional'' grade. The majority of imported grapes meet the higher grade requirements of U.S. No. 1 Table, U.S. Fancy Table, or U.S. Extra Fancy Table. It is believed that no ''DGAC Consumer No. 1 Institutional'' grade grapes were imported during the test period.

The Committee estimated the 1998 domestic crop would be approximately 8 million lugs. Domestic handlers in southeastern California, regulated under the order, were expected to ship approximately 6.2 million lugs during the test period. It was estimated that approximately .5 percent (31,000 lugs) to 1 percent (62,000 lugs) of the crop would be packed as U.S. No. 1 Institutional or DGAC No. 1 Institutional and that less than 1 percent (62,000 lugs) of the crop would be packed as ''DGAC Consumer No. 1 Institutional'' during the test period. The estimates for the DGAC Consumer No. 1 Institutional were based upon a lug weight of 10 pounds. The Committee estimated that handlers would receive approximately $0.60 to $1.00 per pound for a total estimated value of $372,000 to $620,000 for this new individual consumer pack. It was estimated that handlers would receive approximately $0.10 per pound more for the new consumer packages than for bagged grapes and that consumers would benefit by being able to purchase grapes in preferred containers.

Actual domestic shipments totaled 11.4 million lugs. Domestic handlers in southeastern California, regulated under the order, shipped 10.6 million lugs during the test period. The quantity of

grapes shipped during the test period meeting the requirements of DGAC Consumer No. 1 Institutional was small. Thus, the level of benefits of the interim final rule are difficult to quantify.

The Committee had requested that the interim final rule be effective by June 1, 1998. When the recommendation was made, the industry expected the California grape shipping season to begin shortly and to continue until August 15, 1998. Therefore, an effective date of June 1 would have allowed handlers and importers approximately 10 weeks to test the market. The season ended early with the last shipments of grapes on July 22, 1998. This allowed a test period of approximately 7 weeks versus the anticipated 10 weeks.

At the meeting, the Committee discussed the potential impact of this rule and determined that this action would not require any changes in grape handling practices. The Committee expected the new grade and pack to generate additional sales that would benefit the grape industry as a whole.

The benefits of this rule were not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

The Committee discussed alternatives to this revision, including not having a pilot test, but determined that handlers, producers, importers and consumers would benefit from the pilot test.

The Committee also discussed adding a percentage tolerance for off-size bunches of 33 percent similar to the additional percentage tolerance allowed for the DGAC No. 1 Institutional grade, but determined that the 4 percent tolerance, as contained in the Standards, was adequate to facilitate the packaging of the ''punits'' or ''clamshells''.

This action did not impose any additional reporting or recordkeeping requirements on either small or large grape handlers or importers. 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. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the grape industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the March 24, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 12 members: 8 are handlers and producers, 1 is a producer only, and 2 are handlers only. The twelfth Committee member is the public member.

The interim final rule concerning this action was published in the **Federal Register** (63 FR 28475, May 26, 1998) with an effective date of June 1, 1998. Copies of the rule were mailed by the Committee staff to all Committee members and grape handlers. A summary of the interim final rule was sent to all importers of record and to foreign embassies known to be interested in table grapes. A copy of the summary was also faxed to the National Institute of Standards and Technology so the Institute could notify the World Trade Organization Secretariat of the action. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided a 30-day comment period which ended June 25, 1998. No comments were received.

A request to extend the final date for comments was received from the European Commission, Brussels, Belgium, on behalf of the European Community. The requester asked the Department to provide a total of 60 days for comments in line with the recommendation of the Committee on Technical Barriers to Trade established under General Agreement on Tariffs and Trade. However, a decision was made not to extend the comment period for 30 additional days. Notice of the short term relaxation was given to government officials in grape exporting countries consistent with trade obligations, the relaxed import requirements provided importers with more marketing flexibility during the test market period that ended August 15, 1998, and finally, no useful purpose would have been gained by extending the comment period for 30 additional days.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (63 FR 28475, May 26, 1998), will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 925

Grapes, Marketing agreements and orders, Reporting and recordkeeping requirements.

7 CFR Part 944

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

PART 925—GRAPES GROWN IN A DESIGNATED AREA of SOUTHEASTERN CALIFORNIA

PART 944—FRUITS; IMPORT REQUIREMENTS

Accordingly, the interim final rule amending 7 CFR parts 925 and 944 which was published at 63 FR 28475 on May 26, 1998, is adopted as a final rule without change.

Dated: July 7, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–17890 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–49–AD; Amendment 39–11224; AD 99–15–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50

Series Airplanes, and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, that requires a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. This amendment also requires low frequency eddy current inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary. This amendment is prompted by fatigue cracks found in the fuselage skin and doubler at the corners of the aft lower cargo doorjamb. The actions specified by this AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and

consequent reduced structural integrity of the airplane.

DATES: Effective August 18, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 18, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Contract Data Management, C1–255 (35–22). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

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 McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, was published in the **Federal Register** on August 11, 1997 (62 FR 42949). That action proposed to require a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. That action also proposed to require low frequency eddy current inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary.

New Service Information

Since the issuance of the NPRM, McDonnell Douglas has issued Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999. That service bulletin removes reference to a low frequency eddy current inspection after doubler installation and changes the inspection to a high frequency eddy current inspection. Other administrative changes were also included in the revised service bulletin.

Consideration of 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 proposal.

Request To Allow Designated Engineering Representative (DER) Approval of Certain Repairs

One commenter requests that, rather than require approval of Manager of the Los Angeles Aircraft Certification Office (ACO) for certain repairs [cracking conditions beyond the allowable repair limits specified in the proposal, and for existing repairs that are not accomplished in accordance with the DC–9 Structural Repair Manual (SRM) or Service Rework Drawings], a Boeing/Douglas Aircraft Division Designated Engineering Representative (DER) be designated with the authority to approve such repairs temporarily. The commenter states that this would expedite the approval process yet ensure an adequate level of safety since the Manager of the Los Angles ACO would have final authority to approve the repair as a permanent repair. The commenter states that if the FAA does not approve the temporary repair as a permanent repair, it could then require any corrective action to be accomplished, preferably at the next scheduled major maintenance check.

The FAA does not concur. While DER's are authorized to determine whether a design or repair method complies with a specific requirement, they are not currently authorized to make the discretionary determination as to what the applicable requirement is. However, the FAA has issued a notice (N 8110.72, dated March 30, 1998), which provides guidance for delegating authority to certain type certificate holder structural DER's to approve alternative methods of compliance for AD-required repairs and modifications of individual airplanes. The FAA is currently working with The Boeing Company, Long Beach Division (BLBD), to develop the implementation process for delegation of approval of alternative methods of compliance in accordance with that notice. Once this process is implemented, approval authority for alternative methods of compliance can be delegated without revising the AD.

Request to Revise Paragraph (c) of the Proposed AD

One commenter requests that paragraph (c) of the proposed AD be revised to read as follows:

> ''(c) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb have been modified by FAA-approved repairs other than the DC–9 SRM or Service Rework Drawing, prior to further flight, accomplish an initial Low Frequency Eddy Current (LFEC) inspection of the fuselage skin adjacent to the repair.
>
> (c)(i) If no cracks are detected, within (6) months after the initial LFEC inspection, accomplish a repair approved by the Manager, Los Angeles ACO.
>
> (c)(ii) If cracks are detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO.''

This commenter states that, as paragraph (c) of the AD is currently worded, it will cause an unnecessary operational impact since FAA-approved non-standard SRM or Service Rework Drawing repairs are known to exist in this area of the doorjamb. The commenter contends that obtaining approval for such repairs from the Los Angeles ACO, prior to further flight, will be time consuming and will result in an unwarranted extended ground time for the airplane.

The FAA does not concur with the commenter's request to revise paragraph (c) of the AD. The FAA, in conjunction with the manufacturer, has conducted further analysis of this issue. The FAA has determined that, for cargo doorjambs that are found to be modified previously, but not in accordance with the DC–9 SRM or Service Rework Drawing, an initial LFEC inspection of the fuselage skin adjacent to those existing repairs, as suggested by the commenter, will not detect any cracking under the repairs. The FAA considers that, once cracking emerges from under a repair, crack growth could rapidly occur. In light of these findings, no change to the final rule is necessary.

Request to Revise DC–9 Supplemental Inspection Document (SID)

One commenter requests that, prior to issuance of the final rule, the DC–9 SID be revised to incorporate the actions required by this AD. The commenter states that such a revision will eliminate confusion between the DC–9 SID and the AD. The FAA does not concur. The actions required by this AD are necessary to detect and correct the identified unsafe condition. After issuance of the final rule, the manufacturer may revise the DC–9 SID.

Other Relevant Rulemaking

The FAA has revised the final rule to include a new paragraph (e). This new paragraph states that accomplishment of the inspection requirements of this AD constitutes terminating action for inspections of Principal Structural Element (PSE) 53.09.035 [reference McDonnell Douglas Model DC–9 Supplemental Inspection Document, Report No. L26–008, Section 2 of Volume 1, Revision 5, dated July 1997, as required by AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996)]. Since this new paragraph is being added, ''NOTE 3'' of the proposal, which discussed the relation of this AD to AD 96–13–03 is no longer necessary. Therefore, the FAA has removed ''NOTE 3'' of the proposal and renumbered the NOTES in the final rule accordingly.

Other Changes to the Final Rule

Based on new information received from the manufacturer, the FAA has revised the cost estimate for parts that would be needed if an operator were to find it necessary to accomplish the modification specified in this final rule. The Cost Impact section of the NPRM stated that the estimated cost for those parts would be $692 to $990 per airplane. The revised figure for the estimated parts cost is $936 to $2007 per airplane. The final rule has been revised accordingly.

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 previously described. 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 899 McDonnell Model DC–9–10, -20, -30, -40, and -50 series airplanes, and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 622 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection required by this AD on U.S. operators is estimated to be $37,320, or $60 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 be required to accomplish the eddy current inspections, it will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the eddy current inspections required by this AD on U.S. operators is estimated to be $37,320, or $60 per airplane.

Should an operator be required to accomplish the modification, it will take approximately 14 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $936 or $2,807 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $1,776 or $3,647 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:

99–15–05 McDonnell Douglas: Amendment 39–11224. Docket 97-NM–49-AD.

Applicability: Model DC–9–10, -20, -30, -40, and -50 series airplanes, and C–9 (military) airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin DC9–53–278, dated November 4, 1996, or McDonnell Douglas DC–9 Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the fuselage skin or doubler at the corners of the aft lower cargo doorjamb, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Note 2: Where there are differences between the service bulletin and the AD, the AD prevails.

(a) Prior to the accumulation of 48,000 total landings, or within 3,575 landings after the effective date of this AD, whichever occurs later, perform a one-time visual inspection to determine if the corners of the aft lower cargo doorjamb have been modified prior to the effective date of this AD.

(b) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb have not been modified: Prior to further flight, perform a low frequency eddy current (LFEC) or x-ray inspection to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, in accordance with McDonnell Douglas Service Bulletin DC9–53–278, dated November 4, 1996, or Revision 01, dated April 29, 1999.

(1) If no crack is detected during the LFEC or x-ray inspection required by this paragraph, accomplish the requirements of either paragraph (b)(1)(i) or (b)(1)(ii) of this AD.

(i) *Option 1.* Repeat the inspections as follows until paragraph (b)(1)(ii) of this AD is accomplished:

(A) If the immediately preceding inspection was conducted using LFEC techniques, conduct the next inspection within 3,575 landings.

(B) If the immediately preceding inspection was conducted using x-ray techniques, conduct the next inspection within 3,075 landings.

(ii) *Option 2.* Prior to further flight, modify the corners of the aft lower cargo doorjamb, in accordance with either service bulletin. Prior to the accumulation of 28,000 landings after accomplishment of that modification, perform a High Frequency Eddy Current (HFEC) inspection to detect cracks on the skin adjacent to the modification, in accordance with McDonnell Douglas Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999. Repeat the HFEC inspection thereafter at intervals not to exceed 20,000 landings.

(A) If no crack is detected on the skin adjacent to the modification during any HFEC or x-ray inspection required by paragraph (b) of this AD, repeat the HFEC inspection thereafter at intervals not to exceed 20,000 landings.

(B) If any crack is detected on the skin adjacent to the modification during any HFEC or x-ray inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If any crack is found during any LFEC or x-ray inspection required by paragraph (b) of this AD and the crack is 2 inches or less in length: Prior to further flight, modify it in accordance with McDonnell Douglas Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999. Prior to the accumulation of 28,000 landings after accomplishment of the modification, perform an HFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin.

(i) If no crack is detected during the HFEC inspection required by this paragraph, repeat the HFEC inspection thereafter at intervals not to exceed 20,000 landings.

(ii) If any crack is detected during the HFEC inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(3) If any crack is found during any LFEC or x-ray inspection required by this paragraph and the crack is greater than 2 inches in length: Prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(c) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb have been modified, but not in accordance with the DC–9 Structural Repair Manual (SRM) or Service Rework Drawing, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(d) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb have been modified in accordance with DC–9 SRM or Service Rework Drawing, prior to the accumulation of 28,000 landings since accomplishment of that modification, or within 3,500 landings after the effective date of this AD, whichever occurs later, perform a HFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with McDonnell Douglas Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999. Repeat the HFEC inspection thereafter at intervals not to exceed 20,000 landings.

(1) If no crack is detected during any HFEC inspection required by this paragraph, repeat the HFEC inspection thereafter at intervals not to exceed 20,000 landings.

(2) If any crack is detected during any HFEC inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(e) Accomplishment of the actions required by this AD constitutes terminating action for inspections of Principal Structural Element (PSE) 53.09.033 (reference McDonnell Douglas Model DC–9 Supplemental Inspection Document, Report No. L26–008, Section 2 of Volume 1, Revision 5, dated July 1997, as required by AD 96–13–03, amendment 39–9671).

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

(h) Except as provided in paragraphs (b)(1)(ii)(B), (b)(2)(ii), (b)(3), (c), and (d)(2) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC9–53–278, dated November 4, 1996, and McDonnell Douglas Service Bulletin DC9–53–278, Revision 01, dated April 29, 1999. 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 Boeing Company, Douglas Products Division, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Contract Data Management, C1–255 (35–22). 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.

(i) This amendment becomes effective on August 18, 1999.

Issued in Renton, Washington, on July 7, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17858 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–07–AD; Amendment 39–11222; AD 99–15–03]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10–VT Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Stemme GmbH & Co. KG (Stemme) Model S10–VT sailplanes. This AD requires modifying the wastegate control in order to eliminate heat damage. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent the wastegate control from malfunctioning because of heat damage, which could result in loss of automatic manifold pressure control and engine damage.

DATES: Effective August 31, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 31, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–07–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. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Stemme Model S10–VT sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 26, 1999 (64 FR 20229). The NPRM proposed to require modifying the wastegate control in order to eliminate heat damage. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with Stemme Service Bulletin No. A31–10–034, Amendment 01.a, pages 3 and 4, dated July 24, 1998.

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

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

The FAA's Determination

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

Cost Impact

The FAA estimates that 6 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per sailplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $150 per sailplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $2,340, or $390 per sailplane.

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:

99–15–03 Stemme GMBH & Co. KG: Amendment 39–11222; Docket No. 99–CE–07–AD.

Applicability: Model S10–VT sailplanes, serial numbers 11–004 through 11–006 and 11–008 through 11–013, certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent the wastegate control from malfunctioning because of heat damage, which could result in loss of automatic manifold pressure control and engine damage, accomplish the following:

(a) Modify the wastegate control in order to eliminate heat damage, in accordance with the Instructions section of Stemme Service Bulletin No. A31–10–034, Amendment 01.a, pages 3 and 4, dated July 24, 1998.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane 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, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Stemme Service Bulletin No. A31–10–034, Amendment 01.a, dated July 24, 1998, should be directed to Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The modification required by this AD shall be done in accordance with Stemme GmbH & Co. KG Service Bulletin No. A31–10–034, Amendment 01.a, pages 3 and 4, dated July 24, 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 Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 1998–400, dated October 22, 1998.

(f) This amendment becomes effective on August 31, 1999.

Issued in Kansas City, Missouri, on July 2, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17677 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB59

Land Uses; Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Disputes

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing Forest Service administrative appeal regulations pertaining to occupancy and use of National Forest System lands to offer mediation of certain grazing permit disputes in those States that have USDA certified mediation programs. This action is authorized by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. The intended effect is to incorporate mediation for certain grazing disputes into established agency dispute resolution procedures.

EFFECTIVE DATE: This rule is effective August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Berwyn L. Brown, Range Management Staff, Forest Service, (202) 205–1457.

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101, *et seq.*) (hereafter, the 1987 Act), the Department of Agriculture offers a mediation program that provides borrowers and creditors an opportunity to resolve disputes prior to bankruptcy or litigation. The 1987 Act authorizes the Department of Agriculture to help States develop and participate in certified mediation programs.

Section 282 of Title II of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (hereafter, the 1994 amendments) amended the 1987 Act to expand the number and type of issues available for mediation under a State's mediation program. One of the issues subject to mediation in the 1994 amendments concerned grazing on National Forest System lands.

Under the Secretary's rangeland regulations at 36 CFR 222.4, the Chief of the Forest Service may cancel a permit when one or more of the following conditions exist:

When a permittee refuses to accept modification of the terms and conditions of an existing permit (§ 222.4(a)(2)(i));

When a permittee refuses or fails to comply with eligibility or qualification requirements (§ 222.4(a)(2)(ii));

When a permittee fails to restock the allotted range after the full extent of approved personal convenience non-use has been exhausted (§ 222.4(a)(2)(iv)); and

When a permittee fails to pay grazing fees within established time limits (§ 222.4(a)(2)(v)).

The provisions of this section also authorize the Chief to cancel or suspend a permit when one or more of the following conditions exist:

When a permittee fails to pay grazing fees within established time limits (§ 222.4(a)(3));

When a permittee does not comply with provisions and requirements in the grazing permit or the regulations of the Secretary of Agriculture on which the permit is based (§ 222.4(a)(4));

When a permittee knowingly and willfully makes a false statement or representation in the grazing application or amendments thereto (§ 222.4(a)(5)); and

When a permittee is convicted for failing to comply with Federal laws or regulations or State laws relating to protection if air, water, soil and vegetation, fish and wildlife, and other environmental values when exercising the grazing use authorized by the permit (§ 222.4(a)(6)).

These cancellation of suspension actions are generally referred to as ''permit enforcement actions'' and may be appealed under part 251, subpart C, of Title 36 of the Code of Federal Regulations, which pertain generally to enforcement actions by an authorized officer regarding written instruments authorizing occupancy and use of National Forest System lands. Since only holders of such authorization may appeal under 36 CFR part 251, subpart C, it is this rule that the Forest Service has amended to incorporate a mechanism for the mediation of certain grazing disputes, as required by the 1994 amendments.

Section 501 of the 1987 Act, as amended, specifies that, in order to be certified, States shall provide for confidential mediation sessions. This statutory requirement necessitates a rule of rather narrow parameters. The types of decisions subject to mediation under this final rule are not subject to public disclosure and, therefore, can be mediated in confidence, since they relate to grazing permits and involve only the Deciding Officer or designee, the holder of a term grazing permit who seeks relief from a written decision to cancel or suspend a permit, and, in some circumstances, the holder's creditors.

Holders of other written authorizations to occupy and use National Forest System lands who may appeal written decisions of Forest Service line officers (§ 251.86) will not be affected by this final rule.

Response to Comments

A proposed rule was published for public review and comment in the **Federal Register** on February 27, 1998 (63 FR 9987). Thirteen comments were received from six groups and individuals representing private organizations, agricultural mediation programs, State agencies, and private citizens.

No comments were received on § 251.84, Obtaining notice; § 251.90, Content of notice of appeal; § 251.91, Stays; § 251.92, Dismissal; § 251.93, Resolution of issues; § 251.94, Responsive statement; § 251.103(e), Records; or § 251.103(g) Exparte communication. Therefore, these sections are not discussed further and are adopted as proposed.

A summary of major comments received on § 251.103 and the agency response follows:

Section 251.103 Mediation of Term Grazing Permit Disputes

Decisions subject to mediation. Proposed paragraph (a) of § 251.103 stated that in those States with Department of Agriculture certified mediation programs, any holder of a term grazing permit may request mediation as part of an administrative appeal when a Deciding Officer issues a decision to suspend or cancel a term grazing permit, in whole or in part, in accordance with 36 CFR 222.4(a)(2)(i),(ii)(iv),(v) and (a)(3)–(a)(6).

Comment. Several reviewers said that mediation should be available for any appealable decision including allotment management plans and annual operating plans. One reviewer suggested the regulation be left as broad as possible to allow for medication of any issues that may arise that could best be resolved through mediation.

Response. The opportunity for medication is already available, but not mandated, under Forest Service administrative appeal regulation § 215.16(a) for resolution of NEPA-based decisions such as those leading to the preparation of allotment management plans. Also Forest Service administrative appeal regulations at § 251.93 provide for mediation of disputes which may arise from Forest Service decisions about authorized use. While it is true that section 282(a) of the

1994 amendments expanded the issues covered under State mediation programs to include ''Grazing on National Forest System lands,'' these mediation sessions must be confidential. The reviewers of the proposed rule for mediation of grazing disputes did not provide any compelling arguments to support the notion that the statute requires a rule which encompasses all grazing decisions on National Forest System lands. The Department has determined that the confidentiality requirement necessitates a rule that limits mediation to permit enforcement actions involving the Forest Service and the holder of a term grazing permit. In these cases, the subject of the mediation is the decision by the authorized officer to impose a sanction upon the permittee resulting from a violation of the permit terms and conditions.

Parties. Proposed paragraph (b) of § 251.103 stated that the parties who may participate in mediation of term grazing permit disputes would be limited to the State certified mediator, the Deciding Officer or designee, the permittee who has requested mediation, creditors of the permittee, and, potentially, legal counsel representing the permittee and the Deciding Officer.

Comment. Several respondents urged the Forest Service to expand the category of parties eligible to participate in mediation to include technical experts, State agency personnel, and other Forest Service personnel. One respondent recommended that the permit holder and Deciding Officer have the authority to expand or limit participants. Another respondent stated the holder should be able to invite any party to support them. One respondent stated mediation should include representatives from the affected State fish and wildlife agency and local non-governmental conservation groups. Two respondents wanted the Deciding Officer, and not a designee, to participate in mediation to ensure consistency.

Response. The input of third parties would have no bearing on the outcome of mediation since the scope of the mediation is narrowly focused on a permittee's violation of permit conditions, which led to suspension or cancellation of their permit. Third parties have no cause or reason to participate in a mediation of a term permit dispute between a permittee and the Government. Also as stated in the preamble of the proposed rule, broader participation in mediation would pose a risk to maintaining the required confidentiality.

Given the nature of Forest Service business and scheduling difficulties due to a reduce workforce, the Department has determined that a designee of the Deciding Officer who made the decision could represent the Forest Service in mediation of term grazing permit disputes. Although, the Department agrees that it is desirable to have the Deciding Officer participate in mediation, there likely will be times when Deciding Officer participation will not be possible. Furthermore, the decision that is the subject of the mediation, although made by the Deciding Officer, is still a Forest Service action and a designee should be able to adequately represent the agency in the mediation of the dispute. Therefore, the provision in the proposed rule at § 251.103(b)(2) is retained without revision in the final rule. The Forest Service plans to issue Service-wide direction to require the Deciding Officer to participate in mediation when available.

Timeframe. Proposed paragraph (c) of § 251.103 stated that when an appellant simultaneously requested mediation at the time an appeal is filed, the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that, in order to allow for mediation, the appeal is suspended for 30 calendar days. Proposed paragraph (c) also proposed that if an agreement has not been reached at the end of 30 calendar days but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may extend the period for mediation an additional 15 calendar days.

Comment. Several respondents encouraged the Forest Service to increase the timeframe for mediation to 60 to 90 days instead of the 30 to 45 day timeframe set forth in the proposed rule. One respondent requested the addition of a provision to extend the timeframe for mediation beyond 90 days to gather new information.

Response. The decision to limit mediation to 45 days was intended to provide the opportunity for meaningful mediation, while, at the same time, ensure that the Agency's administrative review process would be completed in a timely manner. In the event that mediation was unsuccessful, the 45-day timeframe would minimize the potential for delays and damage to National Forest System lands and resources. However, based on the comments received and experience gathered by the agency through experimenting with mediation of cancellation and suspension actions during the preparation of the proposed rule, the request to provide additional time for the mediation process seems reasonable and offers increased scheduling flexibility and more time for pre-mediation preparation and the actual mediation. Since the issues associated with suspension and cancellation actions are limited and narrowly focused, the agency does not agree that a provision to extend beyond 60 calendar days is warranted. Therefore, the Department has revised the provision in the proposed rule at § 251.103(c) to suspend the appeal for 45 calendar days with an option to extend the period an additional 15 calendar days, if the Deciding Officer believes a mediated resolution to the dispute is imminent. Even after the termination of this time period, discussions intended to resolve the dispute without proceeding with an administrative appeal may continue under 36 CFR 251.93.

Confidentiality. Proposed paragraph (d) specifies that mediation sessions must be confidential and that the terms of a final mediated agreement are subject to public disclosure.

Comment. Reviewers supported confidential mediation sessions between the Forest Service and individual term grazing permit holders; however, several reviewers expressed concern over what information would be included in a ''public disclosure of the terms'' of a mediated agreement.

Response. The Department agrees that clarification of the information being disclosed is needed. Background material used in mediation would not be included in a mediated agreement. Therefore, the proposed rule at § 251.103(d) has been revised to clarify that only the final agreement signed by both the Forest Service official and the permit holder is subject to public disclosure.

Cost. Paragraph (f) of § 251.103 proposed that the United States Government shall cover only the incurred expenses of its own employees in mediation sessions.

Comment. Reviewers requested changing the proposed cost provision to include dividing the cost for services provided under State certified programs equally between the State, permittee, and the Forest Service or dividing the cost evenly between the Forest Service and the permittee. Primary reasons given by reviewers for the Government to pay additional costs include: (1) While the Department of Agriculture does administer and distribute the mediation grant funds, the funds themselves are provided by Congress through a separate line item appropriation. Thus, the certified mediation programs are not being funded by ''agency'' funds; (2) Each

party to the mediation must be treated equally, including sharing the cost of mediation; otherwise, there is a perception it is part of the Forest Service system and, as such, the outcome will have a bias toward the Service; (3) All other Department of Agriculture agencies participating in the program are paying fees in those States that charge them; (4) Without the Forest Service paying a share of the costs States will be forced to request augmented Department of Agriculture mediation grants to maintain the effectiveness of the program currently established; and (5) Wyoming statutes specifically provide that parties in the mediation process shall share the costs of mediation equally.

Response. After fully considering these comments the Department does not agree that there are compelling arguments to warrant the Government incurring additional responsibility for the cost of mediation because:

(1) The issue of the cost of mediation is not that funds are provided through a line item appropriation but rather that the Department already provides a large share of the funding for State mediation program operating expenses.

(2) The system for allocating the costs of the mediation among the parties should have no bearing on whether the parties will be treated equally. Mediators are specifically trained to serve as a neutral third party with no bias toward either side of the dispute. Although State mediation programs are certified by the Secretary of Agriculture, the mediators are State, not Federal, officials. Furthermore, in light of the fact that the Department of Agriculture already finances a substantial percentage of state mediation programs, additional payments by the Forest Service to cover a portion of the cost of the mediation may create a perception that the system is biased towards the agency.

(3) Regardless of how other agencies of the Department of Agriculture address this issue, it is the Forest Service position that it does not currently have sufficient funds in its rangeland management budget to comply with its basic land management planning and permit responsibilities and also cover state mediation expenses.

(4) The Department would not object to the States seeking additional funding to cover the cost of grazing permit dispute mediation expenses through an increased grant from the Department.

(5) States vary widely in their policies for funding of State certified mediation programs. To the extent that State laws conflict with these regulations, these regulations would prevail.

Other Comments

Comment. Some reviewers indicated that mediation is relatively unknown to most people and that a definition of mediation in the regulation would be helpful to explain what it is and how it works.

Response. Mediation is not a term of art, but a common term with a common meaning; therefore, the term ''mediation'' does not need to be defined in the Code of Federal Regulations. However, since § 251.84 requires the Deciding Officer to give written notice of the opportunity for mediation in the notice of appeal when the action suspends or cancels a term grazing permit pursuant to 36 CFR 222.4(a)(2)(ii), (iv) and (a)(3) through (a)(6), the Department agrees that describing the mediation process is a good idea. The Forest Service plans to issue national direction instructing the Deciding Officer to include a description of the mediation process in the written notice of adverse action per § 251.84.

Comment. Several respondents requested that mediation be made available to all permit uses on Forest Service lands, instead of limited to only term grazing permit disputes, according to proposed § 251.103.

Response. The opportunities for informal resolution of disputes, including use of mediation, involving other permitted uses of National Forest System lands, is already available under Forest Service administrative appeal regulations. This final rule is limited to implementing the Agricultural Credit Act of 1987, as amended, and, therefore, requires a rule of narrow parameters. Thus, the expansion of mediation to permit disputes, other than grazing permit suspension or cancellation, is not appropriate under this rulemaking.

Comment. Two respondents requested that the regulation allow the permittee and the Deciding Officer to form technical review teams to gather resource information and to provide technical expertise for making sound management decisions.

Response. Because the scope of the mediation is limited to certain types of permit enforcement actions, it is unclear what benefit, if any, would result from authorizing the formation of technical review teams to advise the permittee and the Deciding Officer. In addition, staffing these teams could be costly and time consuming for the parties. Therefore, since the benefits of a technical review team would be minimal, at best, while the costs are substantial, the final rule does not provide for such teams to be involved in the mediation process, either directly or indirectly.

The full text of revisions to 36 CFR part 251, subpart C, is set out at the end of this notice.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of $100 million or more on the economy nor will it adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this final rule is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this final rule has been considered under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. The final rule does not compel small entities to do anything. Election of mediation of grazing disputes is strictly voluntary at the option of an individual permittee. The requirements of the final rule are the minimum necessary to protect the public interest, are not administratively burdensome or costly to meet, and are well within the capability of individuals and small entities to perform.

Controlling Paperwork Burdens on the Public

This final rule does not contain any new recordkeeping or reporting requirements or other new information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Environmental Impact

This final rule would establish uniform direction to allow for mediation of certain types of grazing disputes. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental

assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Civil Justice Reform Act

This final rule has been reviewed under Executive Order 12988, Civil Justice reform. By adopting this final rule (1) all State and local laws and regulations that are in conflict with this final rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this final rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

No Taking Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally protected private property.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Therefore, after notice and consideration of comments received and for the reasons noted in the preamble, the Secretary of Agriculture is adopting the final rule for implementing section 282 of Title II of the Federal Crop and Insurance Reform and Department of Agriculture Reorganization Act of 1994.

List of Subjects in 36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, and Water resources.

Therefore, for the reasons set forth in the preamble, subpart C of part 251 of title 36 of the Code of Federal Regulations is amended as follows:

PART 251—LAND USES

Subpart C—Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands

1. Revise the authority citation for subpart C to read as follows:

Authority: 7 U.S.C. 5101–5106; 16 U.S.C. 472, 551.

2. Amend § 251.84 by designating the existing text as paragraph (a) and by adding a paragraph (b) to read as follows:

§ 251.84 Obtaining notice.

* * * * *

(b) In States with Department of Agriculture certified mediation programs, a Deciding Officer shall also give written notice of the opportunity for the affected term grazing permit holder to request mediation of decisions to suspend or cancel term grazing permits, in whole or in part, pursuant to 36 CFR 222.4(a)(2)(i), (ii), (iv), (v) and (a)(3) through (a)(6). Such notice must inform the permit holder that, if mediation is desired, the permit holder must request mediation as part of the filing of an appeal.

3. Amend § 251.90 by revising paragraph (c) to read as follows:

§ 251.90 Content of notice of appeal.

* * * * *

(c) An appellant may also include one or more of the following in a notice of appeal: a request for oral presentation (§ 251.97); a request for stay of implementation of the decision pending decision on the appeal (§ 251.91); or, in those States with a Department of Agriculture certified mediation program, a request for mediation of grazing permit cancellation or suspensions pursuant to § 251.103.

4. Amend § 251.91 by revising paragraph (a) to read as follows:

§ 251.91 Stays.

(a) A decision may be implemented during the appeal process, unless the Reviewing Officer grants a stay or unless a term grazing permit holder appeals a decision and simultaneously requests mediation pursuant to § 251.103. In the case of mediation requests, a stay is granted automatically upon receipt of the notice of appeal for the duration of the mediation period as provided in § 251.103.

* * * * *

5. Amend § 251.92 by adding a new paragraph (a)(8) and by revising paragraph (c) to read as follows:

§ 251.92 Dismissal.

(a) * * *

(8) A mediated agreement is reached (§ 251.103).

* * * * *

(c) A Reviewing Officer's dismissal decision is subject to discretionary review at the next administrative level as provided for in § 251.87(d), except when a dismissal decision results from withdrawal of an appeal by an appellant, withdrawal of the initial decision by the Deciding Officer, or a mediated resolution of the dispute.

6. Amend § 251.93 by revising paragraph (b) to read as follows:

§ 251.93 Resolution of issues.

* * * * *

(b) When decisions are appealed, the Deciding Officer may discuss the appeal with the appellant(s) and intervenor(s) together or separately to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal, including mediation pursuant to § 251.103. At the request of the Deciding Officer, the Reviewing Officer may extend the time period to allow for meaningful negotiations, except for appeals under review at the discretionary level. In the event of mediation of a grazing dispute under § 251.103, the Reviewing Officer may extend the time for mediation only as provided in § 251.103.

* * * * *

7. Amend § 251.94 by revising paragraph (b) to read as follows:

§ 251.94 Responsive statement.

* * * * *

(b) *Timeframe.* Unless the Reviewing Officer has granted an extension or dismissed the appeal, or unless mediation has been requested under this subpart, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of receipt of the notice of appeal. Where mediation occurs but fails to resolve the issues, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of the reinstatement of the appeal timeframes (§ 251.103(c)).

* * * * *

8. Add a new § 251.103 to subpart C to read as follows:

§ 251.103 Mediation of term grazing permit disputes.

(a) *Decisions subject to mediation.* In those States with Department of Agriculture certified mediation programs, any holder of a term grazing permit may request mediation, if a Deciding Officer issues a decision to

suspend or cancel a term grazing permit, in whole or in part, as authorized by 36 CFR 222.4 (a)(2)(i), (ii), (iv), (v), and (a)(3) through (a)(6).

(b) *Parties.* Notwithstanding the provisions addressing parties to an appeal at § 251.86, only the following may participate in mediation of term grazing permit disputes under this section:

(1) A mediator authorized to mediate under a Department of Agriculture State certified mediation program:

(2) The Deciding Officer who made the decision being mediated, or designee;

(3) The holder whose term grazing permit is the subject of the Deciding Officer's decision and who has requested mediation in the notice of appeal;

(4) The holder's creditors, if applicable; and

(5) Legal counsel, if applicable. The Forest Service will have legal counsel participate only if the permittee choose to have legal counsel.

(c) *Timeframe.* When an appellant simultaneously requests mediation at the time an appeal is filed (§ 251.84), the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that, in order to allow for mediation, the appeal is suspended for 45 calendar days from the date of the Reviewing Officer's notice. If agreement has not been reached at the end of 45 calendar days, but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may notify, by certified mail, all parties to the appeal that the period for mediation is extended for a period of up to 15 calendar days from the end of the 45-day appeal suspension period. If a mediated agreement cannot be reached under the specified timeframes, the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that mediation was unsuccessful, that the stay granted during mediation is lifted, and that the timeframes and procedures applicable to an appeal (§ 251.89) are reinstated as of the date of such notice.

(d) *Confidentiality.* Mediation sessions shall be confidential; moreover, dispute resolution communications, as defined in 5 U.S.C. 571(5), shall be confidential. However, the final agreement signed by the Forest Service official and the permit holder is subject to public disclosure.

(e) *Records.* Notes taken or factual material received during mediation sessions are not to be entered as part of the appeal record.

(f) *Cost.* The United States Government shall cover only incurred expenses of its own employees in mediation sessions.

(g) *Exparte communication.* Except to request a time extension or communicate the results of mediation pursuant to paragraph (d) of this section, the Deciding Officer, or designee, shall not discuss mediation and/or appeal matters with the Reviewing Officer.

Dated: June 27, 1999.

Anne Kennedy,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 99–17936 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL186–1a; FRL–6374–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 14, 1995, May 9, 1996, June 14, 1996, February 1, 1999, and May 19, 1999, the State of Illinois submitted State Implementation Plan (SIP) revision requests to meet commitments related to our conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (Southeast Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. EPA is approving the SIP revision request as it applies to the Lake Calumet area, including the attainment demonstration for the Lake Calumet PM nonattainment area. The SIP revision request corrects, for the Lake Calumet PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal (as discussed in the November 18, 1994, conditional approval notice). EPA is also removing the codification of the conditional approval and codifying the final portions of Illinois' part D plan for the Granite City, Lake Calumet, and McCook moderate PM nonattainment areas. EPA is approved the Granite City PM plan, effective May 11, 1998, and the McCook PM plan, effective November 9, 1998.

DATES: This rule is effective on September 13, 1999, unless EPA receives written adverse comments by August 13, 1999. If written adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

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

You may inspect copies of the revision request and EPA's analysis at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA.

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I. What is the background for this action?

Under section 107(d)(4)(B) of the Clean Air Act (Act), as amended on November 15, 1990 (amended Act), certain areas (''initial areas'') were designated nonattainment for PM. Under section 188 of the amended Act these initial areas were classified as ''moderate''. The initial areas included the Lake Calumet, McCook, and Granite City, Illinois, PM nonattainment areas.

The Lake Calumet PM nonattainment area is located on the Southeast side of Chicago, and is defined as ''The area bounded on the north by 79th Street, on the west by Interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line.'' (See 40 CFR 81.314) Section 189 of the amended Act requires State submittal of a PM SIP for the initial areas by November 15, 1991. Illinois submitted the required SIP revision for the Lake Calumet, Illinois, PM nonattainment area on May 15, 1992. Upon review of Illinois' submittal, we identified several concerns. Illinois submitted a letter on March 2, 1994, committing to satisfy all of these concerns within one year of final conditional approval. On May 25, 1994, we proposed to conditionally approve the SIP. Final conditional approval was published on November 18, 1994, and became effective on December 19, 1994. The final conditional approval allowed the State until November 20, 1995, to correct the stated deficiencies. Of the five deficiencies, four apply to the Lake Calumet area:

1. Invalid emissions inventory and attainment demonstration, due to underestimated emissions from the roof monitors for the BOF at Acme Steel, the quench towers at Acme Steel and LTV Steel, and the rotary kiln incinerator at CWM Chemical Services.

2. Failure to adequately address maintenance of the PM NAAQS for at least 3 years beyond the applicable attainment date.

3. Lack of an opacity limit on coke oven combustion stacks at Acme Steel and LTV Steel.

4. The following enforceability concerns:

a. Section 212.107, Measurement Methods for Visible Emissions could be misinterpreted as requiring use of Method 22 for sources subject to opacity limits as well as sources subject to limits on detectability of visible emissions.

b. Inconsistencies in the measurement methods for opacity, visible emissions, and ''PM'' in section 212.110, 212.107, 212.108, and 212.109.

c. Language in several rules which exempts from mass emissions limits those sources having no visible emissions.

Illinois has since made submittals to correct the remaining deficiencies. Based on Illinois' submittals, we are now fully approving the SIP for the Lake Calumet area. At this time, we are only acting on the portions of those submittals that pertain to the Lake Calumet PM nonattainment area, because deficiencies concerning the other areas have been addressed. Our approval of the Granite City PM plan became effective on May 11, 1998 (see 63 FR 11842), and our approval of the McCook PM plan became effective on November 9, 1998 (see 63 FR 47431).

II. How has Illinois corrected the emissions inventory?

The first deficiency was an incomplete emissions inventory and attainment demonstration due to underestimated emissions from the roof monitors for the BOF at Acme Steel, the quench towers at Acme Steel and LTV Steel, and the rotary kiln incinerator at CWM Chemical Services. We pointed out that emissions from these sources were underestimated in the 1992 emissions inventory.

A. Quench Towers

The emissions inventory issue concerning the quench tower emissions calculations involved the use of ''clean water'' emission factor. (Clean water is defined as water with ≤ 1500 mg/l total dissolved solids (TDS.) Dirty water is defined as ≥ 5000 mg/l TDS.) We had argued that, because Illinois' rules allow weekly averaging and the PM standard is based on 24-hour measurements, Illinois' quench rule could allow significantly dirtier water than the 1200mg/l TDS limit suggests, and should, therefore, be modeled using the dirty water emission factor. Illinois submitted records of quench water TDS concentrations which show that daily concentrations rarely approach 1500 mg/l, let alone 5000 mg/l (Appendix 2 to Attachment 17 of Illinois' May 9, 1996, submittal). Based on the information provided by Illinois, we agree that the use of the clean water emission factor was appropriate.

B. BOF Roof Monitors

To correct the problem of underestimated emissions from the Acme Steel BOF roof monitors, Illinois adopted and submitted to the EPA a 20%, 3 minute average opacity limit on the Acme Steel BOF roof monitors (Attachment 6 of Illinois' February 1, 1999, submittal). Illinois also submitted a revised emissions inventory, which includes emissions from the BOF roof monitors. We agree that the revised emissions estimates are appropriate, given the tightened opacity limit.

C. Rotary Kiln Incinerator at CWM Chemical Services

The final emissions inventory issue was underestimated emissions from the rotary kiln incinerator at CWM Chemical Services. Illinois indicated in the May 9, 1996, submittal that this kiln is no longer operating. Therefore, this is no longer an issue.

III. What does the revised attainment demonstration predict about air quality?

In the submitted modeled attainment demonstration, which uses 5 years of meteorological data, a violation of the 24-hour NAAQS is indicated when six exceedances of the 24-hour standard are predicted. Each receptor's predicted 6th highest 24-hour value is, therefore, compared to the standard. The 24-hour PM standard is 150 micrograms per cubic meter ($\mu g/m^3$). The highest, sixth highest predicted 24-hour PM concentration at any receptor in the Lake Calumet nonattainment area was 119.2 $\mu g/m^3$. Thus, the modeling analysis predicts that the 24-hour NAAQS will be met.

A modeled violation of the annual PM standard is indicated when any receptor's 5 year arithmetic mean annual PM concentration exceeds the annual PM standard of 50 $\mu g/m^3$. The highest arithmetic mean annual PM concentration predicted by the modeling for the Lake Calumet area was 47.01 $\mu g/m^3$. Therefore, the modeling analysis predicts that the annual PM NAAQS will be met.

IV. How has Illinois addressed maintenance of the PM NAAQS?

The second deficiency was Illinois' failure to adequately address maintenance of the PM NAAQS for at least 3 years beyond the applicable attainment date. Because of the length of time it may take to determine whether an area has attained the standards, EPA recommends that PM nonattainment area SIP submittals demonstrate maintenance of the PM NAAQS for at least 3 years beyond the applicable attainment date. (See an August 20, 1991, memorandum from Fred H. Renner, Jr. to Regional Air Branch Chiefs titled ''Questions and Answers for Particulate Matter, Sulfur Dioxide, and Lead'') Illinois' May 15, 1992, submittal took growth into account in the modeling analysis, but did not adequately address maintenance of the NAAQS for PM.

The attainment date was December 31, 1994. Therefore, Illinois needs to show maintenance up to December 31, 1997. In the May 9, 1996, submittal, Illinois used ambient monitoring data to show that background concentrations of PM were no higher in 1995 than they were in 1991, and there are no significant trends in background PM concentrations from 1989 to 1995.

Illinois concluded from this analysis that the effects of growth on ambient PM concentrations in the Lake Calumet PM nonattainment area will continue to be negligible through the end of the maintenance period. Since the maintenance period has passed, this issue is no longer relevant.

V. What has Illinois done to provide opacity limits for coke oven combustion stacks?

The third deficiency was the lack of an opacity limit on coke oven combustion stacks at Acme Steel and LTV Steel. Because coke oven operations are generally covered by special opacity limits, Illinois' SIP exempts coke oven sources from the statewide 30 percent opacity limit. We approved this State exemption on September 3, 1981. We later realized that this exemption left coke oven combustion stacks without an opacity limit. Coke oven combustion stacks in Illinois are subject to grain loading limits which require stack tests for compliance determinations. Because stack tests can take months to perform and only last a few hours, an opacity limit, for which compliance can be determined by visual observations, is needed to ensure continuous compliance. We cited this deficiency in the November 18, 1994, conditional approval of Illinois' PM nonattainment area SIP submittal.

In response to the conditional approval of Illinois' PM plan, the State adopted a 30 percent opacity limit for coke oven combustion stacks. However, this rule also includes an exemption for ''when a leak between any coke oven and the oven's vertical or crossover flue(s) is being repaired * * *'' for up to 3 hours per repair. The EPA believes this rule is unacceptable. (See 62 FR 39199.)

In a February 1, 1999, letter, Illinois submitted a revised construction permit for Acme Steel. The permit, which was issued on January 11, 1999, includes a 30 percent opacity limit, and states that coke oven combustion stacks at Acme are not covered by the repair opacity exemption in 35 IAC 212.443(g)(2).

On May 19, 1999, Illinois submitted a revised Federally Enforceable State Operating Permit for LTV Steel which includes a 30 percent opacity limit, and limits the repair opacity exemption in 35 IAC 212.443(g)(2). The permit was issued on May 14, 1999. The permit limits the exemption to a particular type of repair where the ovens are pressurized for purposes of detecting and repairing leaks at tie-in joints. It also limits opacity during exemption periods to 60 percent. The permit further limits excess opacity to 3 hours per day and 20 hours per month. Mass emission limits continue to apply during repair exemption periods. We recognize that this type of repair can cause excess opacity, and that these repairs are necessary at the LTV facility due to tie-in joints resulting from an end-flue rehabilitation. The limits in the permit are stringent enough to ensure that excess opacity during repair periods is kept to a minimum, while still allowing the repairs to occur. We agree that the limits in the May 14, 1999, permit correct the previously-cited deficiency. This issue is resolved as it applies to LTV Steel.

VI. How has Illinois corrected the wording problems with the State rules?

The final issue from the November 18, 1994, conditional approval notice involves wording problems in several of Illinois' rules. The State has corrected these rules, and we approved the revised rules on March 11, 1998 (see 63 FR 11842). See the March 11, 1998, **Federal Register** notice for a discussion of these corrections.

VII. EPA Rulemaking Action

Illinois has corrected all of the deficiencies listed in the November 18, 1994, conditional approval as they relate to the Lake Calumet PM nonattainment area. Because Illinois has met all of the commitments of the conditional approval, we are approving the plan for the Lake Calumet PM nonattainment area. With this approval, Illinois has fulfilled all Clean Air Act requirements for Part D plans for the Lake Calumet, Granite City, and McCook moderate PM nonattainment areas.

Since all issues involving the conditional approval have been resolved, we are removing the codification of the conditional approval from the Code of Federal Regulations, Title 40, § 52.719. We are also fully approving 5 rules which we conditionally approved in our November 18, 1994, action. These rules, 35 Illinois Administrative Code 212.113, 212.210, 212.302, 212.309, and 212.316 were included in the conditional approval, but no deficiencies were identified with them. The rules were later resubmitted by Illinois on June 14, 1996.

We are publishing this rule without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should written adverse comments be filed. This rule will become effective without further notice unless we receive relevant adverse written comment by August 13, 1999, as indicated above. Should we receive such comments, we will publish a final rule informing you that this rule will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, you are advised that this action will be effective on September 13, 1999.

VIII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, 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 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 written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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 a 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 E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the

environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 the Office of Management and Budget, 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, E.O. 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. Union Electric Co., v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Paperwork Reduction Act

This action does not contain any information collection requirements which requires OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: June 23, 1999.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.719 is removed and reserved.

3. Section 52.720 is amended by adding paragraph (c)(150) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(150) On November 14, 1995, May 9, 1996, June 14, 1996, February 1, 1999, and May 19, 1999, the State of Illinois submitted State Implementation Plan (SIP) revision requests to meet commitments related to the conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (Southeast Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. The EPA is approving the SIP revision request as it applies to the Lake Calumet area. The SIP revision request corrects, for the Lake Calumet PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal.

(i) Incorporation by reference.

(A) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 212: Visible and Particulate Matter Emissions, Subpart A: General, Section 212.113; Subpart E: Particulate Matter from Fuel Combustion Sources, Section 212.210; Subpart K: Fugitive Particulate Matter, Sections 212.302, 212.309, and 212.316. Adopted at 20 Illinois Register 7605, effective May 22, 1996.

(B) Federally Enforceable State Operating Permit—Special: Application Number 98120091, Issued on May 14, 1999, to LTV Steel Company, Inc.

4. Section 52.725 is amended by adding paragraph (g) to read as follows:

§ 52.725 Control strategy: Particulates.

* * * * *

(g) Approval—On May 5, 1992, November 14, 1995, May 9, 1996, June 14, 1996, February 3, 1997, October 16, 1997, October 21, 1997, February 1, 1999, and May 19, 1999, Illinois submitted SIP revision requests to meet the Part D particulate matter (PM) nonattainment plan requirements for the Lake Calumet, Granite City and McCook moderate PM nonattainment areas. The submittals include federally enforceable construction permit, application number 93040047, issued on January 11, 1999, to Acme Steel Company. The part D plans for these areas are approved.

[FR Doc. 99–17766 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket # MA–068–7203a; FRL–6377–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Massachusetts; Plan for Controlling MWC Emissions From Existing MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves the sections 111(d)/129 State Plan submitted by the Massachusetts Department of Environmental Protection on January 11, 1999. This State Plan is for implementing and enforcing provisions at least as protective as the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW). *See* 40 CFR part 60, subpart Cb.

DATES: This direct final rule is effective on September 13, 1999 without further notice unless EPA receives significant, material and adverse comment by August 13, 1999. If EPA receives adverse comment by the above date, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Gerald Potamis, Chief, Air Permits Unit, Office of Ecosystem Protection, U.S. EPA-New England, Region 1, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Documents which EPA has incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. You may examine copies of materials the DEP submitted to EPA relative to this action during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency-New England, Region 1, Air Permits Unit, Office of Ecosystem Protection, Suite 1100, One Congress Street, Boston, Massachusetts 02114–2023.

Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Business Compliance, One Washington Street, Boston, Massachusetts 02108, (617) 556–1120.

FOR FURTHER INFORMATION CONTACT: John Courcier at (617) 918–1659.

SUPPLEMENTARY INFORMATION:

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I. What action is EPA taking today?

EPA is approving the above referenced State Plan. However, we should note that by approving only the State Plan, EPA is taking no action on the proposed SIP revisions the MADEP also submitted with its State Plan. EPA will take action on these proposed SIP revisions and publish its findings in a future **Federal Register** document.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If EPA receives no significant, material, and adverse comments by August 13, 1999, this action will be effective September 13, 1999.

If EPA receives significant, material, and adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public

comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA receives no comments, this action will be effective September 13, 1999.

EPA's approval of MADEP's State Plan is based on our findings that:

(1) MADEP provided adequate public notice of public hearings for the proposed rule-making that allows Massachusetts to carry out and enforce provisions that are at least as protective as the EG for large MWCs, and

(2) MADEP demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

II. When did these requirements first become known?

Some form of the EG was first published in the **Federal Register** in 1989. On December 19, 1995, according to sections 111 and 129 of the Clean Air Act (Act), the EPA published the current form of the EG applicable to existing MWCs. The EG are at 40 CFR part 60, subpart

Cb. *See* 60 FR 65387 and the Background section.

III. When Does the State Plan Become Effective?

This direct final rule is effective on September 13, 1999 without further notice unless as explained under A. above, unless EPA receives adverse comment by August 13, 1999.

IV. What Happens to the Federal Plan After the Effective Date of the State Plan?

The Federal Plan is an interim action. On the effective date of this action, the Federal Plan will no longer apply to MWC units covered by the State Plan.

V. Who Must Comply With the Requirements?

The State Plan affects all MWCs:

1. With a combustion capacity greater than 250 tons per day of municipal solid waste (large MWC units), and

2. Which commenced construction on or before September 20, 1994 (existing MWC units).

MADEP submitted its Plan after the Court of Appeals vacated 40 CFR part 60, subpart Cb as it applies to small MWC units. Thus, the Massachusetts State Plan covers only large, existing MWC units. Small units are not subject to the requirements of subpart Cb and not subject to this approval.

VI. By What Date Must MWCs in Massachusetts Achieve Compliance?

All existing large MWC units in the state of Massachusetts must comply with these requirements by December 19, 2000.

VII. What Pollutants Must Be Controlled?

Subpart Cb regulates the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxin and dibenzofurans.

VIII. What Emission Controls Are Necessary to Achieve Compliance?

The basis for control of each pollutant is as follows:

a. for PM, opacity, Cd, Pb, and Hg.	GCP and SD/ESP/CI, or GCP and SD/FF/CI;
b. for dioxin/furan	GCP and SD/ESP, or GCP and SD/FF;
c. for SO_2 and HCl	GCP and SD/ESP, or GCP and SD/FF;
d. for NO_X	SNCR.

GCP—good combustion practice.
SD—spray dryer.
ESP—electrostatic precipitator.
FF—fabric filter.
CI—carbon injection.
SNCR—selective noncatalytic reduction.

IX. What Happens If An MWC Does Not/Cannot Meet the Requirements By the Final Compliance Date?

Any existing large MWC unit that fails to meet the requirements by December 19, 2000 must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements.

X. What Options Are Available to Operators If They Cannot Achieve Compliance Within One Year of the Effective Date of the State Plan?

If an MWC cannot achieve compliance within one year of the effective date of the State Plan, the operator must agree to meet certain increments of progress until they achieve compliance. The State Rule details the increments of progress for the affected MWCs.

XI. What Did the State Submit as Part of its State Plan?

The MADEP submitted to EPA on January 11, 1999 the following sections 111(d)/129 State Plan components for carrying out and enforcing the emission guidelines for existing MWCs in the State: Legal Authority; Emission Standards and Limitations; Compliance Schedule; MWC Emissions and MWC Plant/Unit Inventories; Procedures for Testing and Monitoring Sources of Air Pollutants; Source Surveillance, Compliance Assurance and Enforcement; Demonstration That the Public Had Adequate Notice and Opportunity to Submit Written Comments and Public Hearing Summary; and applicable State regulations (MADEP regulations 310 CMR 7.08(2)).

The State Plan excludes the ''Material Separation Plan'' provisions and definition that are included in its regulation (310 CMR 7.08(2)(f)(7)). EPA may approve the plan without such provisions, since the material separation plan provisions are not required by the Emission Guidelines. Consequently, these provisions are not necessary to make the plan at least as protective as the Emission Guidelines. The State Plan also excludes the site assignment provisions of its regulations (310 CMR 7.08(2)(a)).

XII. How Did the State Show That Its Plan Is Approvable?

In appendix A of Massachusetts' Plan, MADEP cites the following in support of its demonstration of legal authority: Commonwealth of Massachusetts Attorney General's Demonstration of the Legal Authority to carry out the requirements of sections 111(d) and 129 of the Clean Air Act and to enforce the MWC New Source Performance Standards and Emissions Guidelines.

In appendix B of the State Plan, MADEP cites all emission standards and limitations for the major pollutant categories related to the designated sites and facilities. These standards are in MADEP's Air Pollution Control Regulations 310 CMR 7.08(2) for Municipal Waste Combustors. On the basis of the Attorney General's Opinion and Demonstration and the statutes of the Commonwealth of Massachusetts, EPA approved these standards and limitations under 310 CMR 7.08(2) as being at least as protective as the Federal requirements contained in subpart Cb for existing large MWC units.

In its State Plan and section 7.08(2) MWC Regulations, MADEP established a compliance schedule and legally enforceable increments of progress for each large MWC. EPA has reviewed and approved this portion of the State Plan as being at least as protective as Federal requirements for existing large MWC units.

On pages 4–7 of Massachusetts' Plan, MADEP submitted an emissions

inventory of all designated pollutants for each of its six large MWCs. EPA reviewed and approved this portion of the Plan as meeting the Federal requirements for existing large MWC units.

On page 9, Massachusetts' Plan describes its legal authority to require owners and operators of designated facilities to maintain records and report to the State the nature and amount of emissions and any other information necessary to enable the State to judge the compliance status of the affected facilities. MADEP also cites its legal authority to provide periodic inspection and testing and provisions for making reports of MWC emissions data, correlated with applicable emission standards, available to the general public. MADEP incorporated by reference into 310 CMR 7.08(2) the testing, monitoring, reporting and recordkeeping requirements under 40 CFR part 60. EPA reviewed and approved all of these State rules as being at least as protective as the Federal requirements for existing large MWC units.

As stated on page 9 of the State Plan, Massachusetts is committed to provide annual progress reports of Plan implementation. These progress reports will include the required items according to 40 CFR 51.323 through 51.326 and 40 CFR part 60, subpart B and appendix D. EPA reviewed and approved this portion of the Plan as meeting the minimum Federal requirement for State Plan reporting.

XIII. Will These Requirements Force Some Plants to Close?

EPA has not been notified of any further plant closures. It may be that an older plant may decide to close rather than pay the cost for bringing the plant into compliance with the regulations.

XIV. When Did EPA Publish the Rules?

On December 19, 1995, according to sections 111 and 129 of the Clean Air Act (Act), EPA issued new source performance standards (NSPS) applicable to new MWCs and emissions guidelines (EG) applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively. *See* 60 FR 65387. Subparts Cb and Eb regulate the following: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxin and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons/day of MSW (small MWCs), consistent with its opinion in *Davis County Solid Waste Management and Recovery District v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Eb and Cb apply only to MWC units with individual capacity to combust more than 250 tons/day of municipal solid waste (large MWC units).

XV. Why Does EPA Need To Approve State Plans?

Under section 129 of the Act, emission guidelines are not federally enforceable. Section 129(b)(2) of the Act requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the emission guidelines. State Plans must be at least as protective as the emission guidelines, and they become federally enforceable upon EPA's approval.

The procedures for adopting and submitting State Plans are in 40 CFR part 60, subpart B. EPA originally issued the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. *See* 60 FR 65414.

XVI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

To reduce the burden of Federal regulations on States and small governments, the President issued E.O. 12875 on October 26, 1993, entitled ''Enhancing the Intergovernmental Partnership.'' Under E.O. 12875, EPA is required to consult with representatives of affected State, local, and tribal governments, and keep these affected parties informed about the content and effect of the promulgated standards and emission guidelines.

In developing the MWC emission guidelines and standards, EPA consulted with affected State, local, and tribal governments, and kept those parties informed about the MWC standards and guidelines. EPA prepared a written statement pursuant to E.O. 12875 which it published in the 1995 promulgation notice (*see* 60 FR 65412 to 65413). The EPA has determined that this State Plan does not include any new Federal mandates or additional Federal requirements beyond those previously considered during promulgation of the 1995 MWC guidelines. Therefore, E.O. 12875 does not require further consultation or information. To the extent that the State Plan contains requirements that differ from, but that are at least as protective as, the Federal MWC guidelines, EPA notes that it has consulted with State government representatives during the State's development of the Plan, and that affected local and tribal governments have been provided with information and afforded opportunities to comment through Massachusetts' public hearing and comment procedures.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 the Office of Management and Budget, 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, E.O. 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 create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111(d) and section 129(b)(2) of the Clean Air Act do not create any new requirements on any entity affected by this rule, including small entities. They simply approve requirements that the state is already imposing. Furthermore, in developing the MWC emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1995 promulgation notice (see 60 FR 65413). In accordance with EPA's determination in issuing the 1995 MWC emission guidelines, this State Plan does not include any new requirements that will have a significant economic impact on a substantial number of small entities. Therefore, because the Federal 111(d) Plan approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

In developing the MWC emission guidelines and standards, EPA prepared a written statement pursuant to section 202 of the Unfunded Mandates Act which it published in the 1995 promulgation notice (*see* 60 FR 65405 to 65412). The EPA has determined that this State Plan does not include any new Federal mandates above those previously considered during promulgation of the 1995 MWC guidelines. The State Plan does include an emission limitation for mercury that will be more stringent than the limit required by the EG. However, that limit is not the result of a Federal mandate. In approving the State Plan, EPA is approving pre-existing requirements under State law and imposing no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from EPA's approval of State Plan provisions that may be more stringent than the EG requirements, nor will EPA's approval of the State Plan significantly or uniquely affect small governments. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) 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, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

In approving or disapproving state plans under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Furthermore, Massachusetts' Plan incorporates by reference test methods and sampling procedures for existing MWC units already established by the emissions guidelines for MWCs at 40 CFR part 60, subpart Cb, and does not establish new technical standards for MWCs. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: July 3, 1999.

John P. DeVillars,

Regional Administrator, Region 1.

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart W—Massachusetts

2. Part 62 is amended by adding a new § 62.5340 and a new undesignated center heading to Subpart W to read as follows:

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.5340 Identification of Plan.

(a) Identification of Plan. Massachusetts Plan for the Control of Designated Pollutants from Existing Plants (Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing municipal waste combustors, submitted on January 11, 1999. The Plan does not include: the site assignment provisions of 310 CMR 7.08(2)(a); the definition of ''materials separation plan'' at 310 CMR 7.08(2)(c); and the materials separation plan provisions at 310 CMR 7.08(2)(f)(7).

(c) Designated facilities. The plan applies to existing sources in the following categories of sources:

(1) Municipal waste combustors.

3. Part 62 is amended by adding a new § 62.5425 and a new undesignated center heading to Subpart W to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With the Capacity to Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.5425 Identification of sources.

(a) The plan applies to the following existing municipal waste combustor facilities:

(1) Fall River Municipal Incinerator in Fall River.

(2) Ogden Martin-Haverhill MWC in Haverhill.

(3) SEMASS RRF in Rochester.

(4) Wheelabrator Millbury Inc. in Millbury.

(5) Saugus RESCO in Saugus.

(6) NESWC MWC in North Andover.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300879; FRL–6086–5]

RIN 2070–AB78

Imazamox; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of imazamox, [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methoxymethyl-3-pyridine-carboxylic acid, applied as the free acid or ammonium salt in or on canola and dry beans. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on canola and dry beans. This regulation establishes a maximum permissible level for residues of imazamox in these food commodities 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 tolerances will expire and are revoked on July 15, 2001.

DATES: This regulation is effective July 14, 1999. Objections and requests for hearings must be received by EPA on or before September 13, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300879], 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–300879], 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@epa.gov. Copies of electronic 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 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300879]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 284, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6463, madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the herbicide imazamox, in or on canola and dry beans at 0.05 part per million (ppm). These tolerances will expire and are revoked on July 15, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Public Law 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 in this preeamble 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 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemptions for Imazamox on Canola and Dry Beans and FFDCA Tolerances

Minnesota and North Dakota requested use of imazamox on canola for control of wild mustard. According to the States, there are several factors that have caused an increase in the wild mustard population causing an emergency condition. First, there was above normal rainfall in 4 of 5 years during 1993-1997 and very high rainfall in 1998. Second, there has been an increase in the adoption of reduced-tillage practices to conserve soil moisture and prevent soil erosion. Third, there has been an increase in rotation to crops with limited or no control options. Wild mustard emerges early in the spring and is very competitive with canola. A canola crop containing 5% or more mustard seed will likely be rejected. Weed control is essential for successful oil seed crop production.

Currently there are no herbicides registered for use on canola that control wild mustard. The Agency has issued emergency exemptions for use of glufosinate-ammonium and glyphosate, which will also control wild mustard; however, the States claim the total amount of product available under those exemptions is not enough to control wild mustard infestations in all the canola acreage. In-crop cultivation is not a viable alternative for weed control since canola is commonly seeded in narrow rows.

Colorado, Idaho, Minnesota, Montana, North Dakota and Wyoming requested use of imazamox on dry beans for control of nightshade. Nightshades and velvetleaf have become a severe problem in dry bean production in parts of the Northwest and West Central United States. Hairy and black nightshade germinate throughout the growing season and can successfully tolerate shading. These characteristics allow plants to survive most current control strategies and contaminate fields at harvest. A single plant growing with crop competition can produce up to 1,600 berries per plant. The high moisture content of foliage and berries results in significant reductions in harvest efficiency; berries are poisonous and the purple-black juice from the berries stains the beans and reduces quality. A zero tolerance is established for dry beans grown for seed; one nightshade berry in a 300 pound sample will result in the rejection of an entire field.

Nightshade and velvetleaf have become severe problems due to a combination of reasons. Widespread use of trifluralin and pendimethalin have effectively controlled many grass weed species but have caused an increased prominence of nightshade. Frequent and thorough cultivations have been effective nightshade tools but are unavailable in conservation tillage. Only imazethapyr effectively controls nightshade in dry beans. Imazethapyr is not registered for use on dry beans in Idaho and Montana. Registrations are in place in Colorado, Minnesota, North Dakota, and Wyoming.

Historically, the Agency has determined that crop rotation restrictions are not a basis for an emergency when acceptable alternatives exist. However, imazethapyr has plantback intervals for sugar beets and canola of 40 months plus a successful field bioassy. Dry beans are an important rotational crop of sugar beets because sugar beets cannot be planted continuously due to nematode problems. The States have argued and the Agency agrees that a 40-month plantback restriction into an important cash crop for the region is equivalent to not having a viable alternative.

EPA has authorized under FIFRA section 18 the use of imazamox on canola for control of wild mustard in Minnesota and North Dakota, and use of imazamox on dry beans for control of nightshade in Colorado, Idaho, Minnesota, Montana, North Dakota, and Wyoming. After having reviewed these submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of imazamox in or on canola and dry beans. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on July 15, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on canola and dry beans after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether imazamox meets EPA's registration requirements for use on canola and dry beans or whether

permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of imazamox by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Colorado, Idaho, Minnesota, Montana, North Dakota, and Wyoming to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding these emergency exemptions for imazamox, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

III. Aggregate Risk Assessment and Determination of Safety

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).

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 imazamox and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of imazamox on canola and dry beans at 0.05 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 imazamox are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity.* An acute reference dose (RfD) was not identified for imazamox. No toxicity was seen at doses exceeding the highest dose tested (HDT) in long-term studies in mice [no observed adverse effect level (NOAEL) = 1,053 milligrams/kilograms/day (mg/kg/day)], rats (NOAEL = 1,068 mg/kg/day) and dogs (NOAEL = 1156 mg/kg/day). No developmental toxicity was seen at 1,000 mg/kg/day in rats and 900 mg/kg/day in rabbits.

2. *Short- and intermediate-term toxicity.* Neither dermal nor systemic toxicity was seen at the HDT of 1,000 mg/kg/day in a 28-day dermal toxicity study in rats. Therefore, an endpoint was not identified for short- and intermediate-term dermal or inhalation exposure.

3. *Chronic toxicity.* EPA has established the RfD for imazamox at 3 mg/kg/day. This RfD is based on a NOAEL of 300 mg/kg/day from a developmental toxicity study in rabbits. Effects seen at the lowest observed adverse effect level (LOAEL), 600 mg/kg/day, were decreased food consumption during the treatment period; at 900 mg/kg/day, body weight gains were also reduced. An uncertainty factor of 100 (10X for inter-species extrapolation and 10X for intra-species variability) was applied to the NOAEL of 300 mg/kg/day to calculate the RfD of 3 mg/kg/day. EPA has determined that the 10X factor to account for enhanced susceptibility of infants and children, as required by FFDCA section 408(b)(2)(C), can be removed.

4. *Carcinogenicity.* Imazamox has been classified as a ''Not Likely'' carcinogen.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.508) for the residues of imazamox in or on soybeans. Risk assessments were conducted by EPA to assess dietary exposures and risks from imazamox 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. No toxicity was seen at doses exceeding the HDT in long-term studies in mice, rats and dogs. No developmental toxicity was seen at 1,000 mg/kg/day in rats and 900 mg/kg/day in rabbits. Therefore, an acute RfD was not identified for imazamox and acute dietary risk assessments were not conducted.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, the following conservative assumptions have been made: (1) all of the crops having imazamox tolerances will contain imazamox residues, and (2) those residues will be at the level of the tolerance. This results in an overestimation of human dietary exposure. Thus, in making safety determinations for the canola and dry bean tolerances, the Agency is taking into account this conservative exposure assessment.

The combined imazamox tolerances (currently published and the section 18 tolerances established by this action) result in a Theoretical Maximum Residue Contribution (TMRC) that is less than 0.1% of the RfD for the U.S. population and all population subgroups.

2. *From drinking water.* The Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water exposure analysis and risk assessment for imazamox. Because the Agency does not have comprehensive and reliable monitoring data, drinking water concentration estimates must be made by reliance on some sort of simulation or modeling. To date, there are no validated modeling approaches for reliably predicting pesticide levels in drinking water. The Agency is currently relying on Generic Expected Environmental Concentration (GENEEC) and PRZM/EXAMS for surface water, which are used to produce estimates of pesticide concentrations in a farm pond and Screening Concentration in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. None of these models include consideration of the impact processing of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern. For the proposed uses, based on the GENEEC and SCI-GROW models, the chronic drinking water concentration values are estimated to be 2 parts per billion (ppb) for surface water and 3.4 pbb for ground water.

In the absence of monitoring data for pesticides, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, drinking water, and residential uses. A DWLOC will vary depending on the toxic endpoint, with drinking water consumption, and body weights. Different populations will have different DWLOCs. DWLOCs are used in the risk assessment process as a surrogate measure of potential exposure associated with pesticide

exposure through drinking water. DWLOC values are not regulatory standards for drinking water. Since DWLOCs address total aggregate exposure to imazamox, they are further discussed in the aggregate risk sections below.

3. *From non-dietary exposure.* Imazamox is not registered on any use sites which would result in non-dietary, non-occupational exposure. Therefore, EPA expects only dietary and occupational exposure from the use of imazamox.

4. *Cumulative exposure to substances with a 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 imazamox 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, imazamox 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 imazamox has a common mechanism of toxicity with other substances. For more 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. *Acute risk.* An acute RfD was not identified for imazamox; therefore, acute dietary risk assessments were not conducted.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to imazamox from food will utilize less than 0.1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than 1 year old (discussed below). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to imazamox in drinking water, after calculating a DWLOC (90,000 ppb) for the U.S. population and comparing it to conservative model estimates of concentrations of imazamox in surface and ground water (2 ppb and 3.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus other indoor and outdoor non-occupational exposure. Since there are no non-dietary, non-occupational exposures expected from the use of this chemical, no short- and intermediate-term risk assessments were conducted.

4. *Aggregate cancer risk for U.S. population.* Imazamox has been classified as a ''Not Likely'' carcinogen; therefore, a cancer risk assessment was not conducted.

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 imazamox 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 imazamox, 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 postnatal toxicity and the completeness of the data base 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.* In the developmental study in rats, the maternal (systemic) NOAEL was 500 mg/kg/day, based on minimal decreases in maternal body weight gains during the treatment period at the LOAEL of 1,000 mg/kg/day. The developmental (fetal) NOAEL was ≧ 1,000 mg/kg/day, the highest dose level tested. In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 300 mg/kg/day, based on decreased food consumption at the LOAEL of 600 mg/kg/day. The developmental (pup) NOAEL was ≧ 900 mg/kg/day, the highest dose level tested.

iii. *Reproductive toxicity study.* In the 2-generation reproductive toxicity study in rats, the systemic and reproductive NOAEL was ≧ 1,705/1,469 mg/kg/day for M/F, the highest dose level tested. The developmental (pup) NOAEL was 1,469 mg/kg/day, the highest dose level tested.

iv. *Pre- and postnatal sensitivity.* The toxicological data base for evaluating pre- and postnatal toxicity for imazamox is complete with respect to current data requirements. There are no pre- or postnatal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation rat reproductive toxicity study.

v. *Conclusion.* There is a complete toxicity data base for imazamox and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency concludes that reliable data support use of a 100-fold margin of exposure/uncertainty factor, rather than the standard 1,000-fold margin/factor, to protect infants and children.

2. *Acute risk.* An acute RfD was not identified for imazamox; therefore, acute dietary risk assessments were not conducted.

3. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to imazamox from food will utilize less than 0.1% 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 imazamox in drinking

water, after calculating a DWLOC (30,000 ppb) for non-nursing infants less than 1 year old, the major identifiable subgroup with the highest aggregate exposure and comparing it to conservative model estimates of concentrations of imazamox in surface and ground water (2 ppb and 3.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk*. There are no non-dietary, non-occupational exposures expected from the use of imazamox; therefore, no short- and intermediate-term risk assessments were conducted.

5. *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 imazamox residues.

IV. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in soybeans data were reviewed in conjunction with a registration for use of imazamox on soybeans under FIFRA section 3. The soybean metabolism data were adequate to determine that the residue of concern is imazamox on soybeans. For these section 18's on canola and dry beans, the regulated residue is imazamox *per se*.

The nature of the residue in animals (poultry and ruminants) data were also reviewed in conjunction with the petition for soybeans. It was determined that no detectable imazamox residues would be expected in any animal commodities; therefore, no tolerances for any animal commodities were needed. Use of canola or dry beans as a feed item is expected to result in a similar or lower dietary burden as soybeans. Therefore, no tolerances are required for any animal commodities to support these commodities.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (residue analytical methods M2248.01 and M2333 using HPLC/UV and HPLC/MS, respectively, have been validated by EPA's Analytical Chemistry Branch and is available to enforce the tolerance expression for soybeans. For canola and dry beans, the registrant proposes a capillary electrophoresis method (M-3076) that has the same LOQ as the previously validated UV and MS methods (0.05 ppm). This method is considered acceptable for the current section 18 registration.

C. Magnitude of Residues

Residues of imazamox are not expected to exceed 0.05 ppm in/on canola or dry beans as a result of these section 18 uses. Based on metabolism studies on goats and hens, the Agency concludes that for these section 18 uses there are no reasonable expectation of finite residues of imazamox *per se* in meat, milk, poultry and eggs; therefore, tolerances for these commodities are not required at this time.

D. International Residue Limits

Imazamox is registered for use in canola in Canada. There are no Codex MRLs and no Mexican uses, as of 1998.

E. Rotational Crop Restrictions

Data that examined the potential for accumulation of [6-pyridine-^{14}C]imazamox in rotational crops indicate that ^{14}C-residues of imazamox did not accumulate (<0.01 ppm) in/on wheat commodities planted 100 days after sandy loam soil treatment at the 1.6X rate with [6-pyridine-^{14}C]imazamox. At the 268-day rotation, radioactive residues were less than 0.01 ppm in/on radish, lettuce, and corn commodities. Tolerances on rotational crops need not be established. Available data support a 3-month plantback interval for wheat, 4-month plantback interval for barley and rye, and the 9-month plantback interval for alfalfa, beans, corn, cotton, oats, peas, peanuts, potatoes, rice, sorghum (grain) and tobacco. Based on the residue data, the plantback intervals for all other crops could be 9 months, however, due to phytotoxicity concerns, some plantback restrictions are longer than 9 months.

V. Conclusion

Therefore, tolerances are established for residues of imazamox in canola and dry bean at 0.05 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation 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 September 13, 1999, 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 under the ''ADDRESSES'' section (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). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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 regulation under docket control number [OPP–300879] (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@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 regulation, 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 record which will also include all comments submitted directly in writing. The official 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 tolerance under section 408 of the FFDCA. 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) (Public Law 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).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), 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 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 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.

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 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: June 28, 1999.

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, 321q and 371.

2. In § 180.508, by adding paragraph (b) to read as follows:

§ 180.508 Imazamox; tolerances for residues.

(a) * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of imazamox, [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methoxymethyl-3-pyridine-carboxylic acid, applied as the free acid or ammonium salt in connection with use of the herbicide under section 18 emergency exemptions granted by EPA. Tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/ revocation date
Beans, dry	0.05	7/15/01
Canola	0.05	7/15/01

* * * * *

[FR Doc. 99–17352 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300883; FRL 6087–5]

RIN 2070–AB78

Bentazon; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the herbicide bentazon and its metabolites in or on succulent peas at 3.0 parts per million (ppm) for an additional 1 1/2 year period. This tolerance will expire and is revoked on December 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on succulent peas. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective July 14, 1999. Objections and requests for hearings must be received by EPA, on or before September 13, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300883], 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–300883], 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@epa.gov. Copies of electronic 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 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300883]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 271, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9356; e-mail: beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of June 20, 1997 (62 FR 33563) (FRL–5720–4), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the residues of bentazon and its metabolites in or on succulent peas at 3.0 ppm, with an expiration date of June 30, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. On May 11, 1998 (63 FR 25775) (FRL–5787–4), EPA published a document extending this tolerance to June 30, 1999.

EPA received a request to extend the use of bentazon on succulent peas for this year's growing season due to infestation with the weed, Canada thistle. Since there are still no effective registered alternatives, this situation continues to be an emergency. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of bentazon on succulent peas for control of Canada thistle in succulent peas.

EPA assessed the potential risks presented by residues of bentazon in or on succulent peas. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 20, 1997 (62 FR 33563). Based on the data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional

1 1/2 year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on succulent peas after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation 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 September 13, 1999, 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 under the ''ADDRESSES'' section (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). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300883] (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@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 regulation, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. 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) (Public Law 104–4). Nor does it require 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 under section 408(l)(6) of FFDCA, 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 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 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.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and 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: June 25, 1999.

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. 321(q), 346(a) and 371.

§180.355 [Amended]

2. In §180.355, by amending the table in paragraph (b), by revising the expiration/revocation date for Peas, succulent from ''6/30/99'' to read ''12/31/00''.

[FR Doc. 99–17350 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300886; FRL–6088–8]

RIN 2070–AB78

Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of tebufenozide in or on kiwifruit. Rohm and Haas Company requested the tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective July 14, 1999. Objections and requests for hearings must be received by EPA on or before September 13, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300886], 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–300886], 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 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@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–300886]. 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: Joseph M. Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 222, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6411, tavanojoseph@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 19, 1998 (63 FR 44439) (FRL–6019–6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399. This notice included a summary of the petition prepared by Rohm and Haas Company, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.482 be amended by establishing a tolerance for residues of the insecticide tebufenozide, in or on kiwifruit at 0.5 part per million (ppm). Tebufenozide controls light brown apple moth, green-headed leafroller, and brown-headed leafroller on kiwifruit.

I. Background 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 tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of tebufenozide on imported kiwifruit at 0.5 ppm respectively. 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 tebufenozide are discussed in this unit.

1. Acute toxicity studies with technical grade: Oral LD_{50} in the rat is > 5 grams for males and females - Toxicity Category IV; dermal LD_{50} in the rat is = 5,000 milligrams/kilograms (mg/kg) for males and females - Toxicity Category III; inhalation LC_{50} in the rat is >4.5 mg/l - Toxicity Category III; primary eye irritation study in the rabbit is a non- irritant; primary skin irritation in the rabbit >5mg - Toxicity Category IV. Tebufenozide is not a sentizer.

2. In a 21–day dermal toxicity study, Crl:CD rats (6/sex/dose) received repeated dermal administration of either the technical 96.1% product RH-75,992 at 1,000 mg/kg/day (Limit-Dose) or the formulation 23.1% active ingredient (a.i.) product RH-755,992 2F at 0, 62.5, 250, or 1,000 mg/kg/day, 6 hours/day, 5 days/week for 21 days. Under conditions of this study, RH-75,992 Technical or RH-75,992 2F demonstrated no systemic toxicity or dermal irritation at the Highest Dose Tested (HDT) 1,000 mg/kg during the 21–day study. Based on these results, the No Observable Adverse Effect Level (NOAEL) for systemic toxicity and dermal irritation in both sexes is 1,000 mg/kg/day HDT. A Lowest Observable Adverse Effect Level (LOAEL) for systemic toxicity and dermal irritation was not established.

3. A 1–year dog feeding study with a LOAEL of 250 ppm (9 mg/kg/day for male and female dogs) based on decreases in Red Blood Cells (RBC), Hematocrit (HCT), and Hemoglobin (HGB), increases in Heinz bodies, methemoglobin, Mean Corpuscular Volume (MCV), Mean Corpuscular Hematocrit (MCH), reticulocytes, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in the marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The NOAEL for systemic toxicity in both sexes is 50 ppm (1.9 mg/kg/day).

4. An 18–month mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm.

5. A 2–year rat carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. In a prenatal developmental toxicity study in Sprague-Dawley rats (25/group) Tebufenozide was administered on gestation days 6–15 by gavage in aqueous methyl cellulose at dose levels of 50, 250, or 1,000 mg/kg/day and a dose volume of 10 milliliter (ml)/kg. There was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

7. In a prenatal developmental toxicity study conducted in New Zealand white rabbits (20/group) tebufenozide was administered in 5 ml/kg of aqueous methyl cellulose at gavage doses of 50, 250, or 1,000 mg/kg/day on gestation days 7–19. No evidence of maternal or developmental toxicity was observed; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

8. In a 1993 2-generation reproduction study in Sprague-Dawley rats, tebufenozide was administered at dietary concentrations of 0, 10, 150, or 1,000 ppm (0, 0.8, 11.5, or 154.8 mg/kg/day for males and 0, 0.9, 12.8, or 171.1 mg/kg/day for females). The parental systemic NOAEL was 10 ppm (0.8/0.9 mg/kg/day for males and females,

respectively) and the LOAEL was 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively) based on decreased body weight, body weight gain, and food consumption in males, and increased incidence and/or severity of splenic pigmentation. In addition, there was an increased incidence and severity of extramedullary hematopoiesis at 2,000 ppm. The reproductive NOAEL was 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively) and the LOAEL was 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) based on an increase in the number of pregnant females with increased gestation duration and dystocia. Effects in the offspring consisted of decreased number of pups per litter on postnatal days 0 and/or 4 at 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) with a NOAEL of 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively).

9. In a 1995 2-generation reproduction study in rats tebufenozide was administered at dietary concentrations of 0, 25, 200, or 2,000 ppm (0, 1.6, 12.6, or 126.0 mg/kg/day for males and 0, 1.8, 14.6, or 143.2 mg/kg/day for females). For parental systemic toxicity, the NOAEL was 25 ppm (1.6/1.8 mg/kg/day in males and females, respectively), and the LOAEL was 200 ppm (12.6/14.6 mg/kg/day in males and females), based on histopathological findings (congestion and extramedullary hematopoiesis) in the spleen. Additionally, at 2,000 ppm (126.0/143.2 mg/kg/day in M/F), treatment-related findings included reduced parental body weight gain and increased incidence of hemosiderin-laden cells in the spleen. Columnar changes in the vaginal squamous epithelium and reduced uterine and ovarian weights were also observed at 2,000 ppm, but the toxicological significance was unknown. For offspring, the systemic NOAEL was 200 ppm (12.6/14.6 mg/kg/day in males and females), and the LOAEL was 2,000 ppm (126.0/143.2 mg/kg/day in M/F) based on decreased body weight on postnatal days 14 and 21.

10. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, and *in vitro* chromosome aberration assay in Chinese Hampster Ovary (CHO) cells, a CHO/Hypoxanthine guanine phophoribosyl transferase (HGPRT) assay, a reverse mutation assay with *E. Coli*, and an unscheduled DNA synthesis assay Unscheduled DNA Synthesis (UDS) in rat hepatocytes.

11. The pharmacokinetics and metabolism of tebufenozide were studied in female Sprague-Dawley rats (3–6/sex/group) receiving a single oral dose of 3 or 250 mg/kg of RH-5992, ^{14}C labeled in 1 of 3 positions (A-Ring, B-Ring or N-butylcarbon). The extent of absorption was not established. The majority of the radio labeled material was eliminated or excreted in the feces within 48 hours; small amounts (1 to 7% of the administered dose) were excreted in the urine and only traces were excreted in expired air or remained in the tissues. There was no tendency for bioacculmulation. Absorption and excretion were rapid.

A total of 11 metabolites, in addition to the parent compound, were identified in the feces; the parent compound accounted for 96 to 99% of the administered radioactivity in the high dose group and 35 to 43% in the low dose group. No parent compound was found in the urine; urinary metabolites were not characterized. The identity of several fecal metabolites was confirmed by mass spectral analysis and other fecal metabolites were tentatively identified by cochromatography with synthetic standards. A pathway of metabolism was proposed based on these data. Metabolism proceeded primarily by oxidation of the 3 benzyl carbons, 2 methyl groups on the B-ring and an ethyl group on the A-ring to alcohols, aldehydes or acids. The type of metabolite produced varies depending on the position oxidized and extent of oxidation. The butyl group on the quaternary nitrogen also can be leaved (minor), but there was no fragmentation of the molecule between the benzyl rings.

No qualitative differences in metabolism were observed between sexes, when high or low dose groups were compared or when different labeled versions of the molecule were compared.

12. The absorption and metabolism of tebufenozide were studied in a group of male and female bile-duct cannulated rats. Over a 72–hour period, biliary excretion accounted for 30% (Female (F)) to 34% (Male (M)) of the administered dose while urinary excretion accounted for equivalent to 5% of the administered dose and the carcass accounted for <0.5% of the administered dose for both males and females. Thus, systemic absorption (percent of dose recovered in the bile, urine and carcass) was 35% (F) to 39% (M). The majority of the radioactivity in the bile 20% (F) to 24% (M) of the administered dose was excreted within the first 6 hours postdosing indicating rapid absorption. Furthermore, urinary excretion of the metabolites was essentially complete within 24 hours postdosing. A large amount, 67% (M) to 70% (F) of the administered dose was unabsorbed and excreted in the feces by 72 hours. Total recovery of radioactivity was 105% of the administered dose.

A total of 13 metabolites were identified in the bile; the parent compound was not identified (i.e. - unabsorbed compound) nor were the primary oxidation products seen in the feces in the pharmacokinetics study. The proposed metabolic pathway proceeded primary by oxidation of the benzylic carbons to alcohols, aldehydes or acids. Bile contained most of the other highly oxidized products found in the feces. The most significant individual bile metabolites accounted for 5% to 18% of the total radioactivity (M and/or F). Bile also contained the previously undetected (in the pharmacokinetics study) ''A'' Ring ketone and the ''B''Ring diol. The other major components were characterized as high molecular weight conjugates. No individual bile metabolite accounted for >5% of the total administered dose. Total bile radioactivity accounted for equivalent to 17% of the total administered dose.

No major qualitative differences in biliary metabolites were observed between sexes. The metabolic profile in the bile was similar to the metabolic profile in the feces and urine.

B. Toxicological Endpoints

1. *Acute toxicity*. Toxicity observed in oral toxicity studies were not attributable to a single dose (exposure). No neuro or systemic toxicity was observed in rats given a single oral administration of tebufenozide at 0, 500, 1,000, or 2,000 mg/kg. No maternal or developmental toxicity was observed following oral administration of tebufenozide at 1,000 mg/kg/day (Limit-Dose) during gestation to pregnant rats or rabbits. Thus, the risk from acute exposure is considered negligible.

2. *Short- and intermediate termtoxicity*. No dermal or systemic toxicity was seen in rats receiving 15 repeated dermal applications of the technical 97.2% product at 1,000 mg/kg/day (Limit- Dose) as well as a formulated 23% a.i. product at 0, 62.5, 250, or 1,000 mg/kg/day over a 21–day period. The Agency noted that in spite of the hematological effects seen in the dog study, similar effects were not seen in the rats receiving the compound via the dermal route indicating poor dermal absorption. Also, no developmental endpoints of concern were evident due to the lack of developmental toxicity in

either rat or rabbit studies. This risk is considered to be negligable.

3. *Chronic toxicity*. EPA has established the chronic population adjusted dose (cPAD) for tebufenozide at 0.018 mg/kg/day. This Reference Dose (RfD) is based on a NOAEL of 1.8 mg/kg/day and an uncertainty factor (UF) of 100. The NOAEL was established from the chronic toxicity study in dogs where the NOAEL was 1.8 mg/kg/day based on growth retardation, alterations in hematology parameters, changes in organ weights, and histopathological lesions in the bone, spleen and liver at 8.7 mg/kg/day. EPA determined that the 10x factor to protect children and infants (as required by FQPA) should be reduced to 1x. Therefore, the cPAD is the same as the RfD: 0.018 mg/kg/day. Reducing the 10x factor to 1x is supported by the following factors.

i. Developmental toxicity studies showed no increased sensitivity in fetuses when compared to maternal animals following *in utero* exposures in rats and rabbits.

ii. Multi-generation reproduction toxicity studies in rats showed no increased sensitivity in pups as compared to adults and offspring.

iii. There are no data gaps.

4. *Carcinogenicity*. Tebufenozide has been classified as a Group E, ''no evidence of carcinogenicity for humans,'' chemical by EPA.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide in or on a variety of raw agricultural commodities. In today's action a tolerance will be established for the residues of tebufenozide in or on the raw agricultural commodity, kiwifruit at 0.50 ppm. Risk assessments were conducted by EPA to assess dietary exposures from tebufenozide as follows:

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated (PCT) for assessing chronic dietary risk only if the Agency can make the following findings: 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; that the exposure estimate does not underestimate exposure for any significant subpopulation group; and 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 PCT as required by the section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

Estimates of PCT were used for the following crops. In all cases the maximum estimate was used.

Almonds: Average <1% Maximum <1%

Apples: Average 1% Maximum 2%

Beans/Peas, Dry: Average 0% Maximum 1%

Cotton: Average 1% Maximum 4%

Sugarcane: Average 3% Maximum 5%

Walnuts: Average 10% Maximum 16%

The Agency believes that the three conditions, discussed in section 408 (b)(2)(F) in this unit concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. The PCT 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 PCT, the Agency is reasonably certain that the percentage of the food treated is not likely to be underestimated. The 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 regional consumption of food to which tebufenozide may be applied 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 1–day or single exposure. Toxicity observed in oral toxicity studies were not attributable to a single dose (exposure). No neuro or systemic toxicity was observed in rats given a single oral administration of tebufenozide at 0, 500, 1,000 or 2,000 mg/kg. No maternal or developmental toxicity was observed following oral administration of tebufenozide at 1,000 mg/kg/day (Limit-Dose) during gestation to pregnant rats or rabbits. This risk is considered to be negligable.

ii. *Chronic exposure and risk*. The residue of concern for tebufenozide in plant and animal commodities is the parent compound *per se*. In performing this analysis, EPA used the Dietary Exposure Evaluation Model (DEEM), which incorporates data from the Continuing Survey of Food Intakes by Individuals (CSFII), 1989 to 1992. Some refinement to the food exposure estimates was made through the use of PCT data. The resulting estimated food exposures for the United States (U.S.) population and various DEEM population subgroups are shown in the following table. Of these subgroups, the highest exposure is projected for children ages 1–6, whose chronic intake is estimated at 73% of the RfD. Generally, in the absence of additional safety factors, EPA is not concerned with exposures less than 100% of the RfD. Thus, for all populations, the chronic human health risk from exposure to tebufenozide in foods is below EPA's level of concern. This estimate should be considered moderately refined. Further refinement to the exposure estimate, through the use of anticipated residues, more PCT data, or market-basket surveys, would likely result in lower exposure estimates.

Chronic Dietary Exposure to Tebufenozide and Associated Risk

Population Sub-group[1]	Eposure, mg/kg body wt/day	% of cPAD
U.S. Pop. (48 contiguious states).	0.006549 ...	36
U.S. Pop. (autumn)	0.006634 ...	37
U.S. Pop. (winter) ...	0.006742 ...	38
U.S. Pop. (Western region).	0.007230 ...	40
U.S. Pop. (Pacific region).	0.007419 ...	41
Non-hispanic Blacks	0.006618 ...	37
Not Hispanic, Black, or White.	0.007867 ...	44
All Infants (< 1 yr) ..	0.009369 ...	52
Non-nursing Infants (< 1 yr).	0.011223 ...	62
Children (1–6 yr)	0.013202 ...	73
Children (7–12 yr) ..	0.008301 ...	46
Females (13+ yr, nursing).	0.007604 ...	42
Males (20+ yr)	0.005161 ...	29

[1]Subpopulations include the general U.S. population, infants and children, females, males, and any other groups whose exposure is greater than that of the general U.S. population.

2. *From drinking water*— i. *Acute exposure and risk.* Because no acute dietary endpoint was determined, the Agency concludes that there is a reasonable certainty of no harm from acute exposure from drinking water.

ii. *Chronic exposure and risk.* Submitted environmental fate studies suggest that tebufenozide ranges from moderately persistent to persistent and is mobile; thus, tebufenozide could potentially leach to ground water and runoff to surface water under certain environmental conditions. There is no established Maximum Contaminant Level (MCL) for residues of tebufenozide in drinking water. No drinking water Health Advisories have been issued for tebufenozide. There is no entry for tebufenozide in the ''Pesticides in Groundwater Database.''

Monitoring data are not available to assess the human exposure to tebufenozide via drinking water. In lieu of these, EPA has calculated the Tier I estimated concentrations in drinking water (DWECs) for tebufenozide using GENEEC (surface water) and SCIGROW (ground water) for use in the human health risk assessment. The maximum application rate for tebufenozide is 0.25 pound (lb) a.i. with 5 applications per year on pecans. This application scenario was used to calculate the DWECs for the human health risk assessment. Due to the wide range of aerobic soil half-life values, GENEEC and SCIGROW were run based on aerobic half-lives of 66 (California Loam) and 729 (worst-case soil with low microbial activity) days. For surface water, the chronic (56-day) values are 13.3 parts per billion (ppb) and 16.5 ppb for the half-lives of 66 and 729 days, respectively. The ground water screening concentrations are 0.16 ppb and 1.04 ppb for the half-lives of 66 and 729 days, respectively. These values represent upper-bound estimates of the concentrations that might be found in surface and ground water due to the use of tebufenozide on pecans.

In performing this risk assessment, EPA has calculated drinking water levels of comparison (DWLOCs) for each of the DEEM population subgroups. Within each subgroup, the population with the highest estimated exposure was used to determine the maximum concentration of tebufenozide that can occur in drinking water without causing an unacceptable human health risk. As a comparison value, EPA has used the 16.5 ppb value in this risk assessment, as this represents a worst-case scenario. The DWLOCs for tebufenozide are above the DWEC of 16.5 ppb for all population subgroups. Therefore, the human health risk from exposure to tebufenozide through drinking water in not likely to exceed EPA's level of concern.

3. *From non-dietary exposure.* Tebufenozide is not currently registered for use on any residential non-food sites. Therefore there is no non-dietary chronic, short- or intermediate-term exposure scenario.

4. *Cumulative exposure to substances with a 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 tebufenozide 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, tebufenozide 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 tebufenozide 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. *Acute risk.* Since no acute toxicological endpoints were established, no acute aggregate risk exists.

2. *Chronic risk.* Using the Anticipated Residue Contribution (ARC) exposure assumptions described in this unit, EPA has concluded that aggregate exposure to tebufenozide from food will utilize 36% of the cPAD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children (1–6 years old) at 73% of the cPAD and is discussed below. Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile; thus, tebufenozide could potentially leach to ground water and runoff to surface water under certain environmental conditions. The modeling data for tebufenozide indicate levels less than EPA's DWLOC. EPA generally has no concern for exposures below 100% of the PAD because the PAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. There are no registered residential uses of tebufenozide. Since there is no potential for exposure to tebufenozide from residential uses, EPA does not expect the aggregate exposure to exceed 100% of the PAD.

3. *Short- and intermediate-term risk.* Short- and intermediat-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

Since there are currently no registered indoor or outdoor residential non-dietary uses of tebufenozide and no short- or intermediate-term toxic endpoints, short- or intermediate-term aggregate risks do not exist.

4. *Aggregate cancer risk for U.S. population.* Since, tebufenozide has been classified as a Group E, ''no evidence of carcinogenicity for humans,'' this risk does not exist.

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 tebufenozide 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 tebufenozide, 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 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 prenatal and postnatal toxicity and the completeness of the data base 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 intraspecies 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.

Prenatal and postnatal sensitivity. The toxicology data base for tebufenozide included acceptable developmental toxicity studies in both rats and rabbits as well as a 2-generation reproductive toxicity study in rats. The data provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to tebufenozide. No maternal or developmental findings were observed in the prenatal developmental toxicity studies at doses up to 1,000 mg/kg/day in rats and rabbits. In the 2-generation reproduction studies in rats, effects occurred at the same or lower treatment levels in the adults as in the offspring.

Conclusion. There is a complete toxicity data base for tebufenozide and exposure data are complete and reasonably accounts for potential exposures. For the reasons summarized above, EPA concluded that an additional safety factor is not needed to protect the safety of infants and children.

2. *Acute risk*. Since no acute toxicological endpoints were established, no acute aggregate risk exists.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to tebufenozide from food will utilize 73% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD 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 tebufenozide in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the PAD.

4. *Short- or intermediate-term risk*. Short- and intermediate-term risks are judged to be negligible due to the lack of significant toxicological effects observed.

5. *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 tebufenozide residues.

III. Other Considerations

A. Metabolism in Plants and Animals

The qualitative nature of the residue in plants is adequately understood based upon acceptable apple, sugar beet, and rice metabolism studies. EPA has concluded that the residue of regulatory concern is tebufenozide *per se*. There are no animal feed items associated with kiwifruit; consequently, a discussion of potential transfer of secondary residues to animal commodities is not relevant.

B. Analytical Enforcement Methodology

The High Pressure Liquid Chromatography using ultra-violet detection (HPLC/UV) method (TR 34-95-66) used for determining residues of tebufenozide in/on kiwifruit is adequate for data collection. Adequate method validation and concurrent method recovery data have been submitted for this method. The limit of quantitation (LOQ) is 0.02 ppm for residues of tebufenozide in/on kiwifruit.

The Agency has requested that the petitioner revise the proposed enforcement method to correct the deficiencies noted during Agency method validation. Upon completion of the method revisions, the petitioner will be required to submit a copy suitable for publication in the Pesticide Analytical Manual, Volume II (PAM II).

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, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Adequate residue data were provided to support the tolerance for kiwifruit at 0.5 ppm. There are no animal feed items associated with kiwifruit; consequently, a discussion of potential transfer of secondary residues to animal commodities is not relevant. There are no currently regulated processed food or feed items derived from kiwifruit; therefore, a discussion of tolerances for processed commodities is not relevant.

D. International Residue Limits

A proposed Codex MRL of 0.5 ppm in/on kiwifruit is currently at Step 3. This is in harmonization with the proposed tolerance sought in this petition.

E. Rotational Crop Restrictions

As kiwifruit is a perennial crop, confined and field rotational crop studies are not required for establishing a tolerance on kiwifruit.

IV. Conclusion

Therefore, the tolerance is established for residues of tebufenozide in/on kiwifruit at 0.5ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation 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 September 13, 1999, 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 under the ''ADDRESSES'' section (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 regulation. 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). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300886] (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 Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@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 regulation, 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 record which will also include all comments submitted directly in writing. The official 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 section 408(d) of the FFDCA 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) (Public Law 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).

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 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 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 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: June 25, 1999.

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. 321(q), 346a and 371.

2. In § 180.482, in paragraph (a), by adding alphabetically the following commodity to the table and adding footnote 1 to the table to read as follows:

§ 180.482 Tebufenozide; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* * *
Kiwifruit[1]	0.5
* * *	* * *

[1] There are no U.S. registrations on kiwifruit as of June 15, 1999.

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[FR Doc. 99–17776 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300889; FRL–6089–8]

RIN 2070–AB78

Fosetyl-Al; Pesticide Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of fosetyl-Al [Aluminum tris (O-ethylphosphonate)] in or on succulent peas. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing seed treatment use of the pesticide on peas. This regulation establishes a maximum permissible level for residues of fosetyl-Al 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 September 31, 2000.

DATES: This regulation is effective July 14, 1999. Objections and requests for hearings must be received by EPA on or before September 13, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300889], 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–300889], 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 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic 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 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300889]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)308–9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to sections 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide fosetyl-Al, in or on peas, succulent at 1.0 parts per million (ppm). This tolerance will expire and is revoked on September 31, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Public Law 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 in this preamble 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 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Fosetyl-Al on Peas, Succulent and FFDCA Tolerances

According to the Applicant, wet conditions in 1998 contributed to severe outbreak of downy mildew in many pea fields in Washington and Idaho. There is concern that a significant outbreak of downy mildew will occur in 1999 because oospores have the ability to survive for 10–15 years. Because of a lack of resistance to the pathogen in commercially grown pea varieties and development of resistance in the pest population to the commercially used fungicides metalaxyl and menfenoxam, an emergency situation has arisen. EPA has authorized under FIFRA section 18 the seed treatment use of fosetyl-Al on peas for control of downy mildew in Washington and Idaho. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fosetyl-Al in or on peas. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on September 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on peas, succulent after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether fosetyl-Al meets EPA's registration requirements for use on peas or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of fosetyl-Al by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Washington and Idaho to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fosetyl-Al, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

III. Aggregate Risk Assessment and Determination of Safety

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).

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 fosetyl-Al and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of fosetyl-Al on peas, succulent at 1.0 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 fosetyl-Al are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity*. No appropriate endpoint attributable to a single dose exposure was identified in acute oral toxicity studies. Therefore, risk assessments for these exposure scenarios were not conducted.

2. *Short- and intermediate-term toxicity*. No toxicological endpoints of concern were identified for short-term and intermediate-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

3. *Chronic toxicity*. EPA has established the Reference Dose (RfD) for fosetyl-Al at 2.5 milligrams/kilograms/day (mg/kg/day). This RfD is based on a no observed adverse effect level (NOAEL) of 250 mg/kg/day, taken from a 2-year chronic study in dogs in which testicular degeneration was observed at the lowest observed adverse effect level (LOAEL) of 500 mg/kg/day. An uncertainty factor (UF) of 100 was employed to account for inter- and intraspecies variability. As the 10x safety factor was removed, the chronic

population adjusted dose (cPAD) is equal to the RfD. The cPAD is calculated by dividing the RfD by the appropriate safety factor in situations where it is decided an additional safety factor should be retained. The cPAD will differ from the RfD in situations where the decision is made to retain either a 10x or 3x safety factor.

4. *Carcinogenicity*. Fosetyl-Al is unlikely to pose a carcinogenic hazard to humans. Effects observed in rats occurred under extremely high doses, under conditions not anticipated to occur outside of the laboratory.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.415) for the residues of fosetyl-Al, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures and risks from fosetyl-Al 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. No toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore, a risk assessment for this exposure scenario was not conducted.

ii. *Chronic exposure and risk*. Tolerance level residues and 100% crop treated were assumed to calculate theoretical maximum residue contributions (TMRCs) from published and proposed uses for the United States (U.S.) population and population subgroups. Chronic exposure for the U.S. population represents 3% of the cPAD.

2. *From drinking water*. Fosetyl-Al is not expected to reach ground or surface water under most conditions. The residues that do reach surface water will likely be rapidly degraded by microbial metabolism. There is no established Maximum Contaminant Level (MCL) for residues of fosetyl-Al in drinking water.

The Agency has calculated drinking water levels of comparison (DWLOCs) for chronic exposure to fosetyl-Al residues in surface and ground water. These DWLOCs are calculated by subtracting from the cPAD the respective chronic dietary exposure attributable to food to obtain the acceptable exposure to fosetyl-Al in drinking water. Default body weights (70 kg for males, 60 kg for females, and 10 kg for infants and children) and default drinking water consumption estimates (2 L/day for adults, 1 L/day for infants and children) are then used to calculate the actual DWLOCs. The DWLOC represents the concentration level in surface water or ground water at which aggregate exposure to the chemical is not of concern.

Using Generic Expected Environmental Concentration (GENEEC) and Screening Concentration in Ground Water (SCI-GROW) models (for surface and ground water, respectively), the Agency has calculated chronic Tier I Estimated Environmental Concentrations (EECs) for fosetyl-Al for use in human health risk assessments. These values represent the upper bound estimates of the concentrations of fosetyl-Al that might be found in surface water and ground water assuming the maximum application rate allowed on the label of the highest use pattern. The EECs from these models are compared to the DWLOCs to make the safety determination.

i. *Acute exposure and risk*. No toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore, a risk assessment for this exposure scenario was not conducted.

ii. *Chronic exposure and risk*. Using the SCI-GROW model, the maximum long-term EEC in ground water is not expected to exceed 0.0046 parts per billion (ppb). The chronic EEC in surface water is 9 ppb. The DWLOC for the U.S. population was calculated to be 85,000 ppb. As even the upper bound concentrations of fosetyl-Al in ground water and surface water are not expected to exceed the DWLOC, the Agency concludes with reasonable certainty that chronic exposure to fosetyl-Al in drinking water is not of concern.

3. *From non-dietary exposure*. Fosetyl-Al is currently registered for use on the following residential non-food sites: lawn, turf, and ornamental plants. However, no toxicological endpoints of concern were identified for short-term and intermediate-term dermal exposure or inhalation exposure for all time periods, and risk assessments for these exposure scenarios were not conducted. Long-term (chronic) exposure is not expected for residential uses.

4. *Cumulative exposure to substances with a 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 fosetyl-Al 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, fosetyl-Al 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 fosetyl-Al has a common mechanism of toxicity with other substances. For more 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. *Acute risk*. No toxicological endpoints were identified which could be attributable to a single dose exposure. Therefore, a risk assessment for this exposure scenario was not conducted.

2. *Chronic risk*. Using the TMRC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to fosetyl-Al from food will utilize 3% of the cPAD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children, 1–6 years (discussed below). EPA generally has no concern for exposures below 100% of the RfD (cPAD) 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. Estimated chronic environmental concentrations of fosetyl-Al in surface water and ground water do not exceed chronic DWLOCs calculated by the Agency. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

No toxicological endpoints of concern were identified for short-term and intermediate-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

4. *Aggregate cancer risk for U.S. population*. Fosetyl-Al is unlikely to pose a carcinogenic hazard to humans. Effects observed in rats occurred under extremely high doses, under conditions not anticipated to occur outside of the laboratory.

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 fosetyl-Al 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 fosetyl-Al, 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 postnatal 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 intraspecies 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 the developmental toxicity study in rats, developmental effects in pups occurred only in the presence of maternal toxicity and at four times the limit dose (developmental LOAEL = 4,000 mg/kg/day). In the prenatal developmental toxicity study in rabbits, no evidence of developmental toxicity was seen at the limit dose.

iii. *Reproductive toxicity study*. In the multi-generation reproduction study in rats, offspring effects occurred only at parentally toxic dose levels.

iv. *Pre- and postnatal sensitivity*. The available studies showed no evidence of increased susceptibility of fetus/pups in the developmental or reproductive toxicity studies. The Agency supports removal of the 10x safety factor for aggregate risk assessment.

v. *Conclusion*. There is a complete toxicity database for fosetyl-Al and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk*. No toxicological endpoints were identified which could be attributable to a single dietary exposure. Therefore, a risk assessment for this exposure scenario was not conducted.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to fosetyl-Al from food will utilize 6% of the cPAD/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. Estimated chronic environmental concentrations of fosetyl-Al in surface water and ground water do not exceed chronic DWLOCs calculated by the Agency. EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk*. No toxicological endpoints of concern were identified for short-term and intermediate-term dermal exposure or inhalation exposure for all time periods. Risk assessments for these exposure scenarios were not conducted.

5. *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 fosetyl-Al residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is parent fosetyl-Al. There are no livestock feed items associated with the proposed seed treatment use on peas.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression (associated with petition number 5F3251). 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, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Residues of fosetyl-Al are not expected to exceed 1.0 ppm in/on succulent peas as a result of the proposed seed treatment use on peas. Secondary residues are not expected in animal commodities as there are no feed items associated with succulent peas.

D. International Residue Limits

There are no Codex, Canadian or Mexican Maximum Residue Limits (MRLs) for fosetyl-Al on peas.

E. Rotational Crop Restrictions

No rotational crop restrictions are required for this chemical, due to its extremely short half-life in soil.

V. Conclusion

Therefore, the tolerance is established for residues of fosetyl-Al in peas, succulent at 1.0 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation 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 September 13, 1999, 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 under the ''ADDRESSES'' section (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). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW.,

Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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 regulation under docket control number [OPP–300889] (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 Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@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 regulation, 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 record which will also include all comments submitted directly in writing. The official 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 tolerance under section 408 of the FFDCA. 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) (Public Law 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).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), 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 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 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.

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 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: June 28, 1999.

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. 321(q), 346(a) and 371.

2. In § 180.415, by revising paragraph (b) to read as follows:

§ 180.415 Aluminum tris (O-ethylphosphonate); tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for residues of the fungicide aluminum tris (O-ethylphosphonate) in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. This tolerance will expire and is revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Peas, succulent	1.0	9/31/00

* * * * *

[FR Doc. 99–17777 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–72; RM–9017]

Radio Broadcasting Services; Mullins and Briarcliffe Acres, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Atlantic Broadcasting Co, Inc., reallots Channel 296C2 from Mullins to Briarcliffe Acres, South Carolina, as its first local aural transmission, and modifies Station WWSK(FM)'s license accordingly. *See* 62 FR 9410, March 3, 1997. Channel 296C2 can be reallotted to Briarcliffe Acres in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.7 kilometers (16 miles) northwest at petitioner's authorized site. The coordinates for Channel 296C2 at Briarcliffe Acres are 33–56–14 North Latitude and 78–57–53 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–72, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 296C2 at Mullins, and adding Briarcliffe Acres, Channel 296C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17873 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–211; RM–9349 and RM–9477]

Radio Broadcasting Services; Logan, UT and Evanston, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 252C2 to Evanston, Wyoming, in response to a counterproposal filed by M. Kent Frandsen. *See* 63 FR 68425, December 14, 1998. The coordinates for Channel 252C2 at Evanston, Wyoming, are 41–16–00 and 110–57–48. The original petitioner, L. Topaz Enterprises, Inc., withdrew its interest in the allotment of Channel 252C3 at Logan, Utah, in compliance with Section 1.420(j) of the Commission's Rules. With this action, this proceeding is terminated. A filing window for Channel 252C2 at Evanston, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report

and Order, MM Docket No. 98–211, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 252C2 at Evanston.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17872 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–125; RM–9301]

Radio Broadcasting Services; Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 230A to Lufkin, Texas, in response to a petition filed by Russell L. Lindley. *See* 63 FR 39804, July 24, 1998. The coordinates for Channel 230A at Lufkin, Texas, are 31–20–48 NL and 94–43–30 WL. With this action, this proceeding is terminated. A filing window for Channel 230A at Lufkin, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: August 16, 1999

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–125, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 230A at Lufkin.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17868 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA 99–5448; Notice 2]

RIN 2127–AH48

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document adjusts certain civil penalties authorized for violations of statutes that we enforce. The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires us to take this action periodically. The largest adjustments occur in penalties for related series of violations of 49 U.S.C. Chapter 301—Motor Vehicle Safety, and 49 U.S.C. Chapter 325—Bumper Standards. The maximum penalties for violations of Chapters 301 and 325 are increased from $880,000 to $925,000 according to the formulae set forth in the statute. Adjustments in two other penalties are made as well.

DATES: *Effective Date:* August 13, 1999.

Applicability Date: These adjusted penalties apply to violations occurring on or after August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366–5263, facsimile (202) 366-3820, electronic mail ''TVinson@nhtsa.dot.gov'', 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 ((''Adjustment Act''), 28 U.S.C. Sec. 2461 note, Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (''Collection Act,'' Pub. L. 104–134), requires us and other Federal agencies to regularly adjust certain civil penalties for inflation. Under these laws, each agency must make an initial inflationary adjustment for all applicable civil penalties, and must make further adjustments of these penalty amounts at least once every four years. The Collection Act limited the initial increase to 10 percent of the penalty being adjusted.

Our initial adjustment of civil penalties under these legislative authorities was published on February 4, 1997 (62 FR 5167). We established 49 CFR Part 578, *Civil Penalties,* which applies to violations that occur on and after March 6, 1997. These adjustments resulted in the maximum permissible increases of 10 percent. For example, the maximum penalty of $1,000 for each violation of 49 U.S.C. Sec. 30112(a), up to $800,000 for a related series of violations, was adjusted to $1,100 and $880,000.

In accordance with the mandate to make further adjustments of civil penalty amounts at least once every four years, on April 6, 1999, we proposed to adjust some of our penalties now in order to enhance their deterrent effect (64 FR 16690). We received no comments on this proposal.

Method of Calculation

Under the Adjustment Act as amended by the Collection Act, we determine the inflation adjustment for each applicable civil penalty by

increasing the maximum civil penalty amount per violation by the cost-of-living adjustment, and then applying a rounding factor. Sec. 5(b) of the Adjustment Act defines the ''cost-of-living'' adjustment as: ''the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.''

Since the current adjustment is effective before July 1, 1999, the ''Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment'' is the CPI for June 1998. This figure is 488.2. NHTSA's penalties were initially adjusted based on the CPI figure for June 1996. Because the intent of the legislation is for agencies to adjust their civil penalties to account for increases in inflation in order to preserve their remedial impact, we believe that this is realized by adjusting civil penalties according to the CPI base upon ''which the amount of such civil monetary penalty was last set or adjusted pursuant to law.'' This base was the CPI for June 1996. This was 469.5. The factor that we are using in calculating the increase, then, is 488.2 divided by 469.5, or 1.0398296. Any calculated increase under this adjustment is then subject to a specific rounding formula set forth in Sec. 5(a) of the Adjustment Act. Under the formula:

Any increase shall be rounded to the nearest

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

Penalties That We are Increasing

Upon review, we concluded that application of the formulae permit some of our penalties to be increased at this time. We are doing so before the passage of four years in order to enhance the deterrent effect of these penalties because of their importance to our enforcement programs. Even with these increases, these penalties appear less than adequate as a full deterrent to violations of the statutes that we enforce. For example, the maximum penalty for a related series of violations under the National Traffic and Motor Vehicle Safety Act of 1966 as amended in 1974 was $800,000. It would have increased more than threefold, to $2.45 million, in June 1996 if adjusted for inflation. However, the adjustment was capped at $880,000. Further, under this aggregate penalty ceiling, on a per vehicle basis the maximum penalty amounts to less than one dollar per vehicle where a substantial fleet was in violation of the Safety Act (codified in 1994 as 49 U.S.C. Chapter 301—Motor Vehicle Safety).

Odometer Tampering and Disclosure

As shown above, Sec. 5(a)(3) of the amended Adjustment Act permits an increase rounded ''to the nearest multiple of $1,000'' for penalties between $1,000 and $10,000. Under 49 CFR Sec. 578.6(f)(2), a penalty of $1,650 may be imposed (the original penalty was $1,500). A figure of $1,716 results when the inflation factor is applied. The nearest multiple of $1,000 is $2,000. Therefore, we are amending 49 CFR Sec. 578.6(f)(2) so that a person who violates a requirement on odometer tampering and disclosure, with intent to defraud, will now be liable for three times the actual damages or $2,000, whichever is greater.

Consumer Information

The rounding provisions of Sec. 5(a)(6) of the Adjustment Act permit raises to the nearest multiple of $25,000 where the penalty exceeds $200,000. Sec. 578.6(d) establishes a maximum penalty of $440,000 (originally $400,000) for a related series of violations of consumer information regarding crashworthiness and damage susceptibility. The inflation factor applied to $440,000 gives $457,525. As the nearest $25,000 multiple is $450,000, we are adjusting the penalty to this amount.

Violations of Safety and Bumper Requirements

Both 49 CFR Sec. 578.6(a) and 49 CFR Sec. 578.6(c)(2) establish a maximum penalty of $880,000 (originally $800,000) for related series of violations of Chapter 301—Motor Vehicle Safety, and Chapter 325—Bumper Standards. Multiplying this figure by the inflation factor gives $915,050. Sec. 5(a)(6) permits a rounding to the nearest multiple of $25,000, which is $925,000, and we are adjusting the penalties to this amount.

Effective Date

The amendments are effective August 13, 1999 and the adjusted penalties apply to violations of pertinent statutes and regulations occurring on and after that date.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action is limited to the adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will have no significant economic impact on a substantial number of small entities. The following is my statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendments primarily affect manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 ''Motor Vehicles and Passenger Car Bodies'' has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer serves a niche market, often specializing in replicas of ''classic'' cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 1999, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S.

manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. We do not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions will not be significantly affected as the price of motor vehicles ought not to change as the result of this rule. As explained above, this action is limited to the adoption of a statutory directive, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Finally, this action will not affect our civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (62 FR 37115, July 10, 1997). We shall continue to consider the appropriateness of the penalty to the size of the business charged.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Public Law 96–511), we state that there are no requirements for information collection associated with this rulemaking action.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12612 (Federalism)

We have analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and have determined that it has no significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This rule does not have a retroactive or preemptive effect. Judicial review of a rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Penalties, Tires.

In consideration of the foregoing, 49 CFR part 578 is amended as follows:

PART 578—CIVIL PENALTIES

1. The authority citation for 49 CFR part 578 is revised to read as follows:

Authority: 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; Pub. L. 101–410, 104 Stat. 890; Pub. L. 104–134, 110 Stat. 1372; delegation of authority at 49 CFR 1.50.

2. Section 578.6 is amended by revising the last sentence in paragraphs (a) and (d) and revising paragraphs (c)(2) and (f)(2) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor vehicle safety.* * * * The maximum civil penalty under this paragraph for a related series of violations is $925,000.

* * * * *

(c) *Bumper standards.* * * *

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is $925,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* * * * The maximum penalty under this paragraph for a related series of violations is $450,000.

* * * * *

(f) *Odometer tampering and disclosure.* * * *

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or $2,000, whichever is greater.

* * * * *

Issued on: July 8, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–17807 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

[Docket No. 99–NHTSA–5240; Notice 2]

RIN 2127–AH45

Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends NHTSA's importation regulations to implement a 1998 statutory amendment that adds ''show or display'' to the special limited purposes for which vehicles or equipment items may be imported without having to comply with the Federal motor vehicle safety standards (FMVSS). Under the amendments, a person who wants to import a vehicle or equipment item for ''show or display'' must persuade us that the vehicle or equipment item is of such historical or technological significance that it is worthy of being shown or displayed in this country even though it would be difficult or impossible to be brought into compliance with the FMVSS. We intend this provision to accommodate primarily individuals wishing to import an example of a make or model of a vehicle which its manufacturer never sold in the United States and which therefore has no counterpart that was certified to conform to the FMVSS.

We will allow limited use on the public roads of vehicles imported for ''show or display.'' Before entry, an importer must describe the intended on-road use of the vehicle and submit a copy of an insurance contract containing the condition that the maximum annual mileage of the vehicle shall not exceed 2,500 miles.

Pursuant to the 1998 statutory amendment, we are also allowing owners of vehicles already imported into the United States under other exemptions to apply to us for a change in the terms and conditions under which we permitted their vehicles to be imported. The opportunity to apply for such a change is statutorily limited to the period of 6 months after the effective date of the final rule.

DATES: *Effective date:* The final rule is effective August 13, 1999

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: We discussed at some length the background of this rulemaking action in our notice of proposed rulemaking, published on March 22, 1999 (64 FR 13757). Given the fact that we received only one comment by the end of the 45-day comment period, May 6, 1999, we are not repeating this discussion, and interested persons may read the earlier document for background information. That comment, from the Special Vehicle Coalition, supported the proposed rule, with a recommended change in the mileage permissible for on-road use. We discuss this at an appropriate place in the notice. Except for the annual mileage and verification statements, we are adopting a final rule as we proposed it.

1. The 1998 Amendment to the Import Regulations

Sec. 7107(a) of Pub. L. 105–178, which was enacted on June 9, 1998, amended 49 U.S.C. 30114 by adding ''show, or display'' to the special purposes set forth in that section. As the Conference Report on the Transportation Equity Act for the 21st Century explained:

> Section 7107 reinstates NHTSA's authority to exempt certain motor vehicles imported for the purpose of show or display from certain applicable motor vehicle safety standards. Such authority was unintentionally deleted when title 49, United States Code was recodified in 1988.

(H. Report 105–550, p. 523)

(We note that the deletion of ''show'' resulted from the 1988 amendments to the importation authority, rather than from the 1994 recodification, which deleted ''studies'').

2. Amendments to 49 CFR Part 591 That Implement Congress' Amendment of Sec. 30114

A. Sec. 591.5, Declarations Required for Importation

As amended, sec. 30114 now reads:

> The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, competitive racing events, show or display.

Currently, 49 CFR 591.5(j)(1) implements 49 U.S.C. 30114 by specifying requirements for importation of nonconforming vehicles or equipment for purposes of research, investigations, studies, demonstrations or training, and competitive racing events. In view of the intent of Congress at the time of recodification to include the word ''studies'' in the word ''research,'' as previously discussed, we are revising Sec. 591.5(j)(1)(iii) to substitute the term ''show or display'' for ''studies.'' We deem the term ''studies'' covered by the word ''research'' and subject to the same terms and conditions imposed on vehicles imported for purposes of ''research.''

B. Sec. 591.6, Documents Accompanying Declarations

We recognize two types of importers under sec. 591.5(j): one that has received written permission from us to import a vehicle under its provisions (sec. 591.5(j)(2)(i)); and one that is an original manufacturer of motor vehicles (or its wholly-owned subsidiary) and that certifies that its products comply with the Federal motor vehicle safety standards (sec. 591.5(j)(2)(ii)).

Sec. 591.6(f) specifies the procedure for an importer who wishes to obtain written permission from us to import a vehicle or equipment item under sec. 591.5(j)(2)(i). Sec. 591.6(f)(1) requires all such requests to contain information sufficient to identify the vehicle or equipment and the specific purpose of importation, which must include a discussion of the use to be made of the vehicle or equipment. With respect to any such vehicle to be imported for research, investigations, demonstrations or training (but not for studies), if use on the public roads is to be an integral part of the purpose of importation, the statement must request permission for use on the public roads, describing the purpose that makes such use necessary and stating the estimated period of time during which use of the public roads is necessary. The request must also state the intended means of final disposition (and disposition date) of the vehicle or equipment after completion of the purpose for which it is imported.

After review, we have decided that it is appropriate to retain this requirement in implementing the new statutory provision but we will amend sec. 591.6(f)(1) to clarify that it pertains to importations other than those for show or display, which will now be covered by sec. 591.6(f)(2).

Currently, if a sec. 591.5(j)(2)(i) importer wishes to import a vehicle or equipment for ''studies,'' the importer's written request:

> shall explain why the vehicle or equipment item is of historical or technological interest, and describe the studies for which importation is sought. The importer, if other than the National Museum of History and Technology, Smithsonian Institution, shall also provide a copy of the Determination Letter from the Internal Revenue Service approving the importer's status as a tax-exempt corporation or foundation under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code. The time between the date of the Letter and the date of the importer's written request to the Administrator shall be not less than 5 years. The importer shall also provide a statement that it shall not sell, or transfer possession of, or title to, the vehicle, or license it for use, or operate it on the public roads, until the vehicle is not less than 25 years old.

We have concluded that the statutory amendment providing authority to admit vehicles or equipment for show or display, without any qualification on the eligibility of the importer, means that tax-exempt entities as well as individual importers may import vehicles for show or display. For this reason, there is no further need to maintain an exemption for studies. Accordingly, we are amending the regulation to delete the provisions expressly relating to importations for studies. As noted, importations for ''studies'' are essentially those of importations for ''research.''

One of the terms and conditions of the allowance of importation for ''studies'' was that the vehicle not be licensed for use or operated on the public roads. We have reviewed this restriction in view of our new authority to allow importation for ''show or display,'' and have concluded that limited on-road use should be allowed, pursuant to our permission. We believe that the historical and technological significance of a vehicle may be maintained by its limited use of the public roads on an occasional basis in order to ensure that its engine, braking, lighting, and other dynamic systems remain in good working order, in short, so that it may be preserved. Another appropriate use of such a vehicle on the public roads would be to allow it to travel to and from nearby displays of automobiles of similar significance, so that its significance could be appreciated by a greater number of people than were it restricted to off-road use. We proposed that on-road use of these nonconforming vehicles should be limited to a maximum of 500 miles per year. For the reasons discussed below, this proposed restriction has been modified.

Consistent with the previous exemption for ''studies,'' we have decided that a person who wishes to import a vehicle for show or display ought to establish that the vehicle is one of historical or technological interest. This criterion has existed for many years, beginning with the previous ''show'' exemption, and continuing with the one for ''studies.''

Our most detailed discussion of the criterion of historical and technical

interest was contained in a letter of July 12, 1983, to Richard London, and it is worth repeating here. Mr. London asked about the acceptability of importing a Mercedes-Benz 280SL which would be trailered to various auto meets, and which would not be licensed for use or used on the public roads. We advised Mr. London that:

> The agency considers several factors in determining whether to accept a declaration that a vehicle is imported solely for ''show.'' One of these is the nature of the vehicle itself. If it is a unique machine generally considered to be of technological or historical significance, it is more likely to be admitted under the exception than if it were a mass-produced vehicle similar to many that were manufactured to conform to the Federal motor vehicle safety standards. The smaller the production run, the greater the likelihood that it will be considered to be unique. Mechanical components that differ substantially from those commonly in use at the time of manufacturer are evidence of its technological significance. Association with historical personages that would create a desire in the public to see the car is also considered relevant in the agency's interpretation of the word ''show.''

Examples of vehicles that might qualify under this exemption are high technology vehicles such as the McLaren F1, or certain types of Porsches or Ferraris that were never, in the first instance, sold in the United States. We might consider a vehicle owned by the Pope, the Queen of England, or some other important figure to be a vehicle of historical significance.

We went on to explain to Mr. London that

> In interpreting the word ''show'' and thereby exercising its discretion whether to allow importation of nonconforming motor vehicles for this purpose, the agency must balance the harm to the public likely to occur through use of the vehicle on the public roads, with the benefit to the public of importation of nonconforming vehicle for show purposes. * * * [t]he agency believes it is less likely that a rare or unique vehicle, part of a collection available to the public will be sold for use on the public roads than a vehicle such as the 1968–72 Mercedes 280SL that has been imported in numerous quantities as a conforming motor vehicle.

This explanation clearly demonstrated our view that nonconforming analogues of certified vehicles sold in the United States were not very likely to be considered of historical or technological significance.

In any event, use on the public roads will not be a matter of right for vehicles imported for ''show or display,'' but subject to such terms and conditions as may be established at the time of entry. In some cases where there are safety concerns, we may refuse to authorize on-road use of a particular vehicle. In order to ensure that any on-road use is limited, the prospective importer, in his or her request letter, must describe the purposes for which on-road use is deemed required.

We proposed that the request be accompanied with an affirmation that the vehicle will not be driven on the public roads more than 500 miles in any 12-month period beginning as of the date of its importation, and that the affirmation be confirmed by the importer's submittal of an annual notarized mileage statement for the vehicle on the anniversary date of its importation, for the first five years after it is imported. We have been requested by the one commenter on the proposal, the Special Vehicle Coalition (the ''Coalition''), to increase the permissible annual mileage to 2,500 miles. Describing itself as ''a group of vehicle collectors who own limited-production high-performance vehicles,'' the Coalition asserted that ''restricting mileage to 500 miles per year will prohibit participation in many civic and charitable events designed to benefit, entertain, and inspire the American public.'' More persuasively, the Coalition argued that an annual odometer reading might not accurately reflect actual on-road usage, since it would include mileage attributable to any use of the vehicle off the public roads as well. It brings to our attention that ''a 2,500 mile allotment is consistent with current practice for these kind of vehicles, including normal on-road usage of much older collector vehicles that, because of their age, will not meet Federal motor vehicle safety standards.'' This comment was accompanied by a footnote saying that ''Insurance policies for classic cars and vehicles of special interest typically set a maximum mileage allowance of 2,500 miles per year.''

We have reconsidered our proposal in light of the Coalition's comments. In proposing a 500-mile limitation, we had not focused on the fact that other vehicles not subject to the Federal motor vehicle safety standards have been permitted to use the public roads under insurance policies that limit their mileage allowance to 2,500 miles per year. While the Coalition did not discuss the kind of insurance policy that would be obtained by importers for show and display, we assume that all vehicles imported for show and display will, in fact, be insured, and that the policy would not deviate materially from those that cover classic and special interest vehicles. Furthermore, the mileage limitation imposed as a condition of insurance appears to remove the need for the importer to submit an annual mileage statement to us. However, we believe that we ought to be able to inspect the vehicle if we wish to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period. Accordingly, our final rule requires the prospective importer to submit with its request the current mileage of the vehicle and a copy of an insurance contract covering the car, which contains as a condition the restriction of annual mileage to a maximum of 2,500 miles (this limitation refers to all mileage, not merely on-road mileage). In addition, the prospective importer must state that (s)he will allow us to inspect the vehicle upon our request. As proposed, the prospective importer will also have to state that the vehicle will not be used on the public roads unless it complies with the requirements of the Environmental Protection Agency. Moreover, as indicated above, we may impose additional requirements or limitations in particular instances when we find such requirements are appropriate.

We have substituted the conditions for an insurance policy and its maintenance until the vehicle is 25 years old for the notarized mileage statement submitted for 5 years after importation which we originally proposed. Under 49 U.S.C. 30112(b)(9), a noncomplying motor vehicle may be imported with no Federal legal requirement to conform it if it is at least 25 years old. Our new provision, thus, serves to release the importer or owner from the restrictions imposed on show or display importations when the vehicle reaches 25 years of age. We retain the right to inspect it for mileage verification until that point.

The current regulation also restricts sale and transfer of possession of a vehicle imported for ''studies'' until it is 25 years old. While this restriction might not be burdensome to a museum, the agency recognizes that there are circumstances such as the death of an importer where a sale or transfer of a vehicle imported for ''show or display'' must occur before it is 25 years old. To fully implement its new authority to allow importation for ''show or display,'' the agency is modifying this restriction, and allow sale or transfer of a vehicle imported for ''show or display'' upon approval by the Administrator.

Accordingly, we are revising sec. 591.6(f)(2) to require that a prospective importer:

> shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25

years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, a copy of an insurance policy or a contract to acquire an insurance policy, which contains as a condition thereof that the vehicle will not accumulate mileage of more than 2,500 miles in any 12-month period and a statement that the importer shall maintain such policy in effect until the vehicle is not less than 25 years old, a statement that the importer will allow the Administrator to inspect the vehicle at any time after its importation to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency.

Failure to allow a mileage inspection or to maintain a policy with an accumulated mileage limitation or the accumulation of more than 2,500 miles in any 12-month period will be regarded as a violation of the terms of entry.

C. Sec. 591.7, Restrictions on Importations

Until now, all importations under sec. 591.5(j)(1) have been ''for a temporary period,'' requiring a U.S. Customs Service Temporary Importation Bond (TIB). Under sec. 591.7(a), the TIB requires that vehicles which it covers shall not remain in the United States for a period that exceeds 3 years from the date of entry. However, under sec. 591.7(b), if the importer decides to liquidate the bond, it may apply to us for permission to keep the vehicle in the country for an additional period of time not to exceed 5 years from the date of entry, unless further written permission has been obtained from us. Such written permission, after 5 years, can result in an ''importation for a temporary period'' becoming a permanent one. This regulatory scheme has caused uncertainty as to whether we permit permanent importations under sec. 591.5(j).

Because we do permit permanent importations under sec. 591.5(j), we believe that we should clarify this point and simplify this process to allow a permanent importation ab initio, if an importer chooses to pay duty upon entry of the vehicle, rather than treating the entry as a ''temporary'' one, requiring a TIB and subsequent letters of permission. Amendments of this nature will not affect the existing right under sec. 591.5(j)(1) to import vehicles on a temporary basis with a TIB for those importers who wish to choose this option.

Another restriction is imposed by sec. 591.7(c). If the importer has brought a vehicle into the United States pursuant to sec. 591.5(j)(2)(i), sec. 591.7(c) requires the importer to retain title to and possession of it, forbids its leasing, and allows its use on the public roads only if written permission has been granted by the Administrator pursuant to sec. 591.6(f)(1) (covering importations for research, investigations, demonstrations or training, but not studies or competitive racing events).

The restriction of sec. 591.7(c) implements the statement that an importer is required to make as part of the request letter. Given the fact that limited on-road use is being permitted for importations for ''show or display,'' we are amending sec. 591.7(c) to allow limited on-road use of all vehicles imported under sec. 591.5(j)(2)(i) ''under such terms and conditions as the Administrator may authorize in writing.'' We are also amending the first sentence of sec. 591.7(c) to conform to the statement that an importer gives under sec. 591.6(f)(2), and imposing affirmative obligations not to sell or transfer the vehicle, or license it or operate it on the public roads except upon written approval by the Administrator in place of the presently existing absolute prohibition.

Sec. 591.7(d) specifically provides that any violation of a term or condition that we impose ''in a letter authorizing importation or on-road use under sec. 591.5(j) shall be considered a violation'' of the Safety Act for which a civil penalty may be imposed. We note that this language could possibly be read as suggesting that a civil penalty would be the only consequence of a violation of a condition imposed as part of an exemption from sec. 30112(a). Therefore, we are modifying sec. 591.7(d) to make it clear that such a violation of a term or condition in an exemption authorization will void the authorization and require exportation of the vehicle. In addition, the statutory reference in sec. 591.7(d) to 15 U.S.C. 1397(a)(1)(A) is changed to 49 U.S.C. 30112(a) to reflect the recodification of the Safety Act into Chapter 301.

Sec. 591.7(e) prohibits the importation for ''studies'' by any person not recognized as a tax-exempt entity by the Internal Revenue Service for not less than 5 years before the date of its written request. Because we are incorporating the ''studies'' exemption into the exemption for ''research'' where this restriction does not exist, this section is moot. Sec. 591.7(e), therefore, is being removed. A new subsection (e) will replace it, to implement the statutory directive of section 7107(b) of Pub. L. 105–178 discussed below.

3. Seeking Exemptions Under Sec. 30114 for Vehicles in the United States at the Time the Amendment Was Enacted

Section 7107(b) of Pub. L. 105–178 provides that:

(b) TRANSITION RULE—A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.

We interpret sec. 7017(b) as authorizing owners of vehicles imported under sec. 591.5(j) before June 9, 1998, to apply to the Administrator for a change in the terms and conditions under which the vehicle was admitted so that engaging in an act contrary to those original terms and conditions will not be held to be a violation. If the change requested is to reclassify the vehicle as one imported for show or display, we proposed that the request also include a statement that the owner will provide the annual mileage statement required of de novo importers for show or display by sec. 591.6(f)(2). However, the final rule for change-of-status importers is modified to reflect the changes we are adopting in sec. 591.6(f)(2) relating to an increase in maximum mileage subject to insurance limitations, and the right to inspect the vehicle to verify its accumulated mileage. Therefore, we are revising sec. 591.7(d) and (e) to read as follows:

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation or on-road use under § 591.5(j), or a change of status under paragraph (e) of this section, including a failure to allow inspection upon request to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. Such a violation will also act to void the authorization and require the exportation of the vehicle. With respect to importations under § 591.6(f)(2) or a change of status to an importation for show or display as provided under paragraph (e) of this section, if the Administrator has reason to believe that a violation has occurred, the Administrator may tentatively conclude that a term of entry has been violated but shall make no final conclusion until the importer or owner has been afforded an opportunity to present data, views, and arguments as to why there is no

violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before February 14, 2000, for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request to the Administrator shall contain the information and statements required under § 591.6(f)(2) for a new importation for show or display. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

4. Effective Date

The final rule is effective 30 days after its publication in the **Federal Register**.

5. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This rule has not been reviewed under E.O. 12866. After considering the impacts of this rulemaking action, NHTSA has determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The only substantive change that this rule makes is to add an additional justification for importing motor vehicles without the need to comply with the Federal motor vehicle safety standards, and to require their importers to submit substantiating information similar to that already required for similar importations (see discussion below on Paperwork Reduction Act). The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this action does not have a significant economic impact upon ''a substantial number of small entities.'' The addition of an option to import a vehicle for ''show or display'' without the need to conform it relieves a previously existing restriction. Because the agency has permitted manufacturers of motor vehicles to import vehicles for purposes similar to ''show or display'' in the past, NHTSA believes that virtually all who wish to import a vehicle for ''show or display'' will be individuals. Individuals are not ''small entities.'' Governmental jurisdictions will be affected only to the extent that they must decide whether local laws permit the operation on local public roads of motor vehicles imported for show or display that do not conform to all applicable Federal motor vehicle safety standards, and this decision will not have a significant economic impact.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 ''Federalism'' and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported will not vary significantly from that existing before the promulgation of this rule.

E. Civil Justice Reform

This final rule does not have any retroactive effect.

F. Paperwork Reduction Act

The procedures in this rule to permit importation of motor vehicles and equipment not originally manufactured for the U.S. market include information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. The original information collection requirements of Part 591 were approved by the OMB pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. Sec. 3501 *et seq.*). NHTSA believes that the existing clearance covers a final rule that is based on implementing a statutory amendment, and has not sought a new or expanded clearance. This collection of information has been assigned OMB Control No. 2127–0002 (''Motor Vehicle Information'').

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule will not have an effect of $100 million, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 591

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 591 is amended as follows:

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER AND THEFT PREVENTION STANDARDS

1. The authority citation for part 591 is revised to read as follows:

Authority: 49 U.S.C. 322(a), 30114; Pub. L. 100–562, 102 Stat. 2824; Pub. L. 105–178, 112 Stat. 469; delegations of authority at 49 CFR 1.50 and 501.8.

2. Section 591.5 is amended by revising paragraph (j)(1) to read as follows:

§ 591.5 Declarations required for importation.

* * * * *

(j)(1) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety and bumper standards, but is being imported solely for the purpose of:

(i) Research;

(ii) Investigations;

(iii) Show or display;

(iv) Demonstrations or training; or

(v) Competitive racing events;

* * * * *

3. Section 591.6(f)(1) and (f)(2) are revised to read as follows:

§ 591.6 Documents accompanying declarations.

* * * * *

(f) * * *

(1) A declaration made pursuant to § 591.5(j)(1)(i), (ii), (iv), or (v) and (j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to § 591.5(j)(1)(i), (ii), (iv), or (v) and (j)(2)(i). Any person seeking to import a motor vehicle or motor vehicle equipment pursuant to these sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle or equipment, its make, model, model year or date of manufacture, VIN if a motor vehicle, and the specific purpose(s) of importation. The discussion of purpose(s) shall include a description of the use to be made of the vehicle or equipment. If use on the public roads is an integral part of the purpose for which the vehicle or equipment is imported, the statement shall request permission for use on the public roads, describing the purpose which makes such use necessary, and stating the estimated period of time

during which use of the vehicle or equipment on the public roads is necessary. The request shall also state the intended means of final disposition, and disposition date, of the vehicle or equipment after completion of the purposes for which it is imported. The request shall be addressed to Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

(2) A declaration made pursuant to § 591.5(j)(1)(iii) and (j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to § 591.5(j)(1)(iii) and (j)(2)(i). Any person seeking to import a motor vehicle or motor vehicle equipment pursuant to those sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the equipment item or the vehicle and its make, model, model year or date of manufacture, VIN, and mileage at the time the request is made. The importer's written request to the Administrator shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25 years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, a copy of an insurance policy or a contract to acquire an insurance policy, which contains as a condition thereof that the vehicle will not accumulate mileage of more than 2,500 miles in any 12-month period and a statement that the importer shall maintain such policy in effect until the vehicle is not less than 25 years old, a statement that the importer will allow the Administrator to inspect the vehicle at any time after its importation to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency.

* * * * *

4. Section 591.7 is amended by revising the first sentence of paragraph (c) and by revising paragraphs (d) and (e) to read as follows:

§ 591.7 Restrictions on importations.

* * * * *

(c) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j)(2)(i) shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize in writing. * * *

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation for on-road use under § 591.5(j), or a change of status under paragraph (e) of this section, including a failure to allow inspection upon request to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. Such a violation will also act to void the authorization and require the exportation of the vehicle. With respect to importations under § 591.6(f)(2) or a change of status to an importation for show or display as provided under paragraph (e) of this section, if the Administrator has reason to believe that a violation has occurred, the Administrator may tentatively conclude that a term of entry has been violated, but shall make no final conclusion until the importer or owner has been afforded an opportunity to present data, views, and arguments as to why there is no violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before February 14, 2000 for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request to the Administrator shall contain the information and statements required under § 591.6(f)(2) for a new importation for show or display. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

Issued on: July 8, 1999.

Kathleen C. DeMeter,

Acting Associate Administrator for Safety Assurance.

[FR Doc. 99–17806 Filed 7–13–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 052499C]

Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal Shark Species; Commercial Fishery Closure Change

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure change.

SUMMARY: NMFS changes the closure of the large coastal shark (LCS) commercial fishery in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. On June 7, 1999, NMFS announced in the *Federal Register* a closure date of July 12, 1999, for non-ridgeback LCS and a closure date of August 8, 1999, for ridgeback LCS. In a court order by Judge Stephen D. Merryday, the new regulations governing catch quotas and fish counting methods are enjoined until further order of the court. Therefore, based on 1997 and 1998 catch rates, NMFS has determined that the second semiannual subquota for LCS will be reached on or before July 28, 1999.

DATES: This postponement action is effective July 9, 1999. The closure for the commercial LCS fishery is changed to 11:30 p.m., local time, July 28, 1999, and will be in effect through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

On June 30, 1999, the NMFS received a Court Order from Judge Steven D. Merryday relative to the May, 1997 lawsuit challenging commercial harvest

quotas for Atlantic sharks. Specifically, the order states: '' * * * the Court hereby preliminarily, and until further order of the Court, expressly ENJOINS the defendant and his designees from enforcing the 1999 regulations, 64 Fed. Reg. 29090 (May, 28, 1999) with respect to Atlantic shark commercial catch quotas and fish-counting methods (including the counting of dead discards and state commercial landings after federal closures) that are different from the quotas and fish counting methods prescribed by the 1997 Atlantic shark regulations, 62 Fed. Reg. 16648 (April 7, 1997).'' Therefore, the LCS quota reverts to its 1997 level of 1,285 metric tons dressed weight (all species of LCS included), with no minimum size on ridgeback LCS, the pelagic and small coastal shark quotas also revert to their 1997 levels, the 1997 prohibited species list now applies in commercial fisheries only (five prohibited species: white, basking, whale, sand tiger and bigeye sand tiger). The limited access provisions do still apply, however, including trip limits for directed and incidental shark permit holders.

Based on projected catch rates, NMFS had previously announced commercial closure dates of July 12, 1999, for non-ridgeback LCS and August 8, 1999, for ridgeback LCS (see Table 1(a) of appendix A to part 635) for the 1999 second semiannual season for LCS in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea (64 FR 30248, June 7, 1999).

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a directed or incidental limited access permit under § 635.4. After 11:30 p.m. local time July 28, 1999, the sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under § 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

Commercial fishing for pelagic and small coastal sharks may continue until further notice. When quotas are projected to be reached, the Assistant Administrator will file notification of closure at the Office of the Federal Register. Those vessels that have not been issued a limited access permit under § 635.4 may not sell sharks and are subject to the recreational retention limits and size limits specified at §§ 635.22(c) and 635.20(d). The recreational fishery is not affected by this action.

Classification

This action is taken under 50 CFR part 635 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 8, 1999

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17925 Filed 7–9–99; 4:41 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 070999B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1999 TAC of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska was established by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) as 6,760 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC of Pacific ocean perch has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,760 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of Pacific ocean perch for the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 9, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17923 Filed 7–9–99; 4:41 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 070999A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

Table 2 of the Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the 1999 Initial TAC of Pacific ocean perch for the Eastern Aleutian District as 3,173 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC of Pacific ocean perch in the Eastern Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,973 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 9, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17924 Filed 7–9–99; 4:41 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 134
Wednesday, July 14, 1999

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

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–99–004]

RIN 0581–AB54

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges need to be increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

DATES: Comments must be received on or before August 13, 1999.

ADDRESSES: Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, room 3944-South, 1400 Independence Avenue, SW, Washington, DC 20250–0259. Comments may be faxed to (202) 690–0941.

State that your comments refer to Docket No. PY–99–004 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, (202) 720–3271.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

B. Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Without a fee increase, FY 2000 revenues for grading services are projected at $22.0 million, costs are projected at $23.4 million, and trust fund balances would be $9.3 million. With a fee increase, FY 2000 revenues are projected at $23.1 million, costs are projected at $23.4 million, and trust fund balances would be $10.5 million.

This action would raise the fees charged to users of grading services. The AMS estimates that overall, this rule would yield an additional $1.1 million during FY 2000. The hourly resident rate for grading services will increase by approximately 4.2 percent, while the hourly rates for fee (nonresident) and appeal grading services will increase by approximately 8.0 percent. The costs to entities will be proportional to their use of service, so that costs are shared equitably by all users. The impact of these rate changes in a poultry plant would range from less than 0.003 to 0.05 cents per pound of poultry handled. In a shell egg plant, the range would be less than 0.04 to 0.4 cents per dozen eggs handled.

C. Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

D. Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Background and Proposed Changes

The Agricultural Marketing Act (AMA) of 1946 authorizes official voluntary grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered.

The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This action would amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with them.

A recent review of the current fee schedule, effective October 1, 1998, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, FY 2000 revenues for grading services are projected at $22.0 million, costs are projected at $23.4 million, and trust fund balances would be $9.3 million. With a fee increase, FY 2000 revenues are projected at $23.1 million, costs are projected at $23.4 million, and trust fund balances would be $10.5 million.

Employee salaries and benefits account for approximately 81 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.54 to 4.02 percent, depending on locality, became effective in January 1999 and has

materially affected program costs. Another general and locality salary increase estimated at 4.4 percent is expected in January 2000. Also, from October 1998 through September 2000, salaries and fringe benefits of federally licensed State employees will have increased by about 6 percent.

The impact of these cost increases was separately determined for resident grading service and fee grading service. To offset projected cost increases for resident grading service, the resident hourly rate would be increased by approximately 4.2 percent. This hourly rate covers graders' salaries and benefits. Administrative volume charges that cover the cost of supervision for this service would also be increased as shown in the table below. To offset projected cost increases for fee and appeal grading services, those rates would be increased by approximately 8.0 percent. The rate for fee service covers graders' salaries and benefits, and the cost of travel and supervision. The rate for an appeal grading or review of a grader's decision covers the time required to perform such service. Appeal gradings are only done occasionally and account for less than $5,000 revenue annually.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

Service	Current	Proposed
Resident Service (egg, poultry, rabbit grading):		
Inauguration of service	310	310
Hourly charges—Regular hours	27.64	28.80
Administrative charges—Poultry grading Per pound of poultry	.00034	.00035
Minimum per month	225	225
Maximum per month	2,500	2,625
Administrative charges—Shell egg grading Per 30-dozen case of shell eggs	.040	.044
Minimum per month	225	225
Maximum per month	2,500	2,625
Administrative charges—Rabbit grading; Based on 25 % of grader's salary, minimum per month	250	260
Nonresident Service (egg, poultry grading):		
Hourly charges—Regular hours	27.64	28.80
Administrative charges—Based on 25% of grader's salary, Minimum per month	250	260
Fee and Appeal Service (egg, poultry, rabbit grading):		
Hourly charges—Regular hours	44.80	48.40
Weekend and holiday hours	51.60	55.76

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that Title 7, Code of Federal Regulations, parts 56 and 70 be amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 56.46 is revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $48.40 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $55.76 per hour. Information on legal holidays is available from the Supervisor.

3. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.044, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,625. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

4. In § 56.54, paragraph (a)(2) is revised to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $260 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

5. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

6. Section 70.71 is revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook

rabbits, or specified poultry food products are involved. The hourly charge shall be $48.40 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $55.76 per hour. Information on legal holidays is available from the Supervisor.

7. In § 70.76, paragraph (a)(2) is revised to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $260 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

8. In § 70.77, paragraphs (a)(4) and (a)(5) are revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00035, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,625. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $260 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: July 9, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–18039 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. FV99–924–1 PR]

Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate from $1.00 to $1.50 per ton of fresh prunes established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) under Marketing Order No. 924 for the 1999–2000 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. Authorization to assess fresh prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1999–2000 fiscal period began April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 13, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders 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) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 924, as amended (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, hereinafter referred to as the ''order.'' The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington-Oregon fresh prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable fresh prunes beginning April 1, 1999, and continue until modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $1.00 to $1.50 per ton of fresh prunes handled.

The Washington-Oregon fresh prune marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members and three handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $1.00 per ton that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 27, 1999, and unanimously recommended 1999–2000 expenditures of $7,630 and an assessment rate of $1.50 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were $7,003. The assessment rate of $1.50 is $0.50 higher than the rate currently in effect. The Committee recommended an increased assessment rate because assessable 1999–2000 tonnage is expected to be smaller than the 5-year average of 4,985 tons, and the current rate would not generate enough income to adequately administer the program. The Committee also plans on hiring an additional part-time staff person which would increase its salary expense.

Major expenses recommended by the Committee for the 1999–2000 fiscal period include $3,560 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 1998–99 were $2,880, $1,000, $528, and $475, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington-Oregon fresh prunes. Fresh prune shipments for the year are estimated at 4,600 tons, which should provide $6,900 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (currently $6,013) would be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 100 producers of fresh prunes in the production area and approximately 12 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Currently, all of the Washington-Oregon fresh prune handlers ship under $5,000,000 worth of fresh prunes. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, the average annual producer revenue is approximately $21,000. In view of the foregoing, it can be concluded that the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $1.00 to $1.50 per ton of fresh prunes handled. The Committee met on May 27, 1999, and unanimously recommended 1999–2000 expenditures of $7,630 and an assessment rate of $1.50 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were $7,003. The assessment rate of $1.50 is $0.50 more than the rate currently in effect. The Committee recommended an increased assessment rate because assessable 1999–2000 tonnage is expected to be smaller than the 5-year average of 4,985 tons, and the current rate would not generate enough income to adequately administer the program. The Committee also plans on hiring an additional part-time staff person which would increase its salary expense.

Major expenses recommended by the Committee for the 1999–2000 fiscal period include $3,560 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 1998–99 were $2,880, $1,000, $528, and $475, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes. Fresh prune shipments for the year are estimated at 4,600 tons, which should provide $6,900 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. The reserve is within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The Committee considered alternative levels of assessment but determined that, with the reduced estimate of assessable tonnage, increasing the assessment rate to $1.50 per ton would be appropriate. The Committee decided that an assessment rate of more than

$1.50 per ton would generate income in excess of that needed to adequately administer the program.

A review of historical information and preliminary information pertaining to the upcoming crop indicates that the producer price for the 1999–2000 marketing season could range between $200 and $500 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue should range between 0.30 and 0.75 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 27, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on April 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh prunes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 924 is proposed to be amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

1. The authority citation for 7 CFR part 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 924.236 is revised to read as follows:

§ 924.236 Assessment rate.

On and after April 1, 1999, an assessment rate of $1.50 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: July 7, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–17891 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV99–948–1 PR]

Irish Potatoes Grown in Colorado; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate from $0.01 to $0.02 per hundredweight of potatoes established for the Colorado Potato Administrative Committee, Area III (Committee) under Marketing Order No. 948 for the 1999–2000 and subsequent fiscal periods handled. The Committee is responsible for local administration of the marketing order which regulates the handling of potatoes grown in Colorado. Authorization to assess Colorado potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1999–2000 fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 13, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR Part 948], both as amended, regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such

assessments. It is intended that the assessment rate proposed herein will be applicable to all assessable potatoes beginning on July 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.01 per hundredweight to $0.02 per hundredweight of potatoes handled.

The Colorado potato order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of five producer members and four handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate.

The current assessment rate of $.01 per hundredweight was recommended by the Committee and approved by the Department for the 1996–97 and subsequent fiscal periods. That rate continues in effect until modified, suspended, or terminated by the Secretary, upon recommendation and information submitted by the Committee, or other information available to the Secretary.

A meeting of the Committee was scheduled for May 13, 1999, to review the current assessment rate and budget needs of the program for the 1999–2000 fiscal period. However, a quorum was not present. Based upon discussion among those Committee members who showed up for the meeting, the manager of the Committee prepared information and voting material that was sent by facsimile copy (fax) to Committee members and alternates. Voting by telegraph, telephone, or other means of communication is provided for in paragraph (c) of § 948.61 Procedure, of the marketing order. Seven members subsequently faxed completed votes back to the manager during the voting period May 14 through May 19, 1999. Thus, a fax vote was used to determined the Committee's level of support for an increased rate of assessment and to establish an operating budget for the 1999–2000 fiscal period. Those voting confirmed their votes at the next scheduled Committee meeting June 20, 1999.

Based on the fax vote, the Committee approved an assessment rate of $0.02 per hundredweight of potatoes handled during the 1999–2000 and subsequent fiscal periods. This is a $0.01 increase over the rate currently in effect. The increased assessment rate is recommended because the current rate of $.01 would not generate enough income to adequately administer the program, given the projected short crop for 1999. The assessment rate increase is based on the 1999–2000 crop estimate, the 1999–2000 fiscal period expenditures estimate, and the current and projected balance of the operating reserve.

The Area III assessable potato crop for 1999–2000 is estimated to be approximately 792,000 hundredweight. This is about 380,000 hundredweight less than the assessed crop of 1998–99 due to a reduction in the acreage planted this season. The increased assessment would ensure that the operating reserve is not depleted at the end of the 1999–2000 fiscal period because of the projected short crop.

The increased assessment rate of $.02 per hundredweight should provide $15,840 in assessment income, (792,000 hundredweight × $.02). This amount would be supplemented with $3,000 interest income, $1,500 rental income from the sublease of office space to the State Inspection Service, and $4,110 from the operating reserve. These income sources would total $24,450, which is the same as the 1999–2000 budget recommended by the Committee by a vote of 6 in favor and 1 opposed. The recommended budget is $1,603 less than the 1998–99 budget of $26,053. Because of fax voting, the reason for the one negative budget vote is not known.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $10,500 for the manager's salary, $3,000 for rent, and $2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were $11,500, $3,000, and $2,000, respectively.

The Committee estimates it will have approximately $38,245 in its operating reserve at the end of the current fiscal period. This should be adequate to cover any income shortages for the current fiscal period. This amount is within the maximum permitted by the order of approximately two fiscal periods' expenditures (§ 948.78).

The proposed assessment rate of $.02 would continue in effect for the 2000–2001 and subsequent fiscal periods unless modified, suspended, or terminated by the Secretary, based on recommendation and information submitted by the Committee, or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary.

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

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

There are approximately 17 handlers of Colorado Area III potatoes who are subject to regulation under the order and approximately 60 potato producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than

$5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of Colorado Area III potato handlers and producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.01 per hundredweight to $0.02 per hundredweight of potatoes handled. The $0.02 assessment rate was approved by all seven of the Committee members who cast votes during a fax vote held between May 14 and May 19, 1999. The proposed assessment rate is $0.01 greater than the rate currently in effect. The Committee recommended the increased assessment rate because the current rate would not generate enough income to adequately administer the program. The anticipated fresh potato crop of 792,000 hundredweight is approximately 380,000 hundredweight less than the 1998–99 crop. The $0.02 rate should provide $15,840 in assessment income, which, when combined with interest income of $3,000, rental income of $1,500 from the sublease of office space to the State Inspection Service, and $4,110 from the operating reserve, would be adequate to meet the 1999–2000 fiscal period's budgeted expenses.

In a fax vote of six in favor and one opposed, the Committee recommended 1999–2000 expenditures of $24,450, which is $1,603 less than last year's budgeted expenses. Prior to recommending this budget, the Committee considered historical income and expenses, current income and expense levels, the 1999–2000 estimated crop production, current and projected operating reserve levels, and input from the Committee officers. The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $10,500 for the manager's salary, $3,000 for rent, and $2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were $11,500, $3,000, and $2,000, respectively.

A review of historical data and preliminary information pertaining to the upcoming season indicates that the price to producers for the 1999–2000 Colorado Area III potato season could average $5.30 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period ($0.02 × 792,000 cwt = $15,840) as a percentage of the projected total revenue at the farm gate ($5.30 × 792,000 cwt = $4,197,600) would be 0.37 percent. This figure indicates that the $0.02 assessment rate recommended by the Committee would have an insignificant impact on the Colorado potato industry.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Colorado potato 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 13, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1999–2000 fiscal period began on July 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; and (3) handlers are aware of this action which is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 948

Potatoes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 948.215 is revised to read as follows:

§ 948.215 Assessment rate.

On and after July 1, 1999, an assessment rate of $0.02 per hundredweight is established for Colorado Area III potatoes.

Dated: July 8, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–17892 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138 and 1139

[DA–97–12]

Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; Correction.

7 CFR part	Marketing area
1000	General Provisions of Federal Milk Marketing Orders.
1001	New England.
1002	New York-New Jersey.
1004	Middle Atlantic.
1005	Carolina.
1006	Upper Florida.
1007	Southeast.
1012	Tampa Bay.
1013	Southeastern Florida.
1030	Chicago Regional.
1032	Southern Illinois-Eastern Missouri.
1033	Ohio Valley.
1036	Eastern Ohio-Western Pennsylvania.
1040	Southern Michigan.
1044	Michigan Upper Peninsula.
1046	Louisville-Lexington-Evansville.
1049	Indiana.
1050	Central Illinois.
1064	Greater Kansas City.
1065	Nebraska-Western Iowa.
1068	Upper Midwest.
1076	Eastern South Dakota.
1079	Iowa.
1106	Southwest Plains.
1124	Pacific Northwest.
1126	Texas.
1131	Central Arizona.
1134	Western Colorado.

7 CFR part	Marketing area
1135	Southwestern Idaho-Eastern Oregon.
1137	Eastern Colorado.
1138	New Mexico-West Texas.
1139	Great Basin.

SUMMARY: The Agricultural Marketing Service (AMS), USDA, published in the **Federal Register** of April 2, 1999, a final decision that consolidated the current 31 Federal milk orders into 11 orders to comply with the 1996 Farm Bill and made other order changes. Inadvertent errors and omissions were made in the supplementary information and in the regulatory text. This document makes corrections to the final decision. These corrections do not change the conclusions contained in the final decision and do not substantively alter the regulatory provisions.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Branch Chief, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274, e-mail address John.Borovies@usda.gov.

Corrections

In the final decision published on April 2, 1999 (FR Doc. 99–6547), beginning on page 16026, the following corrections are made in the supplementary information and regulatory text sections. The corrections do not change the conclusions contained in the final decision and do not substantively alter the regulatory provisions. The corrections are being made for several reasons. First, the corrections more accurately reflect the results of the USDA multi-regional economic model. Second, the corrections provide conformity throughout the supplementary information and regulatory text sections. And third, corrections are made to include information inadvertently omitted.

In the supplementary information section of the final decision 28 corrections are made. Eighteen corrections (corrections numbered 1–10, 12–16, 20, and 25–26) are made in connection with the USDA multi-regional dairy sector economic model results. The model quantitatively examined the impacts of the changes under consideration in the classified pricing of milk and dairy products in the milk order system. These were discussed in the supplementary information of the final decision. Inadvertently, the model results contained a pricing point data-entry error. Correction of this error results in minor changes in the results. These corrections do not alter conclusions contained in the final decision. A detailed description of the model is contained in the final decision (64 FR 16110) and in the Regulatory Impact Analysis.

The remaining corrections are as follows: two corrections (corrections numbered 11 and 28) are made to conform the supplementary information to the regulatory text and two corrections (corrections numbered 17 and 18) are made to correct mathematical errors. Three corrections (corrections numbered 21, 23, and 24) are made for the following reasons:

Correction 21 changes the last sentence on page 16099, first column, third paragraph of the final decision, which explains the modification of the protein price calculation in the final decision to incorporate the additional value of butterfat in cheese with the protein price. The final decision differed from the proposal in that valuation of total nitrogen protein was changed to valuation of true protein. However, the description of the factors used to compute the resulting ratio was inadvertently not changed from that contained in the proposal. The sentence is in error and is being corrected to accurately reflect the method of calculating the ratio.

Correction 23 removes the words ''in several counties'' in reference to the Northeast because there are more than several counties, and adds counties inadvertently omitted.

Correction 24 (which adds a table) is made for the purpose of clarifying the discussion in the final decision of the 1A pricing option differential levels. The decision indicates that changes to the 1A price surface were made, but those changes were not specifically identified. The table lists the changes in detail for purposes of clarification.

One correction (correction numbered 22) clarifies the data used in the model, and two corrections (corrections numbered 19 and 27) are made to correct typographical errors. These corrections and additions do not impact the conclusions contained in the final decision but are provided for clarification purposes.

In the regulatory text of the final decision, 27 corrections are made. Eight corrections (corrections numbered 7, 8, 10, 12, 14, 16, 17, and 19) are made as a result of typographical errors. Eleven corrections (corrections numbered 4, 6, 11, 15, 18, 20–24, and 26) are made to clarify a price computation procedure used in each order. This clarification does not change the price computation in the final decision but more fully explains a step in the price calculation of each order. Six corrections (corrections numbered 1, 3, 5, 9, 13, and 25) add a clarifying word or phrase that was inadvertently omitted. One correction (correction number 2) removes obsolete language which should have been deleted. A final correction is made to the authority citations for each Part (correction numbered 27) to add to the citations a reference to 7 U.S.C. 7253. These corrections do not make any substantive changes to the regulatory text.

Accordingly, for the reasons stated in the preamble, the final decision published on April 2, 1999 (FR Doc. 99–6547) at 64 FR 16026 is corrected as follows:

Supplementary Information Corrections

The corrections to the **SUPPLEMENTARY INFORMATION** of this document are:

1. The fourth and fifth columns of the table on page 16032 should be corrected to read as follows (the numbers followed by an * are corrected):

Final decision	Modified option 1B
−0.29	−0.69
−0.19	−0.49
−0.15*	−0.38
−0.02	−0.10
0.00	−0.05
8.0*	−131.1*
14.8*	−91.2*
42.1*	106.8*
37.8*	99.0*
−2.8*	−128.7*
3.2*	−90.1*
−0.02	−0.04
−80.4*	−215.6*
−79.3*	−209.9*
77.6*	86.9*
82.5	119.8

2. On page 16032, second column, second paragraph, $0.50 is corrected to read $0.56.

3. On page 16032, second column, third paragraph, $222.3 is corrected to read $222.0.

4. On page 16032, third column, first paragraph, $2.5 is corrected to read $2.8.

5. On page 16032, third column, second paragraph, 14 is corrected to read 13 and 17 is corrected to read 18.

6. On page 16033, first column, fourth paragraph, $0.61 is corrected to read $0.66 and $128.4 is corrected to read $128.7.

7. On page 16033, second column, second paragraph, 106.7 is corrected to read 106.8.

8. On page 16040, first column, fifth paragraph, Five is corrected to read Four.

9. On page 16040, second column, second paragraph, 5 is corrected to read 4.

10. On page 16041, first column, second paragraph, 17 is corrected to read 18, $0.04 is corrected to read $0.02, Ohio Valley is corrected to read Greater Kansas City, 14 is corrected to read 13, $0.08 is corrected to read $0.10, and Greater Kansas City is corrected to read Eastern South Dakota and Indiana.

11. On page 16041, second column, second paragraph, the words ''all-metal'' are removed.

12. On page 16041, third column, first paragraph, $0.50 is corrected to read $0.56, $222.3 is corrected to read $222.0, and $2.5 is corrected to read $2.8.

13. On page 16041, third column, second paragraph, 209 is corrected to read 206, 74 is corrected to read 73, $0.04 is corrected to read $0.02, 69 is corrected to read 72, 22 is corrected to read 23, and $0.08 is corrected to read $0.10.

14. On page 16041, third column, third paragraph, −$0.61 is corrected to read −$0.66, and $100 is corrected to read $128.7.

15. On page 16042, first column, first paragraph, 98.8 is corrected to read 99.0.

16. On page 16042, first column, fourth paragraph, $482.1 million is corrected to read $104.9 million with adjustments and .02 is corrected to read .01.

17. On page 16051, Table 1 is corrected by changing the total in the column headed ''Producer milk'' from 7,756,390 to 8,268,876.

18. On page 16052, Table 2 is corrected by changing the total in the column headed ''Manufacturing and supply plants'' from 669 to 658.

19. On pages 16097 and 16098, all references to $0.015 or $.015 are corrected to read $0.0015.

20. On page 16098, first column, third paragraph, fourteen is corrected to read fifteen.

21. On page 16099, first column, third paragraph, the last sentence is corrected to read as follows: ''The ratio of butterfat to protein, 1:1.28 is calculated from the protein and butterfat content of cheese (25.8 percent protein and 33.1 percent butterfat).''

22. On page 16108, second column, third paragraph, the last sentence is corrected to read as follows: ''The model uses data from May and October 1995.''

23. On page 16110, second column, second paragraph, the second sentence is corrected to read as follows: ''The changes only involved adjusting certain county specific differentials to provide for more appropriate price alignment in the northeast, seven counties in Florida, one county in North Carolina, one county in Georgia, and two counties in South Carolina.''

24. On page 16110, second column, at the end of the second paragraph add the following table:

FINAL DECISION OPTION 1A DIFFERENTIALS AND CHANGES FROM THE PROPOSED RULE

County/parish/city	State	FIPS __ code	Final decision 1A class I differential adjusted for	Change from proposed 1A differential
FAIRFIELD	CT	09001	3.15	0.05
HARTFORD	CT	09003	3.15	0.05
MIDDLESEX	CT	09007	3.15	0.05
NEW HAVEN	CT	09009	3.15	0.05
NEW LONDON	CT	09011	3.15	0.05
TOLLAND	CT	09013	3.15	0.05
WINDHAM	CT	09015	3.15	0.05
KENT	DE	10001	3.05	0.05
NEW CASTLE	DE	10003	3.05	0.05
SUSSEX	DE	10005	3.05	0.05
DE SOTO	FL	12027	4.00	−0.30
HARDEE	FL	12049	4.00	−0.30
HIGHLANDS	FL	12055	4.00	−0.30
MANATEE	FL	12081	4.00	−0.30
OKEECHOBEE	FL	12093	4.00	−0.30
SARASOTA	FL	12115	4.00	−0.30
ST. LUCIE	FL	12111	4.00	−0.30
MCINTOSH	GA	13191	3.45	0.15
CARROLL	MD	24013	2.90	0.10
CECIL	MD	24015	3.05	0.05
FREDERICK	MD	24021	2.90	0.10
WASHINGTON	NC	37187	3.20	−0.10
ATLANTIC	NJ	34001	3.05	0.05
BURLINGTON	NJ	34005	3.05	0.05
CAMDEN	NJ	34007	3.05	0.05
CAPE MAY	NJ	34009	3.05	0.05
CUMBERLAND	NJ	34011	3.05	0.05
GLOUCESTER	NJ	34015	3.05	0.05
SALEM	NJ	34033	3.05	0.05
ALBANY	NY	36001	2.70	0.10
BROOME	NY	36007	2.70	0.10
CHEMUNG	NY	36015	2.50	0.10
CHENANGO	NY	36017	2.50	0.10
CLINTON	NY	36019	2.30	0.10
COLUMBIA	NY	36021	2.70	−0.10
CORTLAND	NY	36023	2.50	0.10
DELAWARE	NY	36025	2.70	0.10
ESSEX	NY	36031	2.30	−0.10
FRANKLIN	NY	36033	2.30	0.10
FULTON	NY	36035	2.50	−0.10

FINAL DECISION OPTION 1A DIFFERENTIALS AND CHANGES FROM THE PROPOSED RULE—Continued

County/parish/city	State	FIPS __ code	Final decision 1A class I differential adjusted for	Change from proposed 1A differential
GREENE	NY	36039	2.70	0.10
HAMILTON	NY	36041	2.50	0.10
HERKIMER	NY	36043	2.50	0.10
JEFFERSON	NY	36045	2.30	0.10
LEWIS	NY	36049	2.30	0.10
MADISON	NY	36053	2.50	0.10
MONTGOMERY	NY	36057	2.70	0.10
ONEIDA	NY	36065	2.50	0.10
ONONDAGA	NY	36067	2.50	0.10
OTSEGO	NY	36077	2.50	−0.10
RENSSELAER	NY	36083	2.70	0.10
SARATOGA	NY	36091	2.70	0.10
SCHENECTADY	NY	36093	2.70	0.10
SCHOHARIE	NY	36095	2.70	0.10
ST. LAWRENCE	NY	36089	2.30	0.10
TIOGA	NY	36107	2.50	0.10
TOMPKINS	NY	36109	2.50	0.10
WARREN	NY	36113	2.50	−0.10
BRADFORD	PA	42015	2.50	0.10
BUCKS	PA	42017	3.05	0.05
CENTRE	PA	42027	2.50	0.20
CHESTER	PA	42029	3.05	0.05
CLINTON	PA	42035	2.50	0.20
COLUMBIA	PA	42037	2.70	0.10
DELAWARE	PA	42045	3.05	0.05
FULTON	PA	42057	2.70	0.10
JUNIATA	PA	42067	2.70	0.10
LACKAWANNA	PA	42069	2.70	0.10
LANCASTER	PA	42071	2.90	0.10
LUZERNE	PA	42079	2.70	0.10
LYCOMING	PA	42081	2.50	−0.10
MIFFLIN	PA	42087	2.70	0.10
MONTGOMERY	PA	42091	3.05	0.05
MONTOUR	PA	42093	2.70	0.10
NORTHUMBERLAND	PA	42097	2.70	0.10
PERRY	PA	42099	2.70	0.10
PHILADELPHIA	PA	42101	3.05	0.05
POTTER	PA	42105	2.50	0.20
SNYDER	PA	42109	2.70	0.10
SULLIVAN	PA	42113	2.50	−0.10
SUSQUEHANNA	PA	42115	2.50	−0.10
TIOGA	PA	42117	2.50	0.20
UNION	PA	42119	2.70	0.10
WAYNE	PA	42127	2.70	0.10
WYOMING	PA	42131	2.50	−0.10
MARION	SC	45067	3.30	0.20
MCCORMICK	SC	45065	3.10	−0.20
YORK	PA	42133	2.90	0.10
CHITTENDEN	VT	50007	2.50	−0.10
ESSEX	VT	50009	2.40	−0.20
LAMOILLE	VT	50015	2.50	−0.10
WINDSOR	VT	50027	2.80	0.20

25. On page 16114, second column, third paragraph, 4 is corrected to read 2, Ohio Valley is corrected to read Greater Kansas City, 8 is corrected to read 10, and Greater Kansas City is corrected to read Eastern South Dakota and Indiana.

26. On page 16114, third column, first paragraph, 8.3 is corrected to read 1,556.6.

27. On page 16115, second column, first paragraph, ''support USDA of'' is corrected to read ''supporters of'.

28. On page 16152, first column, first paragraph, lines 3 and 4 are corrected by removing the words ''by up to 10 percentage points''.

Regulatory Text Corrections

The corrections to the regulatory text of this document are:

1. On page 16178, second column, in § 1000.50, paragraph (q)(1)(i) is corrected by adding the words ''2 most recent'' before the word ''NASS'' to read as follows:

§ 1000.50 Class prices, component prices, and advanced pricing factors.

* * * * *

(q) * * *

(1) * * *

(i) Following the procedure set forth in paragraphs (n) and (o) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month, compute a protein price and an other solids price;

* * * * *

2. On page 16223, third column, Subpart J-Miscellaneous Provisions, § 1000.90 is corrected by removing the words ''or announcement'' after the word ''payment'' to read as follows:

Subpart J—Miscellaneous Provisions

§ 1000.90 Dates.

If a date required for a payment contained in a Federal milk order falls on a Saturday, Sunday, or national holiday, such payment will be due on the next day that the market administrator's office is open for public business.

3. On page 16224, third column, in § 1001.4, paragraph (b)(2) is corrected by adding the words ''the removal of water from milk; or'' at the end of the paragraph to read as follows:

§ 1001.4 Plant.

* * * * *

(b) * * *

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim milk or the removal of water from milk; or * * * * *

4. On page 16228, second column, in § 1001.61, paragraph (c) is corrected to read as follows:

§ 1001.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1001.75.

* * * * *

5. On page 16231, first column, in § 1005.7, the first sentence of paragraph (a), paragraph (b), and the first sentence of paragraph (c) are corrected by adding the word ''physically'' before the word ''received'' to read as follows:

§ 1005.7 Pool plant.

* * * * *

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 50 percent or more of the fluid milk products physically received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. * * *

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 50 percent or more of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. * * *

* * * * *

6. On page 16234, first column, in § 1005.61, paragraph (b)(2) is corrected to read as follows:

§ 1005.61 Computation of uniform prices.

* * * * *

(b) * * *

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1005.75.

* * * * *

§ 1005.62 [Corrected]

7. On page 16234, § 1005.62 appears twice. The second appearance of § 1005.62 titled ''Announcement of uniform price, uniform butterfat price and uniform skim milk price'' at the top of the second column is removed.

§ 1005.75 [Corrected]

8. On page 16235, second column, in § 1005.75 the reference to § 1005.50 is corrected to read § 1005.51.

9. On page 16237, second column, in § 1006.7, the first sentence of paragraph (a), paragraph (b), and the first sentence of paragraph (c) are corrected by adding the word ''physically'' before the word ''received'' to read as follows:

§ 1006.7 Pool plant.

* * * * *

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 50 percent or more of the fluid milk products physically received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. * * *

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 60 percent or more of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. * * *

* * * * *

10. On page 16240, first column, in § 1006.61, paragraph (b)(1) the reference to § 1005.60 is corrected to read § 1006.60.

11. On page 16240, first column, in § 1006.61, paragraph (b)(2) is corrected to read as follows:

§ 1006.61 Computation of uniform prices.

* * * * *

(b) * * *

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1006.75.

* * * * *

§ 1006.75 [Corrected]

12. On page 16241, third column, in § 1006.75 the reference to § 1006.50 is corrected to read § 1006.51.

13. On page 16242, third column, in § 1007.7, the first sentence of paragraph (a), paragraph (b), and the first sentence of paragraph (c) are corrected by adding the word ''physically'' before the word ''received'' to read as follows:

§ 1007.7 Pool plant.

* * * * *

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 50 percent or more of the fluid milk products physically received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. * * *

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 50 percent or more of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. * * *

* * * * *

14. On page 16245, second column, in § 1007.61 paragraph(b)(1) the reference to § 1005.60 is corrected to read § 1007.60.

15. On page 16245, second column, in § 1007.61, paragraph (b)(2) is corrected to read as follows:

§ 1007.61 Computation of uniform prices.

* * * * *

(b) * * *

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1007.75.

* * * * *

§ 1007.75 [Corrected]

16. On page 16246, third column, in § 1007.75 the reference to § 1007.50 is corrected to read § 1007.51.

17. On page 16250, second column, in § 1030.10, paragraph (a) is corrected by adding the word ''area'' after the word ''marketing'' to read as follows:

§ 1030.10 Producer-handler.

* * * * *

(a) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area during the month;

* * * * *

18. On page 16253, first column, in § 1030.61, paragraph (c) is corrected to read as follows:

§ 1030.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1030.75.

* * * * *

§ 1032.2 [Corrected]

19. On page 16255, second column, in § 1032.2, subheading ''Colorado Counties'', the word ''Freemont'' is corrected to read ''Fremont''.

20. On page 16259, third column, in § 1032.61, paragraph (c) is corrected to read as follows:

§ 1032.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1032.75.

* * * * *

21. On page 16266, second column, in § 1033.61, paragraph (c) is corrected to read as follows:

§ 1033.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1033.75.

* * * * *

22. On page 16273, first column, in § 1124.61, paragraph (c) is corrected to read as follows:

§ 1124.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1124.75.

* * * * *

23. On page 16278, third column, in § 1126.61, paragraph (c) is corrected to read as follows:

§ 1126.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1126.75.

* * * * *

24. On page 16284, first column, in § 1131.61, paragraph (b)(2) is corrected to read as follows:

§ 1131.61 Computation of uniform prices.

* * * * *

(b) * * *

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75.

* * * * *

25. On page 16289, third column, in § 1135.60, paragraph (h) is corrected by adding the phrase ''and the corresponding step of § 1000.44(b)'' after the reference to § 1000.44(a)(3)(i) to read as follows:

§ 1135.60 Handler's value of milk.

* * * * *

(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

* * * * *

26. On page 16290, first column, in § 1135.61, paragraph (c) is corrected to read as follows:

§ 1135.61 Computation of producer price differential.

* * * * *

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1135.75.

* * * * *

27. The authority citations for 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131 and 1135 are corrected to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

Dated: July 8, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–17893 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–12–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 94 and 96

[Docket No. 95–027–1]

Importation of Pork and Pork Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations concerning the importation of pork and pork products into the United States. Specifically, we propose to allow pork that originates in a region

where African swine fever exists to be imported into the United States if it has been heated to an internal temperature of at least 69 °C after the bones have been removed. We also propose to provide an alternative, dry heat processing method for pork from regions where swine vesicular disease exists. In addition, we propose to make other minor amendments to the regulations for importing pork and pork products from regions where African swine fever, swine vesicular disease, or hog cholera exists. These proposed changes would relieve some restrictions on the importation of pork and pork products from regions where these diseases exist without presenting a significant risk of introducing African swine fever, hog cholera, or swine vesicular disease into the United States.

DATES: We invite you to comment on this docket. We will consider comments that we receive by September 13, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 95–027–1, 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. 95–027–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Masoud A. Malik, Senior Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–7834.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction of various animal diseases, including foot-and-mouth disease, rinderpest, African swine fever (ASF), hog cholera (HC), and swine vesicular disease (SVD), into the United States. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations restricts the importation of pork and pork products into the United States from regions in which ASF exists or is reasonably believed to exist (ASF regions). Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from regions where HC is known to exist (HC regions). Section 94.12 of the regulations restricts the importation into the United States of pork and pork products from regions where SVD is known to exist (SVD regions).

Pork From an ASF Region

Pork and pork products from an ASF region must be processed as specified in the regulations to be eligible for entry into the United States. One of the options for processing pork and pork products in an ASF region is that the bones must be removed and then the pork or pork product heated, by a method other than flash heating, to an internal temperature of at least 69 °C. (156 °F.) throughout. To qualify for this option, the pork or pork products must have originated from swine raised and slaughtered in a region free of ASF. Research [1] has shown that heating the pork or pork products to an internal temperature of at least 69 °C. after bone removal is sufficient, by itself, to destroy the virus that causes ASF. Therefore, we propose to remove the requirement that the pork or pork products originate from swine from an ASF-free region.

Section 94.8 includes several requirements related to the requirement we are proposing to remove. These include requirements that the pork be shipped to the processing facility in the ASF region in a sealed container and accompanied by a certificate of origin. These requirements would not be necessary if we no longer require the pork or pork products to come from swine that originated in an ASF-free region. Therefore, we propose to remove these requirements.

Section 94.8 also contains a number of requirements related to the processing establishment in the ASF region where the pork or pork products are to be heated. Several of these requirements also relate to the origin requirement we are proposing to remove.

Paragraph (a)(3)(iv)(A) of § 94.8 specifies that the processing establishment may not receive or process any live swine, may only use pork or pork products that originate in an ASF-free region, and must process pork or pork products only in accordance with our regulations. In other words, the processing establishment must be a facility dedicated to processing pork or pork products that meet the requirements for export to the United States. These requirements were intended to ensure that the pork or pork products from ASF-free regions would not be contaminated with the ASF virus during processing.

We propose to remove the requirements that the processing establishment may not receive or process any live swine and may only use pork or pork products that originate in an ASF-free region. We propose to replace these restrictions with requirements that the processing establishment take certain steps, explained below, to ensure that the processed pork or pork products are not contaminated after processing and prior to being exported to the United States. As long as the pork or pork products eligible for export to the United States are protected from being contaminated with the ASF virus, the processing establishment could receive and process live swine and would not be limited to processing pork and pork products from ASF-free regions. The processing establishment would not have to be a dedicated facility.

Specifically, we propose to require that all areas, utensils, and equipment likely to contact the pork or pork products to be processed, including skinning, deboning, cutting, and packing areas, and related utensils and equipment, be cleaned and disinfected after processing pork or pork products not eligible for export to the United States and before pork or pork products eligible for export to the United States. We also propose to require that pork or pork products eligible for export to the United States not be handled, cut, or otherwise processed at the same time as any pork or pork products not eligible for export to the United States. We believe that these proposed requirements would protect the pork or pork products from possible contamination with the ASF virus after they have been processed. In addition, we propose to require that pork or pork products intended for export to the

[1] See P. D. McKercher, W. R. Hess, and F. Hamdy, ''Residual Viruses in Pork Products,'' *J. Applied and Environmental Microbiology* 35, 142–145 (1978) and P. D. McKercher, D. O, Morgan, J. W. McVicar, and M. J. Shuot, ''Thermal Processing to Interactive Viruses in Meat Products,'' *Proceedings of the 84th Annual Meeting of the United States Animal Health Association, San Diego, California,* 320–328 (1980).

United States be packed in clean new packaging that is clearly distinguishable from that containing any pork or pork products not eligible for export to the United States. This requirement would prevent the inadvertent shipment to the United States of pork or pork products not eligible for importation into the United States.

Paragraph (a)(3)(iv)(B) of § 94.8 requires the operators of the processing establishment in the ASF region to have a written compliance agreement with the Animal and Plant Health Inspection Service (APHIS). Under this compliance agreement, APHIS inspects the establishment to ensure that it is meeting our requirements. We propose to remove the requirement for a compliance agreement and the attendant inspections. We would, instead, rely on certification provided by the national government of the region in which the processing facility is located to ascertain that the establishment has met our requirements. This certification is required by § 94.8(a)(3)(vi), which states that the pork or pork products must be accompanied by a certificate issued by an official of the national government of the region in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by 9 CFR 327.4, stating that all of the requirements of § 94.8 have been met. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

Paragraph (a)(3)(iv)(C) of § 94.8 specifies that the operators of the processing establishment must have a trust fund agreement with APHIS. The trust fund agreement provides for payment of the cost of inspections performed under the compliance agreement. Because we are proposing to remove the compliance agreement requirement, we also propose to remove the trust fund agreement requirement.

Paragraph (d) of § 94.8 specifies the circumstances for the cancellation of a compliance agreement and the appeal process for such cancellation. We also propose to remove § 94.8(d). Effect of Proposed Changes in § 94.8 on Swine Casings Regulations in § 96.2

The proposed changes to § 94.8 affect the regulations in 9 CFR part 96 (the casings regulations). The casings regulations govern the importation of swine casings into the United States to prevent the introduction of contagious livestock diseases. Swine casings are intestines, stomachs, esophagi, and urinary bladders from swine that are used to encase processed meats, such as sausage.

The ASF virus may be present in, and spread by, swine, pork, pork products, and byproducts, including casings. The regulations in part 96 require that animal casings imported into the United States be accompanied by a Foreign Official Certificate for Animal Casings. On each certificate, the issuing veterinarian certifies, among other things, that the casings were derived from healthy animals that received ante mortem and post mortem veterinary inspections at the time of slaughter, are clean and sound, and were prepared and handled only in a sanitary manner and were not subjected to contagion prior to exportation. Since veterinary inspection cannot detect ASF in its early stages, the veterinary inspection required by the regulations cannot be relied on to assess the presence of ASF in its early stages in swine from an ASF region. In addition, swine casings cannot be processed by heating or any other method that would destroy the ASF virus if it were present, since this would render the casings unusable. Therefore, to remove the possibility that ASF-contaminated casings derived from apparently healthy animals that meet the criteria for certification in § 96.3 might be imported into the United States, § 96.2(a) specifically prohibits the importation of swine casings that originated in an ASF region. Further, § 96.2(a) provides that swine casings that originated in an ASF-free region and are processed in an ASF region may be eligible for importation into the United States only if they are processed in an establishment that meets the criteria in § 94.8(a)(3)(iv) to prevent contamination with ASF.

As discussed above, we propose to revise the requirements for processing establishments in ASF regions that process pork or pork products for export to the United States. These proposed changes would relieve unnecessary restrictions for processing pork or pork products to be exported to the United States. However, the requirements we propose to remove for pork and pork products imported under § 94.8 are necessary to prevent ASF contamination of swine casings. Therefore, we propose to incorporate all of the provisions that are currently in § 94.8(a)(3)(iv) of the regulations into § 96.2, with minor adjustments for clarity and applicability to casings, as follows:

- Swine casings to be processed in an ASF region for importation into the United States must be derived from swine raised and slaughtered in an ASF-free region.
- The swine casings must be shipped from the ASF-free region to the processing establishment in the ASF region in a closed container sealed with serially numbered seals applied by an official of the national government of the region of origin.
- The swine casings must be accompanied to the processing establishment by a certificate written in English and signed by an official of the national government of the region of origin specifying the region of origin, the processing establishment to which they will be consigned, and the numbers of the seals applied.
- The swine casings may only be removed from their closed and sealed containers at the processing establishment after an official of the national government of the region where the processing establishment is located determined that the seals are intact and free of any evidence of tampering, and had so stated on the origin certificate referred to above.
- The swine casings may not be processed at more than one processing establishment in the ASF region.
- The processing establishment in the ASF region must be an establishment approved under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations under the Act (9 CFR, chapter III). As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act and regulations under the Act.
- The processing establishment in the ASF region may not receive or process any live swine and may use only pork or pork products from ASF-free regions that are shipped to the processing establishment in accordance with the requirements listed above.
- The processing establishment must be operated by persons who have entered into a valid written compliance agreement with APHIS to maintain on file at the processing establishment for at least 2 years copies of the origin certificates, to allow APHIS personnel to make unannounced inspections as necessary to monitor compliance with the regulations, and to otherwise comply with the provisions of the regulations.
- The processing establishment is operated by persons who have entered into a cooperative service agreement (previously referred to as a trust fund agreement) with APHIS to pay for the cost of APHIS inspections. The establishment must be current in paying for APHIS personnel to inspect the establishment (it is anticipated that such inspections will occur on average once per year). In addition, the processing

establishment must have on deposit with APHIS an unobligated amount equal to the cost for APHIS personnel to conduct one inspection, including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds).

- APHIS inspectors who supervise the enforcement of the compliance agreement may cancel a processing establishment's compliance agreement for failure to comply with the regulations. The processing establishment may appeal the cancellation of the compliance agreement.
- The swine casings must be accompanied to the United States by a certificate issued by an official of the national government of the region in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by 9 CFR, chapter III, part 327, stating that all of the requirements of the regulations have been met. Upon arrival of the swine casings in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

Bone Removal in Hog Cholera (HC) and Swine Vesicular Disease (SVD) Regions

The regulations at §§ 94.9(b)(1)(ii) and 94.12(b)(1)(ii) provide that pork or pork products may be imported into the United States from an HC or SVD region if the bones have been removed in the region of origin and the pork or pork product is heated to an internal temperature of 69 °C. (As explained below, pork from an SVD region must have received heat treatment in a commercially accepted manner used for perishable canned pork products.) The regulations do not require pork or pork products to originate from swine in a region free of HC or SVD. Thus, there is no reason to specify that the bones must be removed in the region of origin, only that they be removed before the pork or pork product is heated to the required temperature. Therefore, we propose to remove the requirement that the bones be removed in the region of origin and specify, instead, that the bones be removed prior to heating.

Heat Treatment in HC Regions

The regulations at § 94.9(b)(1)(ii)(B) provide that pork or pork products from an HC region must have received heat treatment producing an internal temperature of 69 °C. after bone removal. The regulations do not specify how the pork or pork products must be heated. If a flash-heating method, such as microwave cooking, is used, the HC virus may not be destroyed. Flash heating may not be sufficient to bring the pork or pork products to a full 69 °C. throughout, which is necessary to ensure that the HC virus is destroyed. Therefore, we propose to amend § 94.9(b)(1)(ii)(B) to specify that the pork or pork product must be heated by other than a flash-heating method to an internal temperature of 69 °C. throughout to ensure that the HC virus is destroyed.

Proposed Dry Heat Cooking Option for Pork From SVD Regions

The Government of Italy has requested that we add a dry heat option for processing pork and pork products in SVD regions. This change would allow products such as Mortadella ham to be exported to the United States from SVD regions. Currently, § 94.12(b)(1)(ii) requires the pork to reach at least 69 °C. through heat treatment applied in a commercially accepted manner used for perishable canned pork products (steam or moist heat). Research [2] that studied Mortadella ham prepared according to the method followed in Italian industry showed that when the pork was processed in an oven using dry heat, the SVD virus was destroyed after being cooked for at least 10 hours with the pork reaching a minimum internal temperature of 65 °C. (149 °F.).

Therefore, we propose to add a dry heat cooking method to our regulations that would require the pork to be completely deboned, then continuously heated in an oven for at least 10 hours with oven temperatures starting at a minimum of 62 °C. (143.6 °F.) and reaching at least 85 °C. (185 °F.), so that the pork reaches a minimum internal temperature of at least 65 °C. (149 °F.). We propose to add this dry heat cooking method to § 94.12 as a new paragraph (b)(1)(v).

This proposed dry heat cooking method would provide another option for pork or pork products to be processed in a way that would ensure that the SVD virus would be destroyed, while allowing greater flexibility in the style of preparation and therefore greater diversity of the products that could be prepared for exportation to the United States.

Miscellaneous Changes

We propose several minor, nonsubstantive, editorial changes for clarity and consistency.

[2] See T. Frescura, D. Rutili, and A. Morozzi, Studies on the isolation and persistence of swine vesicular disease virus in meat and meat products, 411–421 (1976), the International Organization of Epizootics (OIE) Bulletin 86.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposal would amend 9 CFR 94.8 to allow pork and pork products that originated in an ASF region to be imported into the United States if the meat has been cooked to a minimum internal temperature of 69 °C. (156 °F.) after removal of the bones.

Regions listed in § 94.8 as regions in which ASF exists or is reasonably believed to exist are all the countries of Africa; Brazil, Cuba, Haiti, and Malta; and the Island of Sardinia, Italy.

Total pork production in the United States in 1996 was 7,764,000 metric tons. Brazil, the largest pork producer of the listed regions, produced 1,600,000 metric tons of pork in 1996. The combined pork production of the other listed regions was 1,033,767 metric tons in 1996. While Brazil's pork production was 21 percent of the U.S. pork production in 1996, the second largest pork producer among the other listed regions was Nigeria. Nigeria produced 278,080 metric tons of pork, only 4 percent of U.S. pork production. Therefore, other than Brazil, none of the listed regions produces enough pork to make the possibility of increased exports from those countries likely. Furthermore, much of the pork produced in Brazil and the other listed regions was consumed in the region of origin. This trend is expected to continue based on the strong pork demand in Brazil and the other listed regions. In 1996, Brazil consumed 97 percent of its pork production, exporting only 56,000 metric tons. According to projections by the Economic Research Service (ERS) of the United States Department of Agriculture, Brazil is expected to consume 94 percent of its increasing pork production in each of the years 2000 through 2005. Even if Brazil exported to the United States the remaining 6 percent of its pork production in those years, those exports would only represent about 1 percent of projected U.S. pork production. Therefore, adoption of this proposed rule is unlikely to significantly affect the pork industry or consumer prices in the United States.

Additionally, ERS projected that U.S. pork imports would decline by more than 1 percent annually between 1998 and 2007. Declining imports are

expected due to the restructured U.S. pork industry. One of the results of the restructuring has been production of low-cost pork products. These low-cost pork products are expected, increasingly, to price imported pork out of the domestic U.S. market.

This proposed rule also would allow pork from SVD regions to be processed using dry heat after deboning. This dry heat cooking method can produce Mortadella ham and other meats. Italian producers of Mortadella ham are interested in exporting Mortadella ham to the United States.

The precise volume of Mortadella ham that would enter the United States if this proposed rule is adopted is not available. However, we expect the volume would be minimal. Mortadella ham is a specialty food that is likely to satisfy only a small niche market in the United States. Due to its high fat content, Mortadella ham is not likely to be popular with a broad cross section of American consumers.

Based on this information, we would expect very little additional pork or pork products to be imported into the United States as a result of this proposed rule. Thus, any impact to small domestic swine producers would likely be minimal. In 1997, there were about 109,754 hog and pig farms in the United States, of which an estimated 91 percent would be considered ''small'' entities (annual sales of less than $0.5 million, according to the Small Business Administration (SBA) size criteria). These small entities maintain about 40 percent of the U.S. hog and pig inventories.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 96

Imports, Livestock, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 94 and 96 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 94.8 would be amended as follows:

a. In the introductory paragraph by removing the word ''island'' and adding the word ''Island'' in its place.

b. By revising paragraph (a)(3) to read as set forth below.

c. By adding a new paragraph (a)(4) to read as set forth below.

d. By removing paragraph (d).

§ 94.8 Pork and pork products from regions where African swine fever exists or is reasonably believed to exist.

* * * * *

(a) * * *

(3) Such pork or pork product:

(i) Was processed in a single establishment that meets the requirements in paragraph (a)(4) of this section.

(ii) Was heated by other than a flash-heating method to an internal temperature of at least 69 °C. (156 °F.) throughout after the bones had been removed.

(iii) Is accompanied to the United States by a certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 of chapter III of this title. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(4) The processing establishment[8] in a region listed in this section must comply with the following requirements:

(i) All areas, utensils, and equipment likely to contact the pork or pork products to be processed, including skinning, deboning, cutting, and packing areas, and related utensils and equipment, must be cleaned and disinfected after processing pork or pork products not eligible for export to the United States and before pork or pork products eligible for export to the United States.

(ii) Pork or pork products eligible for export to the United States may not be handled, cut, or otherwise processed at the same time as any pork or pork products not eligible for export to the United States.

(iii) Pork or pork products eligible for export to the United States must be packed in clean new packaging that is clearly distinguishable from that containing any pork or pork products not eligible for export to the United States.

* * * * *

3. In § 94.9, paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) would be revised to read as follows:

§ 94.9 Pork and pork products from regions where hog cholera exists.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product was heated by other than a flash-heating method to an internal temperature of 69 °C. (156 °F.) throughout; or

* * * * *

5. Section 94.12 would be amended as follows:

a. By removing ''; or'' and adding a period in its place at the end of paragraph (b)(1)(i) and at the end of paragraph (b)(1)(iii)(B).

[8] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations thereunder (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

b. By revising paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) to read as set forth below.

c. By adding a new paragraph (b)(1)(v) to read as set forth below.

d. In paragraph (b)(2), by removing the word ''; and'' and adding a period in its place.

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received heat treatment in a commercially accepted manner used for perishable canned pork products so that it reached an internal temperature of 69 °C. (156 °F.) throughout.

* * * * *

(v) Such pork or pork product is in compliance with the following requirements:

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received continual heat treatment in an oven for a minimum of 10 hours so that it reached an internal temperature of 65 °C. (149 °F.) throughout. The oven temperature started at a minimum of 62 °C. (143.6 °F.) and reached at least 85 °C. (185 °F.).

* * * * *

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

6. The authority citation for part 96 would continue to read as follows:

Authority: 21 U.S.C. 111, 136, 136a; 7 CFR 2.22, 2.80, and 371.2(d).

§ 96.10 [Amended]

7. Section 96.10 would be amended by redesignating footnote 1 and its reference as footnote 2.

8. Section 96.2 would be revised to read as follows:

§ 96.2 Prohibition of casings due to African swine fever and bovine spongiform encephalopathy.

(a) *Swine casings.* The importation of swine casings that originated in or were processed in a region where African swine fever exists, as listed in § 94.8 of this subchapter, is prohibited, with the following exception: Swine casings that are processed in a region where African swine fever exists may be imported into the United States under the following conditions:

(1) *Origin of casings.* The swine casings were derived from swine raised and slaughtered in a region not listed in § 94.8(a) of this subchapter.

(2) *Shipping requirements.* The casings were shipped from the region of origin to a processing establishment in a region listed in § 94.8 of this subchapter in a closed container sealed with serially numbered seals applied by an official of the national government of the region of origin.

(3) *Origin certificate.* The casings were accompanied from the region of origin to the processing establishment by a certificate written in English and signed by an official of the national government of the region of origin specifying the region of origin, the processing establishment to which the swine casings were consigned, and the numbers of the seals applied.

(4) *Integrity of seals.* The casings were taken out of the container at the processing establishment only after an official of the national government of the region where the processing establishment is located determined that the seals were intact and free of any evidence of tampering and had so stated on the certificate referred to in paragraph (a)(3) of this section.

(5) *The processing establishment.* The casings were processed at a single processing establishment [1] in a region listed in § 94.8 of this subchapter. The processing establishment does not receive or process any live swine and uses only pork and pork products that originate in a region not listed in § 94.8 of this subchapter and that are shipped to the processing establishment in accordance with paragraphs (a)(2) through (a)(4) of this section.

(6) *Compliance agreement.* The processing establishment is operated by persons who have entered into a valid written compliance agreement with APHIS to maintain on file at the processing establishment for at least 2 years copies of the certificates referred to in paragraph (a)(4) of this section, to allow APHIS personnel to make unannounced inspections as necessary to monitor compliance with the provisions of this section, and to otherwise comply with the provisions of this section.

(7) *Cooperative service agreement.* The processing establishment is operated by persons who have entered into a cooperative service agreement with APHIS. The establishment is current in paying for APHIS personnel to inspect the establishment (it is anticipated that such inspections will occur once per year). In addition, the processing establishment has on deposit with APHIS an unobligated amount equal to the cost for APHIS personnel to conduct one inspection, including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds).

(8) *Compliance agreement cancellation.* Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this section or any conditions imposed by this section. If the cancellation is oral, the decision and the reasons will be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision to the Administrator, in writing, within 10 days after receiving written notification of the cancellation. The appeal should state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Administrator will grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve such conflict. Rules of Practice governing such a hearing will be adopted by the Administrator.

(9) *Export certification.* The casings are accompanied to the United States by a certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 in chapter III of this title. Upon arrival of the swine casings in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(b) *Bovine or other ruminant casings.* The importation of casings, except stomachs, from bovines and other ruminants that originated in or were processed in any region listed in § 94.18(a) of this subchapter is prohibited.

(Approved by the Office of Management and Budget under control number 0579–0015)

[1] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations under the Act (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

Done in Washington, DC, this 8th day of July 1999.

A. Cielo,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–17937 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98–052–1]

Veterinary Services User Fees; Biosecurity Level Three Laboratory Inspection Fee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend existing user fees for the inspection for approval of biosecurity level three laboratories. Existing user fees require biosecurity level three laboratories to pay user fees for inspection based on hourly rates. We are proposing to replace the hourly rates for this specific service with a flat rate user fee that would cover all the costs of inspection related to approving a laboratory for handling one defined set of organisms or vectors. We are taking this action in order to ensure that the user fees cover our costs.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by September 13, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–052–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–052–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations for Veterinary Services, contact Ms. Louise Lothery, Administrative Officer, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231; (301) 734–7517.

For information concerning rate development of the proposed user fee, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.8 lists miscellaneous flat rate user fees. Section § 130.9 lists the hourly rate user fees charged for APHIS' import or entry services, including inspection of laboratories within the United States.

In accordance with 9 CFR part 122, we require inspection of biosecurity level three laboratories prior to their receiving and handling high risk organisms or vectors. Biosecurity level three laboratories are used to conduct research on foreign animal disease agents, especially viruses, with high disease risks. These laboratories utilize containment facilities that use special precautions, such as negative pressure ventilation, to keep the disease agents within the facility and to protect the researchers who work with them.

We are proposing to revise the user fees for inspection of these laboratories based on our review of user fees and the costs of service. Under the current hourly rate user fees in §130.9, APHIS has been unable to recover all of the costs associated with inspecting biosecurity level three laboratories. Under the hourly rate user fee structure, the traveltime allowance provides for a maximum of 6 hours of round-trip ground travel. This traveltime allowance is insufficient in that air travel and overnight lodging are required in order to access more than half of the laboratories APHIS currently inspects.

Under the current hourly rates, the average user fee collected for inspection for approval of biosecurity level three laboratories is approximately $462 per laboratory. The actual average cost of inspecting these laboratories is approximately $977 per laboratory. The portion of the actual cost that we are not currently able to recover is the portion of transportation (i.e., airfare and related expenses) and lodging costs we incur above the 6-hour traveltime allowance for laboratories that are not located near an authorized APHIS inspector's place of duty. We do not believe it is fair to charge those laboratories a higher fee than others based solely on their physical location in relation to authorized inspectors' official duty stations.

Therefore, in order to ensure that we recover all costs, we are proposing to amend 9 CFR part 130 to establish a flat rate user fee of $977 to cover the cost of APHIS' inspection of biosecurity level three laboratories. The flat rate user fee would cover all costs of inspection, including airfare and/or ground travel, lodging, inspection, per diem, and miscellaneous travel expenses. We are also proposing to amend § 130.1 to add a definition for ''biosecurity level three laboratory'' to read: ''A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures.''

We are also proposing to clarify that the hourly rate user fees contained in § 130.9 are not applicable to services that are billed under flat rate fees contained in other sections of part 130.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects.

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and

animal products are contained in 9 CFR part 130. Currently, APHIS charges user fees for the inspection of biosecurity level three laboratories under the hourly rate user fees contained in § 130.9.

APHIS currently inspects several laboratories in the United States that conduct biosecurity level three research on high-risk organisms and vectors. These facilities currently pay an average of $462 for inspections required to be approved to handle a defined set of organisms or vectors. The average actual cost of providing this service, including the cost of air travel and lodging necessary to inspect certain laboratories, is $977 per laboratory. APHIS has not been able to recover all costs of inspection associated with approving these laboratories under the current hourly rate user fee structure, because current regulations only provide for 6 hours of ground travel.

Therefore, we are proposing to amend the regulations in § 130.8 by establishing a flat rate user fee of $977 for this service, which would cover the average cost of inspection related to approving a laboratory to handle one defined set of organisms or vectors.

We arrived at the flat rate user fee that we are proposing by using the average of the number of hours required for an APHIS inspector to complete an inspection, travel costs (including airfare and lodging, when appropriate), per diem, and miscellaneous travel expenses.

Effects on Small Entities

Under Small Business Administration (SBA) Guidelines, a biosecurity level three laboratory with less than $5 million in annual sales is considered a small entity. All of the laboratories we inspect are small entities.

We anticipate that the economic effects of this proposed rule on these laboratories will be minimal. An informal survey of several of the affected laboratories revealed that in some cases inspection costs at laboratories are charged directly to a client if the client requested analysis of the particular organism or vector for which the inspection was undertaken. However, in most cases, laboratories pay for inspections with overhead funds from their operating budget. There are two types of biosecurity level three laboratories that we inspect. Some laboratories are privately owned, for-profit enterprises that charge clients fees to use the laboratory to research biosecurity level three organisms or vectors. These laboratories typically bill their clients for the cost of APHIS' inspection service and, therefore, are not directly affected by the cost of inspections.

Other laboratories are publicly owned and are attached to universities or government agencies. These laboratories typically include anticipated APHIS inspection costs in their yearly budgets. We do not have the data to assess the effect of the proposed rate change on these laboratories. On average, laboratories are inspected twice a year. However, a laboratory working with many different types of organisms could be subject to additional inspections.

The proposed flat rate user fees will enable all laboratories to know in advance what costs they will incur.

Alternatives Considered

In developing this proposed rule, we considered: (1) Making no changes to our existing method of recovering costs for inspecting biosecurity level three laboratories; (2) proposing to charge laboratories the exact costs incurred during each individual inspection, including costs of travel and lodging; or (3) proposing to charge a flat rate user fee for the inspection of biosecurity level three laboratories.

We rejected the first alternative because if we made no changes to the regulations, we would continue to be unable to recover all of the costs associated with the inspection of biosecurity level three laboratories. All costs to APHIS for providing this service must be recovered solely through user fees; there is no other form of funding available to us that would cover this service.

We also rejected the second alternative, in which each laboratory would be charged the exact cost of inspection, including travel and lodging for APHIS personnel. We believe it is unfair to charge certain customers higher fees than others simply because a qualified APHIS inspector may not be stationed nearby. We believe that the fairest method of charging customers for this service is through a flat rate user fee.

The proposed changes to the regulations would result in no new information collection or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we propose to amend 9 CFR part 130 as follows:

PART 130—USER FEES

1. The authority citation for part 130 would be revised to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 130.1, a definition for ''biosecurity level three laboratory'' would be added in alphabetical order to read as follows:

§ 130.1 Definitions.

* * * * *

Biosecurity level three laboratory. A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures.

* * * * *

3. In § 130.8, paragraph (a), the table would be amended by adding a new entry in alphabetical order to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	User fee

Service	User fee
* * *	* * * * * * *
Inspection for approval of biosecurity level three laboratories.	$977.00 for all costs of inspection related to approving the laboratory for handling one defined set of organisms or vectors.
* * *	* * * * * * *

* * * * *

4. In § 130.9, the introductory text of paragraph (a) would be revised to read as follows:

§ 130.9 User fees for miscellaneous import or entry services.

(a) User fees for import or entry services listed in paragraphs (a)(1) through (a)(4) of this section, except those services covered by flat rate user fees elsewhere in this part, will be calculated at $56.00 per hour, or $14.00 per quarter hour, with a minimum fee of $16.50, for each employee required to perform the service. The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of these user fees in accordance with §§ 130.50 and 130.51.

* * * * *

Done in Washington, DC, this 8th day of July 1999.

A. Cielo,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–17938 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 474

[Docket No. EE–RM–99–PEF]

[RIN: 1904–AA40]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Withdrawal of Previous Notice of Proposed Rulemaking.

SUMMARY: In response to public comments, the Department of Energy (DOE) revises its proposal to amend its regulations on electric and hybrid vehicles to provide a petroleum-equivalency factor (PEF) and procedures for calculating the petroleum-equivalent fuel economy of electric vehicles. The petroleum-equivalent fuel economy values of an automobile manufacturer's electric vehicles may then be included in the calculation of that manufacturer's corporate average fuel economy (CAFE) according to regulations prescribed by the Environmental Protection Agency and the Department of Transportation.

DATES: To ensure your comments are considered, we must receive 7 copies of your comments on or before September 13, 1999.

You may present oral views, data, and arguments at the public hearing which will be held in Washington, DC, on Tuesday, August 17, 1999 beginning at 9:30 a.m. If you would like to speak at this hearing, contact Ms. Andi Kasarsky, (202) 586–3012, by Friday, August 13, 1999. In addition, you may request an opportunity to speak at the hearing itself. Each oral presentation is limited to 10 minutes. The hearing will last as long as there are persons requesting an opportunity to speak. The notice of proposed rulemaking published in the **Federal Register** on February 4, 1994 (59 FR 5336) is withdrawn as of July 14, 1999.

ADDRESSES: Send written comments to: Mr. Rogelio Sullivan, U.S. Department of Energy, EE–32, Docket No. EE–RM–99–PEF, 1000 Independence Avenue, SW, Washington, DC 20585. Questions concerning submitting written comments should be addressed to Ms. Andi Kasarsky, (202) 586–3012. We will hold a public hearing at the following address: U.S. Department of Energy, Room 1E–245, 1000 Independence Avenue, SW, Washington, DC. Please bring seven copies of the prepared oral statement to the hearing.

You may read and copy written comments received, a copy of the public hearing transcript, technical reference materials mentioned in this notice, and any other docket material received as a result of this notice at the DOE Freedom of Information Reading Room. The current docket material will be filed under ''EE–RM–99–PEF.'' Copies of the hearing transcript and written comments received regarding the February 4, 1994 proposed rule are filed under Docket No.

EE–RM–94–101. Earlier materials related to the calculation of the PEF are contained in Docket No. EE-RM–93–301 and are also available at the DOE Freedom of Information Reading Room, room 1E–190, (202) 586–3142, between the hours of 9:00 a.m.–4:00 p.m., Monday through Friday except Federal holidays.

For more information concerning public participation in this rulemaking proceeding, see section III of this notice of proposed rulemaking (Opportunities for Public Comment).

FOR FURTHER INFORMATION CONTACT:

Mr. Rogelio Sullivan, U.S. Department of Energy, Office of Transportation Technologies, Office of Advanced Automotive Technologies, EE–32, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8042

Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9526

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
A. Requirements of the Motor Vehicle Information and Cost Savings Act, as amended
B. PEF Development Process
C. Test Procedures
D. Calculation Procedures
1. General Form of the PEF Equation
2. Gasoline-Equivalent Energy Content of Electricity Factor
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III. Opportunities for Public Comment
A. Participation in Rulemaking
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1. Request to Speak Procedures
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I. Background

In an effort to conserve energy through improvements in the energy efficiency of motor vehicles, Congress passed the Energy Policy and Conservation Act (Pub. L. 94–163) in 1975. Title III of the Energy Policy and Conservation Act amended the Motor Vehicle Information and Cost Savings Act by mandating fuel economy standards for automobiles produced in, or imported into, the United States. (The Act's provisions appeared initially in the United States Code at 15 U.S.C. 1901 *et seq.* In 1994, Pub. L. 103–272 codified the Act's provisions in Title 49, U.S.C., Subtitle VI, Part C.) This statute, as amended, requires that every manufacturer or importer meet a corporate average fuel economy standard for the fleet of vehicles produced or imported in any model year. Although electric vehicles are included under the definition of the term ''automobile'' in the Motor Vehicle Information and Cost Savings Act, they do not consume ''fuel'' as defined in the Act. Therefore, calculation of an electric vehicle manufacturer's corporate average fuel economy is impossible without a petroleum equivalency value.

On January 7, 1980, the President signed the Chrysler Corporation Loan Guarantee Act of 1979 (Pub. L. 96–185). Section 18 of the Chrysler Corporation Loan Guarantee Act of 1979 added a new paragraph (2) to section 13(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Pub. L. 94–413). Part of the new section 13(c) added subsection (a)(3) to section 503 of the Motor Vehicle Information and Cost Savings Act. That subsection, which has been codified at 49 U.S.C. 32904(a)(2), directs the Secretary of Energy to determine petroleum-equivalent fuel economy values for various classes of electric vehicles. The intent of the legislation is to provide an incentive for vehicle manufacturers to produce electric vehicles by including the expected high equivalent fuel economy of these vehicles in their corporate average fuel economy calculation. This will help to accelerate the early commercialization of electric vehicles.

Section 18 of the Chrysler Corporation Loan Guarantee Act of 1979 further amended the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 by adding a new paragraph (3) to section 13(c) which directed the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, to conduct a seven-year evaluation program of the inclusion of electric vehicles in the calculation of average fuel economy. In May 1980, as required by section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, DOE proposed a method of calculating the petroleum-equivalent fuel economy of electric vehicles. The rule was finalized in April 1981 (46 FR 22753). The seven-year evaluation program was completed and the calculation of the annual petroleum equivalency factors was not extended past 1987.

DOE published a proposed rule for a permanent PEF for use in calculating petroleum-equivalent fuel economy values on February 4, 1994, (59 FR 5336) and obtained oral and written comments from interested parties. Following consideration of the reviewers' comments, DOE's own internal re-examination of the assumptions underlying the proposed rule, and existing regulations for other classes of alternative fuel vehicles, DOE decided to modify the approach proposed in 1994 with several changes. DOE believes that the approach presented today is simpler, more consistent with the regulatory treatment of other alternative fuel vehicles, and better embodies the Congressional intent.

Administrative responsibilities for the corporate average fuel economy program are assigned to the Department of Transportation and the Environmental Protection Agency under the Motor Vehicle Information and Cost Savings Act. The Secretary of Transportation is responsible for prescribing the corporate average fuel economy standard and enforcing the penalties for failure to meet these standards. The Administrator of the Environmental Protection Agency is responsible for calculating a manufacturer's corporate average fuel economy value. DOE is responsible for developing and promulgating the petroleum equivalency factor, the key component in the calculation of petroleum-equivalent fuel economy values for electric vehicles.

II. Discussion

A. Requirements of the Motor Vehicle Information and Cost Savings Act, as Amended

Section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32904(a)(2)) requires DOE to determine the petroleum-equivalent fuel economy values for electric vehicles, taking into account the following parameters:

(i) The approximate electric energy efficiency of the vehicles considering the vehicle type, mission, and weight;

(ii) The national average electricity generation and transmission efficiencies;

(iii) The need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity; and

(iv) The specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles.

Section 503(a)(3) also provides for revision of such values if necessary.

B. PEF Development Process

When DOE published a proposed rule for a permanent PEF in 1994, many of the comments criticized one of the key factors of the proposed PEF: An intermediate factor that used a complex approach to quantify the relative scarcity and value of all fuels used to generate electricity in the U.S., which was referred to as the ''scarcity factor.'' This proposed scarcity factor was based on estimates of the U.S. share of world reserves of fossil fuels and estimated rates of depletion of world reserves. In general, the criticisms of this approach were more ''philosophical'' than specific. The comments, however, led DOE to reexamine the issue in greater detail. DOE concluded that faulty assumptions and calculations were present in some of the steps in the development of the scarcity factor.

For example, the number of years until exhaustion of fossil fuel reserves was estimated by using forecast energy consumption growth rates to estimate the length of time needed to deplete the Energy Information Administration-reported ''proved reserves'' of each fuel. This is misleading because ''proved reserves'' are defined based on current economic and technical conditions, and have in fact been observed to grow over time. In a subsequent step, the calculation summed the years-to-depletion values for each individual fuel into a total years-to-depletion value. This too, is misleading because once the least-abundant fuel is totally consumed, energy needs will have to be met by increasing the consumption rates of the remaining fuels. In addition, since the scarcity of nuclear and renewable fuels could not be determined by this method (because their ''reserves'' are essentially unlimited), arbitrary scarcity values were assigned to these fuels. Several other questionable mathematical operations were subsequently performed during the calculation of the scarcity factor. DOE therefore decided to

replace the scarcity factor rather than attempt to refine it.

DOE then considered alternative approaches to the determination of suitable factors for quantifying scarcity and value. These included both modifications of the reserves-based approach, as well as market price (of the fuels used to generate electricity) approaches. DOE determined, however, that such approaches were highly sensitive to the assumptions used, and that many possible assumptions were contradictory or highly subjective. Other approaches evaluated included: Factoring in the national average price of electricity; quantifying and comparing the total fuel cycle greenhouse gas emissions from petroleum, and those of electricity generating fuels; and applying an arbitrary scaling factor to the electricity to gasoline conversion. Upon careful examination, each of these approaches was found to have shortcomings of a technical or policy nature, or internal inconsistencies.

In light of the number of criticisms related to the scarcity factor, DOE elected to perform an additional search of the literature regarding reserves of the fuels used to generate electricity. This research led to a very significant conclusion: Although reserves of all fossil fuels are obviously finite, fuels used to produce electricity are in fact widely available from diverse sources at relatively low prices. DOE carefully considered the scarcity of these fuels, as required by Congress, but determined that the fuels used to produce electricity, including renewables, are quite abundant rather than scarce. Thus, scarcity does not appear to be a concern, and should not be a guiding factor in the rulemaking at this time.

DOE then examined existing law (49 U.S.C. 32905 (a) and (c)) that specifies procedures for determining the petroleum-equivalent fuel economy of other types of alternative fuel vehicles. 49 U.S.C. 32905 (a) states that ''the fuel economy measured for [post-1992 dedicated alternative fuel vehicles] shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of liquid alternative fuel used to operate a dedicated automobile is deemed to contain 0.15 gallon of fuel.'' Two of the most common liquid alternative fuels are M85 (85 percent methanol and 15 percent unleaded gasoline by volume) and E85 (85 percent ethanol and 15 percent unleaded gasoline by volume). The petroleum equivalent fuel economy of E85 and M85 powered vehicles is then determined by dividing the measured fuel economy value by 0.15.

Section 32905(c) extends this approach to gaseous fueled vehicles, stating that ''[the fuel economy of dedicated gaseous fueled vehicles shall be based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain 0.823 gallon equivalent of natural gas. . . . A gallon equivalent of gaseous fuel is deemed to have a fuel content of 0.15 gallon of fuel.'' Since gaseous fueled vehicles do not store their fuel in liquid form, a conversion factor must be applied to express the volume of gas consumed as an equivalent liquid volume of gasoline. This factor is based on the volume of natural gas that contains the same chemical energy as a gallon of gasoline. To determine the petroleum-equivalent fuel economy of a gaseous fueled vehicle, the vehicle's gaseous fuel consumption is measured directly (for example, in units of miles per 100 standard cubic feet of gas), and then the conversion factor of 0.823 gasoline-equivalent gallons per 100 standard cubic feet of natural gas is applied. Finally, the result is divided by 0.15 to obtain the petroleum equivalent fuel economy.

Unlike the case of M85 and E85 powered vehicles, the factor of 0.15 serves a different function in the case of gaseous fueled vehicles, since natural gas contains no gasoline whatsoever. The true energy efficiency of both liquid and gaseous fueled alternative fuel vehicles is intentionally and substantially overstated by the methods specified in 49 U.S.C. 32905, since only 15 percent of their actual energy consumption is accounted for in determining their petroleum-equivalent fuel economy. The use of the 0.15 factor for both types of vehicles provides a similar regulatory treatment to both types of alternative fuel vehicles.

DOE proposes to use an approach similar to that in 49 U.S.C. 32905 for calculating petroleum-equivalent fuel economy values for electric vehicles. DOE proposes to adopt the 0.15 factor to be applied in a manner similar to that prescribed for natural gas vehicles. This approach has the following advantages:

(i) It is consistent with existing regulatory and statutory procedures for other types of alternative fuel vehicles,

(ii) It provides a similar treatment to manufacturers of all types of alternative fuel vehicles, including electric vehicles,

(iii) It is relatively simple and straightforward to apply, compared to other approaches considered.

C. Test Procedures

The Environmental Protection Agency is responsible for specifying the test procedures and calculations used to derive the fuel economy values to be used in all CAFE determinations. The energy efficiency values used in CAFE calculations are determined using the test cycles commonly referred to as the ''city'' and ''highway'' test cycles described in the Environmental Protection Agency's regulations at 40 CFR Parts 86 and 600. The number of replications of these driving cycles needed to adequately determine the energy efficiency of each vehicle will depend upon the type of storage devices (e.g., lead-acid batteries).

The electrical systems of each vehicle may require special tools and/or measuring equipment to satisfactorily measure the energy consumed during testing. The Environmental Protection Agency has promulgated the ''Special Test Procedures'' provisions of 40 CFR 86.090–27 to accommodate any such special needs.

D. Calculation Procedures

The proposed PEF is conceptually based on the previously described regulatory approach at 49 U.S.C. 32905 (c) for determining the petroleum-equivalent fuel economy of gaseous fueled vehicles. The proposed PEF converts the measured electrical energy consumption of an electric vehicle into a raw gasoline-equivalent fuel economy value, and then divides this value by 0.15 to arrive at a final petroleum-equivalent fuel economy value which may then be included in the calculation of the vehicle manufacturer's corporate average fuel economy. Two additional factors are present in the equation, but these will normally have a value of unity and thus will not influence the value of the PEF in most cases. The terms comprising the PEF and the procedure for applying the PEF are described in greater detail below.

1. General Form of the PEF Equation

The general form of the PEF equation is:

$$PEF = E_g * 1/0.15 * AF * DPF$$

Where:

E_g=Gasoline-equivalent energy content of electricity factor
1/0.15=''Fuel content'' factor
AF=Petroleum-fueled accessory factor
DPF=Driving pattern factor

The development of these factors is described below.

2. Gasoline-Equivalent Energy Content of Electricity Factor

When comparing the fuel economy of two gasoline vehicles to one another, it

is sufficient to measure the quantity of fuel consumed and the distance each vehicle can travel on that fuel. Since the same fuel is used to power both vehicles, useful comparisons of the relative energy efficiency of the two vehicles can be made without considering the efficiency of the process of getting the fuel to the vehicles.

When comparing gasoline vehicles with electric vehicles, however, it is essential to consider the efficiency of the respective ''upstream'' processes in the two fuel cycles. A full description of the differences in the processes is beyond the scope of this rulemaking, but the critical difference is that a gasoline vehicle burns its fuel on-board the vehicle, and an electric vehicle burns its fuel (the majority of electricity in the U.S. is generated at fossil fuel burning powerplants) off-board the vehicle. In both cases, the burning of fuels to produce work is the least efficient step of the respective energy cycles. If one considers only the energy supplied as gasoline to the gasoline vehicle (from refueling), or as electricity to the electric vehicle (from recharging), then this inefficient step is counted against the gasoline vehicle but not against the electric vehicle. The result is that the fuel economy of the electric vehicle will be substantially overstated.

For these reasons, the PEF includes a term for expressing the relative energy efficiency of the full energy cycles of gasoline and electricity. This term, the gasoline-equivalent energy content of electricity factor, abbreviated as E_g, is defined as:

$$E_g = \text{gasoline-equivalent energy content of electricity} = \frac{T_g * T_t * C}{T_p}$$

Where:

T_g=U.S. average fossil-fuel electricity generation efficiency = 0.328

T_t=U.S. average electricity transmission efficiency = 0.924

T_p=Petroleum refining and distribution efficiency = 0.830

C=Watt-hours of energy per gallon of gasoline conversion factor=33,440 Wh/gal

$$E_g = \frac{0.328 * 0.924 * 33440}{0.830} = 12{,}211 \text{ Wh/gal}$$

Note that T_g and T_t are included in order to satisfy a requirement from Congress (49 U.S.C. 32904(a)(2)(B)) as well as for the technical reasons given above.

The derivation of these values is straightforward but lengthy and is therefore not discussed in this notice. Details on the assumptions, calculations, and data sources (primarily monthly and annual statistical reports from the Energy Information Administration) used to derive these values are described in materials contained in Docket No. EE–RM–99–PEF which may be reviewed at the DOE Freedom of Information Reading Room, at the address and times stated in the **ADDRESSES** section of this notice of proposed rulemaking.

3. ''Fuel Content'' Factor

The fuel content factor has a value of 1/0.15 and is included in the PEF for the reasons described in section II.B and summarized as follows:

(i) Consistency with existing regulatory and statutory procedures,

(ii) Provision of similar treatment to manufacturers of all types of alternative fuel vehicles,

(iii) Simplicity and directness.

The fuel content factor value of 1/0.15 is equivalent to a multiple of 6.67.

4. Petroleum-Fueled Accessory Factor

Some electric vehicles, particularly those that may be operated in colder climates, may be equipped with auxiliary petroleum-fueled cabin heater/defroster systems. DOE considered the possible use of such petroleum-fueled accessories in the PEF calculations by incorporating an Accessory Factor (AF). This factor has been assigned a usage factor that reduces the PEF by approximately ten percent per accessory, and it is assumed that no vehicle will ever be equipped with more than two such accessories. The majority of electric vehicles are expected to have no petroleum-fueled accessories installed. This results in 3 possible accessory factor values:

Number of petroleum-fueled accessories	Accessory factor (AF)
0	1.00
1	0.90
2	0.81

DOE recognizes that this is a crude accounting of the impact of the petroleum-fueled accessories. However, because this approach penalizes electric vehicles equipped with petroleum-fueled accessories, it provides an incentive for manufacturers to develop vehicles with more-desirable all-electric climate control systems.

Interested persons should also be aware that the definition of an electric vehicle (Zero Emission Vehicle) codified in 40 CFR Part 88.104(g) places certain restrictions on the fuel, operation, and emissions from fuel fired heaters. The definition of ''electric vehicle'' in section 474.2 of this part incorporates these restrictions.

5. Driving Pattern Factor

One of the factors that DOE must consider in determining petroleum-equivalent fuel economy values for electric vehicles is the relative driving patterns of electric and petroleum-fueled vehicles (49 U.S.C. 32904(a)(1)(B)(iv)). The purpose of the driving pattern factor (DPF) is to recognize the fact that electric vehicles may be used differently than gasoline vehicles, primarily due to their shorter range and longer ''refueling'' times. However, existing EPA regulations do not make driving-pattern-based adjustments to the fuel economy of various classes of gasoline vehicles when calculating a manufacturer's CAFE, even though gasoline-powered vehicles are also used in a large variety of different ways. Therefore, DOE proposes that for now the DPF be assigned a value of unity (1.00). The driving pattern factor term would be retained in the PEF equation, however,

to allow this value to be adjusted if doing so is warranted in the future.

6. Use of the PEF

The value of the PEF is equal to the product of the values of the gasoline-equivalent energy content of electricity (E_g), the fuel content factor of 1/0.15, the petroleum-fueled accessory factor (AF), and the driving pattern factor (DPF):

$PEF=E_g * 1/0.15 * AF * DPF$

substituting values,

PEF=(12,211 Wh/gal)* 1/0.15 * (1.00 or 0.90 or 0.81) * (1.00)

or,

PEF=81,407 Wh/gal (zero petroleum-fueled accessories)

PEF=73,266 Wh/gal (one petroleum-fueled accessory)

PEF=65,940 Wh/gal (two petroleum-fueled accessories)

Dividing the PEF by the combined (city and highway) energy consumption of an electric vehicle yields the petroleum-equivalent fuel economy of that electric vehicle in miles per gallon:

mpg=PEF (Wh/gal) ÷ combined [electrical] energy consumption (Wh/mile)

Care should be taken to distinguish the assigned petroleum-equivalent fuel economy value from the actual energy-equivalent fuel economy.

7. Sample Calculations

DOE includes sample calculations of the petroleum-equivalent fuel economy of hypothetical electric vehicles in the Appendix of this proposed rule. DOE intends to include these sample calculations as an Appendix to 10 CFR Part 474.

III. Opportunities for Public Comment

A. Participation in Rulemaking

The Department encourages public participation in this rulemaking. Individual vehicle manufacturers, fuel producers and providers, trade groups, associations, vehicle owners and operators, States or other governmental entities, and other affected or interested parties are urged to submit written comments on the proposal.

The Department has established a period of 60 days following publication of this notice for persons to comment on this notice of proposed rulemaking. You may review all public comments and other docket material in the DOE Freedom of Information Reading Room at the address shown at the beginning of this notice. The materials will be filed under docket number EE–RM–99–PEF.

B. Written Comment Procedures

Interested persons and organizations are invited to participate in this rulemaking by submitting data, views, or comments with respect to the proposed rulemaking. Please provide seven copies of your comments to the address indicated in the **ADDRESSES** section of this notice. Please include the designation ''Inclusion of Electric Vehicles in Corporate Average Fuel Economy Calculation—Notice of Proposed Rulemaking'' (Docket No. EE–RM–99–PEF) on the outside of the envelope and on individual documents submitted. DOE will consider all timely-submitted comments and other relevant information before issuing a final rule.

If you are submitting information you believe to be confidential and that may be exempt by law from public disclosure, you should submit one complete copy along with three copies from which you have removed the confidential information. DOE will make its own determination regarding any claim that information submitted be exempt from public disclosure. Our procedures regarding confidential information are in 10 CFR Part 1004.11.

C. Public Hearing

1. Request To Speak Procedures

The time and place of the public hearing are indicated in the **DATES** and **ADDRESSES** sections of this notice. The Department invites any person or organization having an interest in the proposed rulemaking to request to make an oral presentation. Your request should be directed to DOE at the address indicated in the **ADDRESSES** section of this notice. You should bring seven copies of your statement to the hearing. In the event that you cannot provide seven copies, contact Ms. Kasarsky at the number indicated in the **ADDRESSES** section in advance of the hearing to make alternative arrangements.

2. Conduct of the Hearing

DOE will designate an official to preside at the hearing. This will not be an evidentiary or judicial-type hearing but will be conducted in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act, 42 U.S.C. 7191. Only those conducting the hearing may ask questions. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal or clarifying statement. The statements will be given in the order in which the initial statements were made and will be subject to time limitations.

DOE will prepare a transcript of the hearing. DOE will retain the transcript and other records of this rulemaking and make them available for public inspection at the DOE Freedom of Information Reading Room as provided at the beginning of this notice. Any person may purchase a copy of the transcript from the transcribing reporter.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

IV. Procedural Requirements

A. Environmental Protection Agency Review

Pursuant to section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 766(a)), DOE submitted a copy of this notice to the Administrator of the Environmental Protection Agency for the Administrator's concurrence. The Administrator has concurred.

B. National Environmental Policy Act Review

This rulemaking has been reviewed in accordance with the requirements of the DOE National Environmental Policy Act Final Rule as published in 10 CFR Part 1021. This rulemaking amends 10 CFR Part 474 so that electric vehicles receive similar treatment to what Congress has required for other alternative fuel vehicles under 49 U.S.C. 32905. The Department has determined that this rule is covered by Categorical Exclusion in paragraph A5 to subpart D, 10 CFR Part 1021 (rulemaking, interpreting or amending an existing regulation, no change in environmental effect). Accordingly, neither an Environmental Assessment or an Environmental Impact Statement is required.

C. Regulatory Review

Today's proposed rule has been determined not to be a ''significant regulatory action,'' as defined in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in section 603) does not apply if the agency certifies that the rule will not, if promulgated, have a ''significant economic impact on a substantial number of small entities.''

DOE certifies that this action will not have a significant economic impact on

a substantial number of small entities. It is directed at vehicle manufacturers that will be concerned with a mix of petroleum and electric fueled vehicles in their annual production. None of these manufacturers is a small entity.

E. Federalism Review

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating such a regulation or rule.

This action and 10 CFR Part 474 serve only to provide a method of interpreting 40 CFR Part 600 (Fuel Economy of Motor Vehicles) for electric vehicles. The action does not involve any substantial direct effects on States or other considerations stated in Executive Order 12612. Hence, no federalism assessment is required.

F. ''Takings'' Assessment Review

It has been determined that pursuant to Executive Order 12630 (52 FR 8859, March 18, 1988), this proposed regulation, if adopted, would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity to timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. The proposed rule published today does not contain any Federal mandate, so these requirements do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. No. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

The notice of proposed rulemaking published in the **Federal Register** on February 4, 1994 (59 FR 5336) is withdrawn as of July 14, 1999.

List of Subjects in 10 CFR Part 474

Electric power, Energy conservation, Motor vehicles, Research.

Issued in Washington, DC, on June 10, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to revise Part 474 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below:

PART 474—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM; PETROLEUM-EQUIVALENT FUEL ECONOMY CALCULATION

Sec.
474.1 Purpose and scope.
474.2 Definitions.
474.3 Petroleum-equivalent fuel economy calculation.
474.4 Test procedures.
474.5 Review and update.

Appendix to Part 474—Sample Petroleum-Equivalent Fuel Economy Calculations

Authority: 49 U.S.C. 32901 *et seq.*

§ 474.1 Purpose and scope.

This part contains procedures for calculating a value for the petroleum-equivalent fuel economy of electric vehicles, as required by 49 U.S.C. 32904(a)(2). The petroleum-equivalent fuel economy value is intended to be used by the Environmental Protection Agency in calculating corporate average fuel economy values pursuant to regulations at 40 CFR Part 600—Fuel Economy of Motor Vehicles.

§ 474.2 Definitions.

For the purposes of this part, the term:

Combined energy consumption value means the weighted average of the Urban Dynamometer Driving Schedule and the Highway Fuel Economy Driving Schedule energy consumption values (weighted 55% / 45%, respectively), as determined by the Environmental Protection Agency in accordance with 40 CFR Parts 86 and 600.

Electric vehicle means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided that:

(1) Recharge energy must be drawn from a source off the vehicle, such as residential electric service; and

(2) The vehicle must comply with all provisions of the Zero Emission Vehicle definition found in 40 CFR 88.104(g).

Highway Fuel Economy Driving Schedule energy consumption value means the average number of watt-hours of electrical energy required for an electric vehicle to travel one mile of the Highway Fuel Economy Driving Schedule, as determined by the Environmental Protection Agency.

Petroleum equivalency factor means the value specified in section 474.3(b), which incorporates the parameters listed in 49 U.S.C. 32904(a)(2)(B) and is used to calculate petroleum-equivalent fuel economy.

Petroleum-equivalent fuel economy means the value, expressed in miles per gallon, that is calculated for an electric vehicle in accordance with § 474.3(a), and reported to the Administrator of the Environmental Protection Agency for use in determining the vehicle manufacturer's corporate average fuel economy.

Petroleum-powered accessory means a vehicle accessory (e.g., a cabin heater, defroster, and/or air conditioner) that:

(1) Uses gasoline or diesel fuel as its primary energy source; and

(2) Meets the requirements for fuel, operation, and emissions in 40 CFR 88.104(g).

Urban Dynamometer Driving Schedule energy consumption value means the average number of watt-hours of electrical energy required for an electric vehicle to travel one mile of the Urban Dynamometer Driving Schedule, as determined by the Environmental Protection Agency.

§ 474.3 Petroleum-equivalent fuel economy calculation.

(a) The petroleum-equivalent fuel economy for an electric vehicle is calculated as follows:

(1) Determine the electric vehicle's Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value in units of watt-hours per mile;

(2) Average the Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value using a weighting of 55% urban/45% highway to determine the combined energy consumption value of the electric vehicle in units of watt-hours per mile; and

(3) Calculate the petroleum-equivalent fuel economy by dividing the appropriate petroleum equivalency factor for the number of petroleum-powered accessories installed (see paragraph (b) of this section) by the combined energy consumption value, and round to the nearest 0.01 miles per gallon.

(b) The petroleum-equivalency factors for electric vehicles are as follows:

(1) If the electric vehicle does not have any petroleum-powered accessories installed, the value of the petroleum equivalency factor is 81,407 watt-hours per gallon.

(2) If the electric vehicle has one petroleum-powered accessory installed, the value of the petroleum equivalency factor is 73,266 watt-hours per gallon.

(3) If the electric vehicle has two petroleum-powered accessories installed, the value of the petroleum equivalency factor is 65,940 watt-hours per gallon.

§ 474.4 Test procedures.

(a) The electric vehicle energy consumption values used in the calculation of petroleum-equivalent fuel economy under § 474.3 will be determined by the Environmental Protection Agency using the Highway Fuel Economy Driving Schedule and Urban Dynamometer Driving Schedule test cycles at 40 CFR parts 86 and 600.

(b) The ''Special Test Procedures'' provisions of 40 CFR 86.090–27 may be used to accommodate any special test procedures required for testing the energy consumption of electric vehicles.

§ 474.5 Review and update.

The Department will review this part [five years after the date of publication as a final rule] to determine whether any updates and/or revisions are necessary. The Department will publish the results of this review in the **Federal Register**.

Appendix to Part 474—Sample Petroleum-Equivalent Fuel Economy Calculations

Example 1:

An electric vehicle is tested in accordance with Environmental Protection Agency procedures and is found to have an Urban Dynamometer Driving Schedule energy consumption value of 265 watt-hours per mile and a Highway Fuel Economy Driving Schedule energy consumption value of 220 watt-hours per mile. The vehicle is not equipped with any petroleum-powered accessories. The combined electrical energy consumption value is determined by averaging the Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value using weighting factors of 55% urban, and 45% highway:

Combined electrical energy consumption value = (0.55 * urban) + (0.45 * highway) = (0.55 * 265) + (0.45 * 220) = 244.75 Wh/mile

Since the vehicle does not have any petroleum-powered accessories installed, the value of the petroleum equivalency factor is 81,407 watt-hours per gallon, and the petroleum-equivalent fuel economy is:

(81,407 Wh/gal) ÷ (244.75 Wh/mile) = 332.61 mpg

Example 2:

The vehicle from Example 1 is equipped with an optional diesel-fired cabin heater/defroster. For the purposes of this example, it is assumed that the electrical efficiency of the vehicle is unaffected.

Since the vehicle has one petroleum-powered accessory installed, the value of the petroleum equivalency factor is 73,266 watt-hours per gallon, and the petroleum-equivalent fuel economy is:

(73,266 Wh/gal) ÷ (244.75 Wh/mile) = 299.35 mpg

[FR Doc. 99–17786 Filed 7–13–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–381–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes. This proposal would require a one-time inspection to determine the type of engine ignition switch installed in the hinged forward overhead switch panel, and replacement of certain rotary ignition switches with new design rotary ignition switches. This proposal is prompted by reports of smoke in the flight compartment during engine ignition selection. The actions specified by the proposed AD are intended to prevent an internal electrical short in the engine ignition switch, which could result in smoke in the flight compartment.

DATES: Comments must be received by August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–381–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration,

Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–381–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–381–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of smoke in the flight compartment during engine ignition selection on certain McDonnell Douglas Model DC–9 series airplanes. Investigation has determined the probable cause to be moisture precipitated within the rotary ignition switch, which caused an internal electrical short in the switch. This condition, if not corrected, could result in smoke in the flight compartment.

The subject area on certain McDonnell Douglas Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes is identical to that on the affected Model DC–9 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–74–001, dated May 23, 1997, and McDonnell Douglas Alert Service Bulletin DC9–74A001, Revision 01, dated October 26, 1998, which describe procedures for a one-time inspection to determine the type of engine ignition switch (rotary or toggle) installed in the hinged forward overhead switch panel, and replacement of certain rotary ignition switches with new design rotary ignition switches. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 2,000 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,000 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $60,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 98–NM–381–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–74A001, Revision 01, dated October 26, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an internal electrical short in the engine ignition switch, which could result in smoke in the flight compartment, accomplish the following:

Inspection and Corrective Action

(a) Within 8 months after the effective date of this AD, visually inspect the engine ignition switch to determine what type of switch (rotary or toggle) is installed in the hinged forward overhead switch panel, in accordance with McDonnell Douglas Service Bulletin DC9–74–001, dated May 23, 1997, or McDonnell Douglas Alert Service Bulletin DC9–74A001, Revision 01, dated October 26, 1998.

(1) If the switch is a toggle type, no further action is required by this AD.

(2) If the switch is a rotary type, prior to further flight, determine the switch part number in accordance with the service bulletin.

(i) If the switch has part number 79–2318 (5D0423–2) or 79–2355, no further action is required by this AD.

(ii) If the switch has any part number other than that identified in paragraph (a)(2)(i) of this AD, prior to further flight, replace the engine ignition switch with a new design ignition switch in accordance with the service bulletin.

Spares Affected

(b) As of the effective date of this AD, no person shall install a five position rotary ignition type switch, part number 79–2055 (5D0423–1), 69–1967, 53306–033, or 3600–3076, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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.

Issued in Renton, Washington, on July 6, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17863 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–34–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. This proposal would require revising the Airplane Flight Manual to provide the flightcrew with modified procedures and limitations for operating in icing conditions. This proposal is prompted by an accident report indicating that possible accretion of ice on the wings of the airplane, due to the wing anti-ice system not being activated by the flightcrew, could have contributed to the source of the accident. The actions specified by the proposed AD are intended to prevent undetected accretion of ice on the wings, which could result in reduced controllability of the airplane during normal icing conditions.

DATES: Comments must be received by August 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Rodrigo J. Huete, Test Pilot, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7518; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–34–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No.99–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 6, 1997, an accident occurred on a Model CL–600–2B19 (Regional Jet Series 100) series airplane. The Canadian Transportation Safety Board (CTSB) report indicated that possible accretion of ice on the wings due to the wing anti-ice system not

being activated by the flightcrew could have contributed to the source of the accident. Investigation revealed that the procedure in the Canadair Regional Jet Airplane Flight Manual (AFM) that was in effect at the time of the accident specified that the wing anti-ice system be activated when ice was detected by the ice detection system. Upon further analysis and validation, it was determined that ''icing conditions'' (defined in the AFM) should be used as the primary means for the flightcrew to determine when to activate the wing anti-ice system below 22,000 feet mean sea level (MSL), and that ice detectors should be used only as a backup. Undetected accretion of ice on the wings could result in reduced controllability of the airplane during normal icing conditions.

Explanation of Service Information

Canadair Regional Jet Temporary Revision (TR) RJ/61–2, dated October 30, 1998, was issued in order to assure the continued airworthiness of these airplanes in Canada. That TR describes procedures for amending the Limitations, Normal Procedures, and Emergency Procedures sections of the AFM to provide the flightcrew with modified procedures and limitations for operating in icing conditions.

U.S. Type Certification of the Airplane

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this proposed AD would require revising the Limitations, Normal, and Emergency Procedures sections of the FAA-approved AFM to provide the flightcrew with modified procedures and limitations for operating in icing conditions. The actions would be required to be accomplished in accordance with the service information described previously.

Cost Impact

The FAA estimates that 133 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $7,980, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket 99–NM–34–AD.

Applicability: All Model CL–600–2B19 (Regional Jet Series 100) series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected accretion of ice on the wings, which could result in reduced controllability of the airplane during normal icing conditions, accomplish the following:

AFM Revision

(a) Within 10 days after the effective date of this AD: Revise the FAA-approved Canadair Regional Jet Airplane Flight Manual (AFM) by inserting a copy of the pages specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD into the AFM.

(1) Revise the Limitations Section to include pages 2 and 3 of Canadair Regional Jet Temporary Revision (TR) RJ/61–2, dated October 30, 1998.

(2) Revise the Emergency Procedures Section to include pages 4 through 6 inclusive of Canadair Regional Jet TR RJ/61–2, dated October 30, 1998.

(3) Revise the Normal Procedures Section to include pages 7 through 27 inclusive of Canadair Regional Jet TR RJ/61–2, dated October 30, 1998.

Alternative Methods of Compliance

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

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Issued in Renton, Washington, on July 7, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17862 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, A321, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A319, A320, A321, A330, and A340 series airplanes. This proposal would require repetitive inspections to detect missing and incorrectly installed parts of the footrest actuator assembly, and replacement of discrepant parts with new parts. This AD also would provide for optional terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent detachment of the footrest assembly actuator, which could result in partial blockage of the rudder pedals and reduced controllability of the airplane.

DATES: Comments must be received by August 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–103–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A319, A320, A321, A330, and A340 series airplanes. The DGAC advises that retaining rings (also called retaining clips) used to secure the pins of the footrest actuator installation, if missing or broken, can result in detachment of the footrest actuator. One operator reported such an occurrence on a Model A320 series airplane. Subsequent inspections conducted on the operator's fleet of Airbus Model A320 and A340 series airplanes revealed 7 broken or missing retaining rings on Model A320 series airplanes and 2 broken or missing retaining rings on Model A340 series airplanes. The footrest assembly is of similar design on Model A319, A320, A321, A330, and A340 series airplanes. A detached footrest actuator can hang down into the rudder pedals, partially blocking their movement. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus has issued All Operator Telex (AOT) 25–14 (for Model A319, A320, and A321 series airplanes), and AOT 25–13 (for Model A330 and A340 series airplanes); both dated December 17, 1998; which describe procedures for repetitive inspections to detect missing and incorrectly installed parts of the footrest actuator assembly, and replacement of discrepant parts with new parts. The AOT's also describe procedures for the removal of the footrest assembly, which would eliminate the need for the repetitive inspections. The DGAC classified these AOT's as mandatory and issued French airworthiness directives 1999–047–110(B) (for Model A340 series airplanes) and 1999–048–090(B) (for Model A330 series airplanes), both dated February 10, 1999; and 1999–074–127(B), dated February 24, 1999 (for Model A319, A320, and A321 series airplanes); in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the AOT's described previously. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Interim Action

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

Cost Impact

The FAA estimates that 208 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $37,440, or $180 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Airplane, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 99–NM–103–AD.

Applicability: All Model A319, A320, A321, A330, and A340 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 detachment of the footrest assembly actuator, which could result in partial blockage of the rudder pedals and reduced controllability of the airplane, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a detailed visual inspection of the footrest actuator assembly for discrepancies (including bent pins and missing or incorrectly installed retaining rings and pins), in accordance with All Operator Telex (AOT) 25–14, paragraph 4.2.1 (for Model A319, A320 and A321 series airplanes), and AOT 25–13, paragraph 4.2.1 (for Model A330 and A340 series airplanes); both dated December 17, 1998.

(1) If no discrepancy is detected: Repeat the inspection thereafter at intervals not to exceed 15 months.

(2) If any discrepancy is detected: Accomplish the actions of paragraphs (a)(2)(i) and (a)(2)(ii).

(i) Prior to further flight, remove the actuator system from the footrest assembly and conduct a detailed visual inspection of the pins for damage, distortion, or wear, in accordance with paragraph 4.2.2 of the applicable AOT. If any damage, distortion, or wear of the pin, or any discrepancy of the pin or the ring is detected, prior to further flight, replace that pin or ring with a new part, in accordance with paragraph 4.2.3 of the applicable AOT. And

(ii) Repeat the detailed visual inspection of the footrest actuator assembly to detect discrepancies at intervals not to exceed 15 months.

(b) Removal of the footrest assembly constitutes terminating action for the repetitive inspection requirements of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Alternative Methods of Compliance

(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 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.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directives 1999–047–110(B) (for Model A340 series airplanes) and 1999–048–090(B) (for Model A330 series airplanes), both dated February 10, 1999; and 1999–074–127(B), dated February 24, 1999 (for Model A319, A320, and A321 series airplanes).

Issued in Renton, Washington, on July 7, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Airplane Certification Service.

[FR Doc. 99–17861 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–118–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require modification of the insulation pads in the lower side of the fuselage at the wing aft area. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent loose insulation from interfering with an aileron control cable, which could result in reduced aileron control.

DATES: Comments must be received by August 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–118–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–118–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–118–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that, as designed, the insulation pads in the lower side of the fuselage at the wing aft area can loosen and might interfere with the aileron control cable. This condition, if not corrected, could result in reduced aileron control.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 340–53–061, dated April 21, 1999, which describes procedures for modifying the insulation pads in the lower side fuselage at the wing aft area. The insulation pads in the affected area are cut away and removed. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–141, dated April 21, 1999, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 303 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $54,540, or $180 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1)

is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket 99–NM–118–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes, serial numbers 160 through 459 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loose insulation from interfering with an aileron control cable, which could result in reduced aileron control, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the insulation pads in the lower side fuselage at the wing aft area in accordance with Saab Service Bulletin 340–53–061, dated April 21, 1999.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–141, dated April 21, 1999.

Issued in Renton, Washington, on July 7, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17860 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–134–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–600, –700, and –800 series airplanes. This proposal would require installation of a drain at each of the number 2 window frame assemblies in the airplane. This proposal is prompted by reports that flight deck emergency exits (number 2 windows) were found frozen shut after landing. The actions specified by the proposed AD are intended to prevent water accumulation in the lower corners of the flight deck emergency exits (number 2 windows), which can freeze and prevent the exits from being used during an emergency evacuation.

DATES: Comments must be received by August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–134–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2207; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Docket Number 99–NM–134–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–134–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that flight deck emergency exits (number 2 windows) were found frozen shut after landing on Boeing Model 737–600, –700, and –800 series airplanes. The design allows water to accumulate in the lower corner of the number 2 window, which can freeze, preventing the window from opening. This condition, if not corrected, could result in the flight deck emergency exits being unusable by the flight deck occupants during an emergency evacuation.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–56–1011, dated November 19, 1998, which describes procedures for installation of a drain at each of the number 2 window frame assemblies in the airplane. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require installation of a drain at each of the number 2 window frame assemblies. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin does not specify a compliance time for accomplishment of installation of a drain at each of the number 2 window frame assemblies in the airplane, this proposal would require that action to be accomplished within 18 months after the effective date of this AD. In developing an appropriate compliance time for this proposed AD, the FAA considered the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to accomplish the proposed actions (approximately 3 hours). In light of these factors, the FAA finds a compliance time of 18 months for accomplishing the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 144 airplanes of the affected design in the worldwide fleet. The FAA estimates that 57 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $536 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $40,812, or $716 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–134–AD.

Applicability: Model 737–600, –700, and –800 series airplanes; line numbers 1 through 144 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent water accumulation in the lower corners of the flight deck emergency exits (number 2 windows), which can freeze and prevent the exits from being used during an emergency evacuation, accomplish the following:

Installation

(a) Within 18 months after the effective date of this AD, install a drain at each of the number 2 window frame assemblies in the airplane in accordance with Boeing Service Bulletin 737–56–1011, dated November 19, 1998.

Alternative Methods of Compliance

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

Special Flight Permits

(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.

Issued in Renton, Washington, on July 7, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17859 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–122–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Lockheed Model L–1011–385 series airplanes, that currently requires revision of the Airplane Flight Manual (AFM) to prohibit operation of the fuel boost pumps when fuel quantities are below certain levels, and to add maintenance procedures for operating the airplane with an inoperative fuel boost pump assembly or with an inoperative flight station fuel quantity indicating system. That AD also requires the installation of a placard on the engineer's fuel panel to advise the maintenance crew that operation of the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing fuel tank is prohibited. This action would add a requirement for modification of each fuel boost pump assembly, which would terminate the requirements of the existing AD. This proposal is prompted by reports of internal electrical failures in the fuel boost pump of the wing fuel tanks that could result in either electrical arcing or localized overheating. The actions specified by the proposed AD are intended to prevent such electrical arcing or overheating, which could breech the protective housing of the fuel boost pump and expose it to fuel vapors and fumes, and consequent potential fire or explosion in the wing fuel tank.

DATES: Comments must be received by August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–122–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–122–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–122–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 16, 1998, the FAA issued AD 98–08–09, amendment 39–10492 (63 FR 20062, April 23, 1998), applicable to certain Lockheed Model L–1011–385 series airplanes, to require revision of the Airplane Flight Manual (AFM) to prohibit operation of the fuel boost pumps when fuel quantities are below certain levels, and to add new maintenance procedures for operating the airplane with an inoperative fuel boost pump assembly or with an inoperative flight station fuel quantity indicating system. That AD also requires the installation of a placard on the engineer's fuel panel to advise the maintenance crew that operation of the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing fuel tank is prohibited. That action was prompted by reports of internal electrical failures in the fuel boost pump of the wing fuel tanks that could result in either electrical arcing or localized overheating. The requirements of that AD are intended to prevent such electrical arcing or overheating, which could breech the protective housing of the fuel boost pump and expose it to fuel vapors and fumes, and consequent potential fire or explosion in the wing fuel tank.

Actions Since Issuance of Previous Rule

In the preamble to AD 98–08–09, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–28–093, Revision 1, dated February 8, 1999, which describes procedures for modification of the fuel boost pump assembly.

The procedures described in the service bulletin include modification of the fuel boost pump, inspection for discrepancies of the fuel boost pump scroll housing, and replacement, if necessary; inspection of the associated scroll housing electrical connector for damage, and replacement, if necessary; and installation of a modified fuel pump. Following installation of the fuel pump, a functional check is performed to verify proper operation of the fuel boost pump assembly. Accomplishment of the actions specified in the service bulletin would eliminate the need for the AFM revision and placard required by the existing AD.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–08–09 to continue to require revision of the Airplane Flight Manual (AFM) to prohibit operation of the fuel boost pumps when fuel quantities are below certain levels, and to add maintenance procedures for operating the airplane with an inoperative fuel boost pump assembly or with an inoperative flight station fuel quantity indicating system. This proposal also would continue to require the installation of a placard on the engineer's fuel panel to advise the maintenance crew that operation of the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing fuel tank is prohibited. It would also require installation of a modified fuel boost pump assembly, which would terminate the requirements of the existing AD. The installation would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 98–08–09 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $7,020, or $60 per airplane.

The modification that is proposed in this AD action would take approximately 8 work hours (1 hour per fuel pump assembly) per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $18,880 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $2,265,120, or $19,360 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10492 (63 FR 20062, April 23, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Lockheed Aeronautical Systems Company: Docket 99–NM–122–AD. Supersedes AD 98–08–09, Amendment 39–10492.

Applicability: Model L–1011–385–1, –385–1–14, –385–1–15, and –385–3 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 prevent a potential fire or explosion in the wing fuel tank, accomplish the following:

Restatement of Requirements of AD 98–08–09

AFM Revision

(a) Within 50 flight hours or 10 days after April 28, 1998 (the effective date of AD 98–08–09, amendment 39–10492), whichever occurs first, revise the Limitations and Procedures Sections of the FAA-approved Airplane Flight Manual (AFM) to include the following information. This may be accomplished by inserting a copy of this AD into the AFM.

Add to Limitations Section:

''FUEL SYSTEM

Fuel Pumps

Do not operate the fuel boost pumps of the affected wing tank in the air or on the ground when fuel quantities are less than the following:

Wing tanks 1 and 3: Less than 1,200 lbs (545 kg) in each tank.

Wing tanks 2L and 2R: Less than 1,200 lbs (545 kg) total in the two compartments (inboard and outboard) of each tank.

These quantities should be considered unusable fuel for the purposes of fuel management.

When operating with a fuel boost pump assembly inoperative per Master Minimum Equipment List (MMEL) item number 28–24–01, add the following maintenance procedure:

Pull and collar the affected circuit breaker.

When operating with an inoperative flight station fuel quantity indicating system per MMEL item 28–41–00, do not operate the fuel boost pumps of the affected wing tank in the air or on the ground when fuel quantities are less than the following:

Wing tanks 1 and 3: Less than 7,000 lbs (3,175 kg) in the affected tank.

Wing tanks 2L and 2R: Less than 1,200 lbs (545 kg) total in the two compartments (inboard and outboard) of the affected tank.''

Add to Procedures Section:

''FUEL SYSTEM

Fuel Pumps

If the circuit breaker for any wing tank fuel boost pump (circuit breakers U3, U4, U7, U8, U9, U10, U13, U14) trips, do not reset. If the pump trips while in flight, continue flight in accordance with the procedures in the ''Tank Pumps LOW Lights On'' portion of the Procedures section of the AFM. If the breaker trips while on the ground, do not reset without first identifying the source of the electrical fault.

ELECTRICAL SYSTEM

Fuel Pumps

If the circuit breaker for any wing tank fuel boost pump (circuit breakers U3, U4, U7, U8, U9, U10, U13, U14) trips, do not reset. If the pump trips while in flight, continue flight in accordance with the procedures in the ''Tank Pumps LOW Lights On'' portion of the Procedures section of the AFM. If the breaker trips while on the ground, do not reset without first identifying the source of the electrical fault.''

Placard Installation

(b) Within 50 flight hours or 10 days after April 28, 1998, whichever occurs first, install a placard on the engineer's fuel panel that states:

''If FQIS is operative, do not operate the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing tanks.''

NEW REQUIREMENTS OF THIS AD

Modification

(c) Within 18 months after the effective date of this AD: Modify each fuel boost pump assembly in accordance with Parts 2.A. through 2.I. inclusive of the Accomplishment Instructions of Lockheed Service Bulletin 093–28–093, Revision 1, dated February 8, 1999. Accomplishment of this modification terminates the requirements of this AD. Following accomplishment of the modification, the AFM revision may be removed from the AFM, and the placard may be removed.

Note 2: Modification of the fuel boost pump assemblies, prior to the effective date of this AD, in accordance with Lockheed Service Bulletin 093–28–093, dated January 15, 1999, is considered acceptable for compliance with paragraph (c) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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.

Issued in Renton, Washington, on July 8, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17969 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1275

RIN 3095–AA91

Nixon Presidential Materials

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend regulations on preservation and processing of and access to the Presidential historical materials of Richard M. Nixon in NARA's custody to reflect the 1998 decision of the U.S. Court of Appeals that the private or personal segments of the original tape recordings must be returned to the Nixon estate. The amended rule will affect NARA and the Nixon estate. Other members of the public are not affected because no public access to the private and personal segments of the tapes has ever been permitted.

DATES: Comments are due by September 13, 1999.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: The Presidential Recordings and Materials Act (PRMPA), 44 U.S.C. 2111 note, Section 104(a), provides that in processing and providing access to the Nixon Presidential historical materials, the Archivist shall promulgate regulations, taking into account a number of factors including ''the need to give to Richard M. Nixon, or his heirs, for his sole custody and use, tape recordings and other materials which are not likely to be related to the need [to inform the public about abuses of governmental power] and are not otherwise of general historical significance.'' NARA promulgated its PRMPA regulations in 1986, including a provision (36 CFR 1275.48(a)) to transfer to former President Richard M. Nixon materials determined to be ''private or personal'' in accordance with the PRMPA.

To fulfill this requirement with regard to the Nixon White House tape recordings, NARA had returned a copy of such materials to the estate of former President Nixon and agreed to identify and return to the Nixon estate a copy of any additional private or personal materials identified on the tapes in the course of NARA's continuing review of the tapes. However, in the mediation leading up to the Settlement Agreement filed April 12, 1996, in *Stanley I. Kutler and Public Citizen* v. *John W. Carlin, Archivist of the United States, and William E. Griffin and John H. Taylor, Co-executors of Richard M. Nixon's Estate*, Civil Action No. 92–0662–NHJ (D.D.C.) (Johnson, J.), the parties were unable to reach an agreement on whether the Archivist was obligated, under other provisions of the PRMPA, to retain and maintain the original tape recordings in their entirety, including those segments deemed to be private or personal, along with a master preservation copy. Accordingly, the parties agreed to litigate this issue, including the validity of 36 CFR 1275.48(a) and 1275.64(e), which were amended by NARA in 1996 following the Settlement Agreement to reflect the government's position that it was complying with the Act by retaining the original tapes and a master preservation copy, including those portions containing private or personal conversations.

On March 31, 1998, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision affirming the March 31, 1997 ruling of the U.S. District Court (D.D.C.) in favor of the defendant-intervenors (the co-Executors of the estate of former President Richard Nixon). The District Court had directed the Archivist of the United States to ''provide [the Nixon estate] forthwith with all personal or private conversations identified to date on the original White House tapes described in Section 101(a) of the [PRMPA] and any copies thereof.'' The court also ordered NARA to destroy or return portions of the draft tape log that contain descriptions of the private or personal

materials. This proposed rule revises the regulations to reflect the District Court's decision.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1275

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend part 1275 of title 36, Code of Federal Regulations, as follows:

PART 1275—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

1. The authority citation for part 1275 continues to read:

Authority: 44 U.S.C. 2101–2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Revise paragraph (a) of § 1275.48 to read:

§ 1275.48 Transfer of materials.

(a) The Archivist will transfer sole custody and use of those materials determined to be private or personal, or to be neither related to abuses of governmental power nor otherwise of general historical significance, to former President Nixon's estate, or, when appropriate and after notifying the Nixon estate, to the former staff member having primary proprietary or commemorative interest in the materials. Such materials to be transferred include all segments of the original tape recordings which have been or will be identified as private or personal.

* * * * *

3. Revise paragraph (e) of § 1275.64 to read:

§ 1275.64 Reproduction of tape recordings of Presidential conversations.

* * * * *

(e) The Archivist shall produce and maintain a master preservation copy of the original tape recordings for preservation purposes. The Archivist shall ensure that the master preservation copy, like the portions of the original tape recordings retained by the Archivist, does not contain those segments of the tape recordings which have been identified as private or personal and which have been transferred to the Nixon estate in accordance with § 1275.48.

Dated: July 8, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–17946 Filed 7–13–99; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL186–1b; FRL–6374–2]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 14, 1995, May 9, 1996, June 14, 1996, February 1, 1999, and May 19, 1999, the State of Illinois submitted State Implementation Plan (SIP) revision requests to meet commitments related to our conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (Southeast Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. EPA is proposing to approve the SIP revision request as it applies to the Lake Calumet area, including the attainment demonstration for the Lake Calumet PM nonattainment area. The SIP revision request corrects, for the Lake Calumet PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal (as discussed in the November 18, 1994, conditional approval notice). EPA is also proposing to remove the codification of the conditional approval and codify the final portions of Illinois' part D plan for the Granite City, Lake Calumet, and McCook moderate PM nonattainment areas. EPA approved the Granite City PM plan, effective May 11, 1998, and the McCook PM plan, effective November 9, 1998.

DATES: EPA must receive comments by August 13, 1999.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at:

Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

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I. What action is EPA taking today?
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I. What Action Is EPA Taking Today?

We are proposing to approve the SIP revision request as it applies to the Lake Calumet area, including the attainment demonstration for the Lake Calumet PM nonattainment area. The SIP revision request corrects, for the Lake Calumet PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal (as discussed in the November 18, 1994, conditional approval notice). We are also proposing to remove the codification of the conditional approval and codify the final portions of Illinois' part D plan for the Granite City, Lake Calumet, and McCook moderate PM nonattainment areas.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 23, 1999.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 99–17767 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket No. MA–068–7203b; FRL–6376–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Massachusetts; Plan for Controlling MWC Emissions From Existing MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes to approve the sections 111(d)/

129 State Plan submitted by the Massachusetts Department of Environmental Protection (DEP) on January 11, 1999. This State Plan is for carrying out and enforcing provisions that are at least as protective as the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW). *See* 40 CFR part 60, subpart Cb.

The Massachusetts DEP submitted the Plan to satisfy certain Federal Clean Air Act requirements. In the Final Rules section of the **Federal Register**, EPA is approving the Massachusetts State Plan submittal as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule and incorporated by reference herein. If EPA does not receive any significant, material, and adverse comments to this proposed rule, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.

DATES: EPA must receive comments on this proposed rule in writing by August 13, 1999.

ADDRESSES: You should address your written comments to: Mr. Gerald Potamis, Chief, Air Permits Unit, Office of Ecosystem Protection (CAP), U.S. EPA, One Congress Street, Suite 1100, Boston, Massachusetts 02114–2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, One Winter Street, Boston, Massachusetts 02108, (617) 556–1120.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918–1659, or by e-mail at courcier.john@epa.gov. While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is found in the Rules section of this **Federal Register**.

Dated: July 3, 1999.

John P. DeVillars,

Regional Administrator, Region 1.

[FR Doc. 99–17769 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–241; RM–9480]

Radio Broadcasting Services; Stamps and Fouke, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of In Phase Broadcasting, Inc., permittee of Station KLMZ(FM), Channel 282A, Stamps, Arkansas, requesting the reallotment of Channel 282A from Stamps to Fouke, Arkansas, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for this proposal are 33–15–42 NL and 93–53–06 WL.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Cary S. Tepper, Esq., Booth, Freret, Imlay & Tepper, P.C., 5101 Wisconsin Avenue, NW., Suite 307, Washington, DC 20016–4120.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–241, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17875 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–245, RM–9680]

Radio Broadcasting Services; Johnson City and Owego, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WEBO Radio, Inc., seeking the reallotment of Channel 269A from Owego to Johnson City, NY, as the community's first local aural service, and the modification of Station WLTB's license to specify Johnson City as its community of license. Channel 269A can be allotted to Johnson City in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.4 kilometers (4.0 miles) south, at coordinates 42–03–44 NL; 75–56–37 WL, to avoid a short-spacing to Station WXHC, Channel 268A, Homer, NY, and to accommodate petitioner's desired transmitter site. Canadian

concurrence in the allotment is required since Johnson City is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James A. Koerner, Baraff, Koerner & Olender, P.C., 3 Bethesda Metro Center, Suite 640, Bethesda, MD 20814 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–245, adopted August 23, 1999, and released September 7, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17874 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–244; RM–9678]

Radio Broadcasting Services; Cumberland, KY and Weber City, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Cumberland City Broadcasting Company, proposing the substitution of Channel 274C3 for Channel 274A at Cumberland, Kentucky, the reallotment of Channel 274C3 from Cumberland to Weber City, Virginia, and the modification of Station WSEH(FM)'s license accordingly. Channel 274C3 can be allotted to Weber City in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.9 kilometers (6.8 miles) north at petitioner's requested site. The coordinates for Channel 274C3 at Weber City are 36–31–36 North Latitude and 83–35–14 West Longitude. In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 274C3 at Weber City, or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before August 23, 1999, reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William J. Pennington III, Post Office Box 403, Westfield, Massachusetts 01086 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–244, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17871 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–240, RM–9503]

Radio Broadcasting Services; Albemarle and Indian Trail, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Susquehanna Radio Corp. seeking the reallotment of Channel 265A from Albemarle, NC, to Indian Trail, NC, as the community's first local aural service, and the modification of Station WABZ's license accordingly. Channel 265A can be allotted to Indian Trail, with a site restriction of 10 kilometers (6.2 miles) northeast, at coordinates 35–06–53 NL; 80–33–44 WL, to accommodate petitioner's desired transmitter site. The allotment requires a waiver of the Commission's minimum distance separation requirements as the allotment would be short-spaced by Station WKXU, Channel 266C, Burlington, NC, by 28.1 kilometers. Station WABZ is a pre-1964 short-spaced station and parties are requested to comment on the appropriateness of permitting grandfathered short-spaced stations to change their community of license where short-spacings would still exist.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark N. Lipp, Shook, Hardy & Bacon, 1850 K Street, NW, Suite 900, Washington, DC 20006–2244 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–240, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17870 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–246; RM–9593]

Radio Broadcasting Services; Winslow and Camp Verde, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Desert West Air Ranchers Corporation, permittee of Station KFMR(FM), Channel 236C, Winslow, Arizona, requesting the reallotment of Channel 236C from Winslow to Camp Verde, Arizona, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for this proposal are 34–58–04 NL and 111–30–30 WL.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp and Scott C. Cinnamon, Esqs., Shook, Hardy & Bacon, 600 14th Street, NW., Suite 800, Washington, DC 20005–2004.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–246, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17867 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–243, RM–9675]

Radio Broadcasting Services; Thorndale, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Houston Christian Broadcasters, Inc. proposing the allotment of Channel 286A at Thorndale, Texas, reservation of the channel for noncommercial educational use and amendment of the application for Channel 257A, Thorndale, to specify operation on Channel *286A. The channel can be allotted to Thorndale in compliance with the Commission's spacing requirements at coordinates 30–36–54 NL and 97–12–18 WL.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Jeffrey D. Southmayd, Southmayd & Miller, 1220 Nineteenth Street, N.W., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–243, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during

normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17866 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–242, RM–9676]

Radio Broadcasting Services; Breckenridge, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Breckenridge Radio Broadcasting Company proposing the allotment of Channel 261A at Breckenridge, Texas, providing additional broadcast service to the community. The channel can be allotted to Breckenridge in compliance with the Commission's spacing requirements at coordinates 32°44′34″ NL and 98°54′32″ WL. There is a site restriction 1.5 kilometers (0.9 miles) south of the community.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–242, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17865 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–238, RM–9669]

Television Broadcasting Services, DTV Broadcasting Services; North Pole and Plattsburgh, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Hearst-Argyle Stations, Inc., licensee of TV Station WPTZ, Channel 5, and WPTZ–DT, Channel 14, North Pole, NY, seeking the reallotment of NTSC Channel 5 and DTV Channel 14 from North Pole to Plattsburgh, NY, as the community's second local and first commercial television channels, and the modification of the station's licenses to specify Plattsburgh as its community of license. NTSC Channel 5 and DTV Channel 14 can be allotted to Plattsburgh in compliance with the Commission's minimum distance separation requirements at Station WPTZ's presently licensed transmitter site, at coordinates 44–34–26 North Latitude and 73–40–29 West Longitude.

DATES: Comments must be filed on or before August 23, 1999, and reply comments on or before September 7, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark J. Prak, Coe W. Ramsey, Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., First Union Capitol Center, Suite 1600, P.O. Box 1800, Raleigh, NC 27602 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–238, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–17869 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register

Vol. 64, No. 134

Wednesday, July 14, 1999

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

Forest Service

Information Collection; Request for Comments; Application for Permit, Non-Federal Commercial Use of Roads Restricted by Order; FS–7700–40

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to request a reinstatement, without change, of a previously approved information collection. Information will be collected from individuals, corporations, and organizations that request a permit to haul commercial, non-Federal products, commodities, and materials on Forest Service roads. Commercial use is prohibited without a permit. The information will be used to identify the road maintenance required as a direct result of the applicant's vehicular traffic, to calculate the applicant's commensurate share of road maintenance, and to calculate any applicable collections for recovery of past Federal investments in roads.

DATES: Comments must be received in writing on or before September 13, 1999.

ADDRESSES: All comments should be addressed to Director, Engineering Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

Comments also may be sent via facsimile to Director, Engineering Staff, Forest Service (202) 205–0861 or transmitted by email and addressed to: jbell/wo@fs.fed.us.

The public may inspect comments in the Office of the Director, Engineering Staff, 201 14th Street, SW, Washington, D.C. Visitors are encouraged to call (202) 205–1400 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: John Bell, Engineering Staff at (202) 205–1424.

SUPPLEMENTARY INFORMATION:

Background

Authority for Road Use Permits derives from the National Forest Roads and Trails Act (16 U.S.C. 532–538, as amended). Detailed implementing regulations are contained in Title 36 of the Code of Federal Regulations, sections 212.5, 212.9, and 261.54. These statutes and regulations authorize the Forest Service to require commercial users of Forest Service roads to perform road maintenance or pay for road maintenance made necessary by their commercial vehicular use. They also allow the Forest Service to recover, from commercial users, the Federal investment in the development and maintenance of Forest Service roads. Maintenance and cost recovery are accomplished by issuance of a road use permit. Commercial use of Forest Service roads is prohibited without such a permit.

The following information will be requested from individuals, corporations, or organizations that apply for a permit to use Forest Service roads for non-Federal commercial use: name, address, and telephone number; number of miles of roads to be used; purpose of use; use schedule; and plans for future use.

The requestor submits the information to the Forest Supervisor or District Ranger responsible for the Forest Service roads on which commercial vehicular use is requested. The information is evaluated by engineering personnel on the responsible forest.

The information is used by the Forest Service to identify the road maintenance required that is the direct result of the applicant's vehicular traffic, to calculate the applicant's commensurate share of road maintenance, and to calculate any applicable collections for recovery of past Federal investments in roads. These fees are then embodied in clauses in the road use permits issued to the applicant.

Description of Information Collection

Title: Application for Permit Non-Federal Commercial Use of Roads Restricted by Order (FS–7700–40).

OMB Number: 0596–0016.

Expiration Date of Approval: June 30, 1998.

Type of Request: Reinstatement, without change, of a previously approved information collection for which approval has expired.

Abstract: In order to recover maintenance costs on Forest Service roads used for commercial hauling of non-Federal products, commodities, and materials, commercial haulers are assessed for their vehicular use of Forest Service roads. The collected information is used to determine the cost recovery amount. Respondents include individuals and organizations that use Forest Service roads for commercial hauling purposes. Assessing commercial haulers for their vehicular use of Forest Service roads provides for repair and maintenance of road surface deterioration to which commercial vehicles contribute.

Estimate of Burden: 15 minutes.

Type of Respondents: Commercial users of National Forest System Roads.

Estimated Number of Respondents: 2000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 500 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purpose or the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: July 7, 1999.

Paul Brouha,

Associate Deputy Chief, National Forest System.

[FR Doc. 99–17910 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Pilot Approval and Aircraft Contract Forms

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to request a reinstatement, without change, of a previously approved collection for the administration of aviation contracts. The information helps the Forest Service ensure that pilots and aircraft offered for use by contractors meet the special Forest Service aviation mission parameters. Respondents will include individuals, businesses, corporations, and Federal, State, and local governments.

DATES: Comments must be received in writing on or before September 13, 1999.

ADDRESSES: All comments should be addressed to Director, Fire and Aviation Management Staff, Mail Stop 1107, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 or submitted by FAX to (202) 205–1272 or by email to: *fam/wo@fs.fed.us.*

The public may inspect comments at the office of the Director, Fire and Aviation Staff, 201 14th Street, SW, Washington, DC. Visitors are encouraged to call (202) 205–1483 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Michael Dudley, Aviation Management Specialist, at (202) 205–0995.

SUPPLEMENTARY INFORMATION:

Background

The forms described in this request for reinstatement of this previously approved information collection, are used by the agency to issue and administer aviation contracts. The Forest Service is the largest owner and operator of aircraft in the Federal government outside of the Department of Defense. The majority of Forest Service flying is in support of wildland fire suppression. The Forest Service contracts with approximately 400 pilot and aircraft vendors to provide aviation services for National Forest System land protection and administrative projects. The aircraft and pilots average 63,000 flying hours each year.

Contracts for these services establish rigorous qualification requirements for pilots and specific condition, equipment, and performance requirements for aircraft. These requirements are necessary in order for the Forest Service to maintain an acceptable level of safety, mission preparedness, and cost effectiveness in aviation operations. This is particularly true in fire suppression missions, which are conducted under adverse conditions of weather, terrain, turbulence, smoke reduced visibility, minimally improved landing areas, and congested airspace around wildfires.

The data from this information collection will be used to document the basis for the Forest Service to approve or deny contracts for pilots and aircraft. The completed forms are maintained in Forest Service Regional Headquarters with the Regional Aviation Officers and aircraft inspectors. Information on these forms form the basis for the agency to approve or deny contract agreements with pilots or for aircraft. If the pilots or aircraft meet the agency's requirements, approval cards are issued to each contract pilot and for each contract aircraft. Forest Service personnel verify possession of properly approved cards before utilizing the services of these pilots and aircraft. Without the information supplied on these forms, Forest Service contracting officers, pilot, and aircraft inspectors cannot determine if pilots and aircraft meet the detailed qualification, equipment, and condition requirements essential for safe, efficient accomplishment of Forest service specified flying missions.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: FS–5700–20, Airplane Pilot Qualifications and Approval Record.

OMB Number: 0596–0015.

Expiration Date of Approval: August 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information provided on this form is used by authorized Forest Service pilot and aircraft inspectors to ensure that pilots meet contract specifications for qualifications, such as hours flown in a particular model of fixed-wing aircraft. Forest Service personnel collect information that includes the pilot's medical certificate number, airman certificate number, and hours flown in a specific type of aircraft, including Pilot In Command hours.

Estimate of Burden: .25 hours.

Type of Respondents: Individuals, businesses, corporations, and Federal, State, and local governments.

Estimated Number of Respondents: 570.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 143 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: FS–5700–20a, Helicopter Pilot Qualifications and Approval Record.

OMB Number: 0596–0015.

Expiration Date of Approval: August 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information provided on this form is used by authorized Forest Service pilot and aircraft inspectors to ensure that pilots meet contract specifications for qualifications for hours flown in a particular helicopter type. Forest Service personnel collect information that includes the pilot's medical certificate number, airman certificate number, and hours flown in a specific type of helicopter, including Pilot In Command hours.

Estimate of Burden: .25 hours.

Type of Respondents: Individuals, businesses, corporations, and Federal, State, and local governments.

Estimated Number of Respondents: 418.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 105 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: FS–5700–21, Airplane Data Record.

OMB Number: 0596–0015.

Expiration Date of Approval: August 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information provided on this form is used by authorized Forest Service pilot and aircraft inspectors to ensure that fixed-wing aircraft meet contract specifications for equipment and condition requirements. Information to be collected includes the aircraft's airworthiness and registration

certificate numbers, maintenance records, and inspection records.

Estimate of Burden: 2.1 hours.

Type of Respondents: Individuals, businesses, corporations, and Federal, State, and local governments.

Estimated Number of Respondents: 536.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,142 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: FS–5700–21a, Helicopter Data Record.

OMB Number: 0596–0015.

Expiration Date of Approval: August 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information provided on this form is used by authorized Forest Service pilot and aircraft inspectors to ensure that helicopter aircraft meet contract specifications for equipment and condition requirements. Information to be collected includes the aircraft's airworthiness and registration certificate numbers, maintenance records, and inspection records.

Estimate of Burden: 3.7 hours.

Type of Respondents: Individuals, businesses, corporations, and Federal, State, and local governments.

Estimated Number of Respondents: 279.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,052 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: July 7, 1999.

Larry Payne,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 99–17950 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–11–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: July 20, 1999; 11:00 A.M.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The meeting of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the international Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: July 12, 1999.

John A. Lindburg,

Legal Counsel and Acting Executive Director.

[FR Doc. 99–18072 Filed 7–12–99; 2:34 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census 2000 Partnership and Marketing Program Evaluation (PMPE).

Form Number(s): None, the evaluation will use a computer survey instrument.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 3,000 hours.

Number of Respondents: 9,000.

Avg Hours Per Response: 20 minutes.

Needs and Uses: As part of Census 2000, the Census Bureau is conducting a comprehensive program of evaluations designed to measure how well our programs, operations, and procedures perform. The Census 2000 Partnership and Marketing Program is included in this evaluation program.

The Census 2000 Partnership and Marketing Program has two goals: (1) To increase the awareness of the census, and (2) to increase mailback response rates, especially among historically undercounted populations. For the first time, Census 2000 will include the services of a paid advertising campaign as part of the marketing and promotion strategy. Another major component of the census marketing plan is the Partnership program. This component provides an opportunity for private industry, government and non-government organizations to participate in Census 2000.

The Census Bureau has hired the National Opinion Research Center (NORC), a contractor independent of the Census Bureau to survey 9,000 residents of households in the United States through a mixed mode data collection-telephone and personal interviews. The questionnaire will contain tested questions asked in earlier and similar Census Bureau sponsored surveys that probe individuals about their awareness of the census and the effectiveness of the marketing campaign and the Partnership activities in motivating the The survey will oversample minority populations being targeted by the advertising and partnership programs. The survey will consist of three separate data collections (waves) that will occur at different points in time to coincide with key phases of the Census 2000 awareness and advertising campaign.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Sections 141 & 193.

OMB Desk Officer: Linda Hutton, (202) 395–7858.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 9, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–17949 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062999C]

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) the Administrative Committee and the Enforcement Committee will hold meetings.

DATES: The meetings will be held on August 9–12, 1999.

ADDRESSES: All meetings will be held at the Marriott's Frenchman's Reef Hotel, #5 Estate Bakkeroe, Charlotte Amalie, St. Thomas, U.S.V.I.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 98th regular public meeting to discuss the items contained in the following agenda:

Carribean Fishery Management Council Webpage Presentation

Sustainable Fisheries Act

Essential Fish Habitat Amendment

-Habitat Mapping

-Lawsuit

-Mitigating Measures

Coral Fishery Management Plan (FMP)

-Update on Marine Conservation District

Reef Fish FMP

-Letters from Project ReefKeeper

-Fact-Finding Meetings Summary Minutes

-Puerto Rico Update

-U.S.V.I. Update

Queen Conch FMP

-Draft Outline of Possible Amendment

-Survey Report

Wahoo/Dolphin FMP (South Atlantic Fishery Management Council Lead Council)

Overview of Regulations and Amendments to Highly Migratory Species FMPs

Enforcement

-Federal Government

-Puerto Rico

-U.S. Virgin Islands

Administrative Committee Recommendations

Meetings Attended by Council Members and Staff

Other Business

Next Council Meeting

The Council will convene on Wednesday August 11, 1999, from 9:00 a.m. to 5:00 p.m., through Thursday, August 12, 1999, from 9:00 a.m. until noon., approximately.

The Enforcement Committee will meet on Monday, August 9, 1999, from 1:00 p.m. to 5:00 p.m. The Administrative Committee will meet on Tuesday, August 10, 1999, from 2:00 p.m. to 5:00 p.m., to discuss administrative matters regarding Council operation.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: July 8, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17954 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799J]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT meeting will begin Tuesday, August 3, 1999, in La Jolla, CA, at 1:00 p.m. and continue through Wednesday, August 4, 1999 until business for the day is completed. The CPSAS meeting will begin on Tuesday, August 24, 1999, in Long Beach, CA, at 10:00 a.m. and may go into the evening until business for the day is completed. Persons wishing to attend these meetings should contact Dr. Doyle Hanan; telephone: (619) 546–7170.

ADDRESSES: The meeting in La Jolla will be held at NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D–203, La Jolla, CA. The meetings in Long Beach will be held at the California Department of Fish and Game Office, Large Conference Room, 330 Golden shore, Suite 50, Long Beach, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Doyle Hanan; telephone: (619) 546–7170.

SUPPLEMENTARY INFORMATION: The primary purpose of the CPSMT meeting is to address portions of the CPS fishery management plan that were disapproved by NMFS. This includes development of a maximum sustainable yield specification for squid and bycatch provisions. The CPSMT will also discuss an annual schedule for Council CPS management. The primary purpose of the CPSAS meeting is to review documents developed by the CPSMT.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting.

Action will be restricted to those issues specifically identified in this agenda.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 8, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17952 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799K]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

DATES: The GMT working meeting will begin on Monday, August 9, 1999, at noon and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m., Tuesday, August 10 through Friday, August 13, 1999.

ADDRESSES: The meeting will be held at the Council office conference room, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 325–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to develop preliminary recommendations for groundfish harvest levels and management measures for 2000. The GMT will review the draft report for an observer program for the West Coast groundfish fishery and preliminary rebuilding plans for overfished groundfish stocks. The GMT will prepare the annual Stock Assessment and Fishery Evaluation document, other reports, and technical advice for the upcoming Council meeting and in support of Council decisions throughout the year. The GMT will discuss, receive reports, and/or prepare reports on the following topics during this working session: (1) Default harvest rate policies; (2) rebuilding plans for lingcod, bocaccio, and Pacific ocean perch, including allocations and bycatch reduction; (3) preparation of preliminary 2000 harvest level and management recommendations, including optimum yield/management line issues and identification of rockfish complexes; (4) fishing community baseline document; (5) inseason management; (6) observer program design and documentation needs; (7) survey of trawl gears; and (8) recreational data issues.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this agenda.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 8, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–17955 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052499I]

Marine Mammals; File No. 932–1489–00

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Marine Mammal Health and Stranding and Response Program (MMHSRP), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, has been issued a permit to take all species in the Orders Cetacea and Pinnipedia for purposes of scientific research and enhancement.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment: See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ruth Johnson 301/713–2289.

SUPPLEMENTARY INFORMATION: On March 25, 1999, notice was published in the **Federal Register** (64 FR 14435) that a request for a scientific research and enhancement permit to take all species in the Orders Cetacea and Pinnipedia had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Documents may be reviewed in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–9250 (978/281–9250);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, bldg. 1, Seattle, WA 98115–0070;

Regional Administrator, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (727/570–5301);

Regional Administrator, Southwest Region, National Marine fisheries Service, NOAA, 501 west Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Coordinator, Pacific Area Office, National Marine Fisheries Service, NOAA 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/943–1221).

Dated: July 2, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–17953 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Coverage of Import Limit and Visa and Certification Requirements for a Certain Part-Category Produced or Manufactured in Various Countries

July 9, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage for an import limit and visa and certification requirements.

EFFECTIVE DATE: July 7, 1999.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

To facilitate implementation of the Uruguay Round Agreement on Textiles and Clothing, bilateral textile and textile product agreements, and export visa arrangements, all of which refer to the Harmonized Tariff Schedule (HTS), directives implementing these agreements are being amended, replacing an HTS classification number in part–Category 369–R, for products which are entered into the United States for consumption or withdrawn from warehouse for consumption on and after July 7, 1999 regardless of date of export.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend monitoring, import control, and visa and certification requirements with respect to part–Category 369–R.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 9, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all monitoring and import control directives, and all visa and certification requirement directives, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include cotton and man-made fiber textile products in part-Category 369–R, produced or manufactured in various countries and imported into the United States on and after July 7, 1999, regardless of the date of export.

Effective on July 7, 1999, you are directed to make the change shown below in the aforementioned directives for products entered in the United States for consumption or withdrawn from warehouse for consumption on and after July 7, 1999 for part-Category 369–R, regardless of the date of export:

Category	HTS change
369–R	Delete: 6307.10.2020 Replace: 6307.10.1020

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–17921 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States; Changes to the 1999 Correlation

July 9, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Changes to the 1999 Correlation

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Correlation: Textile and Apparel Categories based on the Harmonized Tariff Schedule of the United States (1999) presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the textile program (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). The Correlation is being amended to include the changes indicated below. These changes will be effective on July 7, 1999:

Changes to the 1999 Correlation
Delete HTS numbers 6307.10.1000 and 6307.10.2020 (369).
Replace: 6307.10.1020 (369): Bar mops (measuring 46 to 57 centimeters in length and 38 to 43 centimeters in width) of terry fabric.
Replace: 6307.10.1090 (369): Other dustcloths, mop cloths and polishing cloths, of cotton.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–17921 Filed 7–13–99; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Tuesday, July 20, 1999, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 2001 Budget Request

The staff will brief the Commission on issues related to the Commission's budget for fiscal year 2001.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207; (301) 504–0800.

Dated: July 12, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–18073 Filed 7–12–99; 2:38 pm]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted the

following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Office of Evaluation, Marcia Scott, (202) 606–5000, extension 100. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to 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.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: Assessment of the Value-added Effect of National Service Programs on the Communities They Serve.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps*State/National partner organizations and Community representatives including, leaders community groups, and service providers.

Total Respondents: Approximately 540.

Frequency: One time.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 270 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Description: One of the missions of the Corporation is to ''provide opportunities to engage in service that addresses the nation's unmet human, educational, environmental, and public safety needs'' (42 U.S.C. 12501(b)). Through the AmeriCorps*State/National program, the Corporation supports the efforts of local, state and national organizations that engage American adults in results-driven community service. Community service efforts include, but are not limited to: providing tutoring and immunization services for pre-school through twelfth grade children, and recruiting and training volunteers in local communities to provide health and independent living assistance to community residents, housing assistance to the homeless, community policing activities, and services to reduce environmental risk.

When originally presented in the **Federal Register**, a sample of 540 community representatives was proposed. However, subsequent statistical power calculations suggested that an average of two respondents from each of the 240 selected sites (a total of 480 respondents) would provide the degree of accuracy required for the proposed assessment. Therefore, the respondent burden is decreased by 60 respondents and 30 hours.

The Corporation has placed a priority on evaluating the outcomes of these efforts. A primary goal of the Corporation is that communities will be made stronger through the services its programs provide. In addition to outcomes, key considerations in determining a number of policy and programming issues in Corporation programs are program impact and net societal benefit. This data collection will address not only the value that communities place on the outcomes achieved by national service programs, but also whether the outcomes would have occurred in the absence of the programs.

The Corporation seeks approval of a survey form for the evaluation of the Corporation's AmeriCorps*State/National programs that it supports through grants. The survey will allow for the enhancement of the Corporation's future efforts in devising methods to measure progress toward its goals. It also may contribute important information to the knowledge base of the community service field by identifying essential program components that lead to valued outcomes and program effectiveness.

Dated: July 8, 1999.

Thomas L. Bryant,

Associate General Counsel.

[FR Doc. 99–17894 Filed 7–13–99; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Defense Security Service

Privacy Act of 1974; System of Records

AGENCY: Defense Security Service, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Defense Security Service (DSS) is amending four existing Privacy Act systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

In addition, the name of the agency is being changed to 'DEFENSE SECURITY SERVICE' in the preamble to the agency's compilation of systems of records notices.

DATES: The actions will be effective on August 13, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Office of the General Counsel, Defense Security Service, 1340 Braddock Place, Alexandria, VA 22314-1651.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie Blake (703) 325-9450.

SUPPLEMENTARY INFORMATION: The Defense Security Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

In addition, the name of the agency is being changed to 'DEFENSE SECURITY SERVICE' in the preamble to the agency's compilation of systems of records notices.

Dated: July 7, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

V1–01

SYSTEM NAME:

Privacy and Freedom of Information Request Records *(February 22, 1993, 58 FR 10904).*

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with 'Freedom of Information records are located at the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, 22314-1651.

Privacy Act records are located at the Defense Security Service, Privacy Act Branch, P.O. Box 46060, Baltimore, MD 21240–6060.'

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Deputy Director, Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, 22314-1651.'

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V1–01

SYSTEM NAME:

Privacy and Freedom of Information Request Records.

SYSTEM LOCATION:

Freedom of Information records are located at the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, 22314-1651.

Privacy Act records are located at the Defense Security Service, Privacy Act Branch, P.O. Box 46060, Baltimore, MD 21240–6060.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests or who were the subject of requests under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of all correspondence by requesters; correspondence and other documentation pertaining to requests for information released or withheld; summaries and logs of actions taken regarding requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 552 as amended by Pub. L. 93–502, Freedom of Information Act; 5 U.S.C. 552a, Pub. L. 93–579, the Privacy Act of 1974, as amended; Department of Defense Regulation 5400.7–R, Freedom of Information Act Program (32 CFR part 286); and Department of Defense Regulation 5400.11–R, DoD Privacy Program (32 CFR part 310).

PURPOSE(S):

To facilitate responses to individual requests for information; to document actions taken in subsequent requests (including correction and amendment actions), appeals, or litigation; to provide a basis for reports and implementing directives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DSS' compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders, backup copies exist on diskettes or other machine-readable media.

RETRIEVABILITY:

Information is retrieved by the name of the subject of the request.

SAFEGUARDS:

Records are maintained in security containers and only authorized personnel are permitted access.

RETENTION AND DISPOSAL:

Records are destroyed two years after date of reply EXCEPT when access to all or any part of the requested information has been denied, destruction occurs 5 years after date of reply; when subsequent administrative action has occurred under the governing act, all originals and copies shall be destroyed 4 years after final denial by the agency or 3 years after final adjudication by the courts, whichever is later. Destruction of paper records is accomplished by shredding or burning. Machine readable media are erased or overwritten.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, 22314-1651.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, 22314-1651 for Freedom of Information request records and the Defense Security Service, Privacy Act Branch, P.O. Box 46060, Baltimore, MD 21240–6060 for Privacy Act records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Security Service, P.O. Box 46060 Baltimore, MD 21240-6060.

A request for information must contain the full name of the subject individual.

Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Branch, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01–13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from requesters, from other federal agencies with collateral interest in a request, and from records which were the subject of requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Records maintained in connection with providing protective services to the President and other individuals under

18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 321. For additional information contact the system manager.

V2–01

SYSTEM NAME:

Inspector General Complaints *(October 22, 1993, 58 FR 54561).*

CHANGES:

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PURPOSE(S):

Delete entry and replace with 'Information in the system is collected to resolve a complaint, redress a problem or provide assistance, correct records, take or recommend disciplinary action, reevaluate or rescind previous actions or decisions, conduct or recommend formal investigations or inquiries, provide assistance or guidelines in following prescribed procedures for specific problems, provide advice on how to obtain exception to policy, and to inform the Director of DSS on activities of the Office of Planning and Inspections.'

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V2–01

SYSTEM NAME:

Inspector General Complaints.

SYSTEM LOCATION:

Defense Security Service, Office of Planning and Inspections, 1340 Braddock Road, Alexandria, VA 22314–1651.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees of Defense Security Service (DSS) and individuals who have made a complaint, or are the subject of a complaint; or whose request for action, assistance or information has been referred to the Office of Planning and Inspections.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the organization, planning and execution of internal/external investigations, records created as a result of investigations conducted by the Office of Planning and Inspections including reports of investigations, records of action taken and supporting papers. Files may include documents which have been provided by individual complainants or by others. These records include investigations of both organizational elements and individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 5105.42, Defense Security Service; DoD Directive 5200.26, Defense Investigative Program.

PURPOSE(S):

Information in the system is collected to resolve a complaint, redress a problem or provide assistance, correct records, take or recommend disciplinary action, reevaluate or rescind previous actions or decisions, conduct or recommend formal investigations or inquiries, provide assistance or guidelines in following prescribed procedures for specific problems, provide advice on how to obtain exception to policy, and to inform the Director of DSS on activities of the Office of Planning and Inspections.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DSS' compilation of system of record notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and computerized log.

RETRIEVABILITY:

Paper records are filed by subject matter and case/accession number. Electronic records are filed by case/accession numbers.

SAFEGUARDS:

Files are contained in security containers accessible only to the Office of Planning and Inspections staff. Information from this record system is made available only to authorized personnel.

RETENTION AND DISPOSAL:

Records are temporary and are destroyed two years after final action. Paper records are destroyed by shredding or burning. Electronic records are erased or overwritten.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Security Service, Office of Planning and Inspections, 1340 Braddock Road, Alexandria, VA 22314–1651.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

A request for information must contain the full name of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Branch.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01–13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD SOURCE CATEGORIES:

Personal interviews; DSS personnel office; consolidated civilian personnel offices; DSS comptroller; military personnel offices, finance offices, and medical record repositories; DSS investigative files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

V3–01

SYSTEM NAME:

EEO Complaints and Affirmative Employment Program Plans *(February 22, 1993, 58 FR 10904).*

CHANGES:

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SYSTEM LOCATION:

Delete second paragraph and remaining addresses and replace with

'Decentralized segments and EEO Counselors may be contacted through the DSS Office of Affirmative Action and Equal Opportunity located at the Defense Security Service, 1340 Braddock Place, Alexandria, VA 22314-1651'.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '29 CFR part 1614; Federal Personnel Manual 713; DoD 1440.1-R, Department of Defense Civilian Equal Employment Opportunity Program; DSS Regulation 8-11, Defense Security Service, Affirmative Employment and Equal Opportunity Program; Equal Employment Opportunity Commission Management Directive MD-110.

PURPOSE(S):

Delete first parenthetical phrase and replace with 'To administer, monitor, and evaluate the agency's EEO employment discrimination complaint processing system;'

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RETENTION AND DISPOSAL:

Delete entry and replace with 'Employment discrimination complaint files are destroyed four years after the date of the last action.'

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V3–01

SYSTEM NAME:

EEO Complaints and Affirmative Employment Program Plans.

SYSTEM LOCATION:

Primary location: Defense Security Service, Director, Office of Affirmative Action and Equal Opportunity Policy, 1340 Braddock Place, Alexandria, VA 22314–1651.

Decentralized segments and EEO Counselors may be contacted through the DSS Office of Affirmative Action and Equal Opportunity located at the Defense Security Service, 1340 Braddock Place, Alexandria, VA 22314-1651.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DSS employees and applicants for employment who have been counseled by an EEO counselor, and DSS employees and applicants for employment who have filed a complaint of discrimination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records and investigative files regarding complaints of discrimination, affirmative action plans and statistical analyses of the work force, Special Emphasis Program Council (SEPC) planning activities, Equal Employment Opportunity Commission mandates and decisions, court decisions, legislative mandates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR part 1614; Federal Personnel Manual 713; DoD 1440.1-R, Department of Defense Civilian Equal Employment Opportunity Program; DSS Regulation 8-11, Defense Security Service, Affirmative Employment and Equal Opportunity Program; Equal Employment Opportunity Commission Management Directive MD-110.

PURPOSE(S):

To administer, monitor, and evaluate the agency's EEO employment discrimination complaint processing system; prepare Affirmative Employment Program plans for the agency; identify and analyze problem barriers relative to equal opportunity in the workplace; perform work force analyses in relation to equal opportunity on all employment practices such as hiring, recruitment, promotion, training, awards, separations, and disciplinary actions to include adverse actions; analyze, develop and evaluate the results of affirmative employment action items; establish agency equal opportunity policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DIS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media to include disk and tape.

RETRIEVABILITY:

By case number, alphabetically by last name of complainant, and subject.

SAFEGUARDS:

Paper records are kept in locked file cabinets, Access is restricted to authorized DSS personnel having a need for the information. Electronic records are housed in secured areas and access is protected by 'fail-safe' system software.

RETENTION AND DISPOSAL:

Records are considered to be temporary. A select few, based on historical significance, may be determined to be permanent. Employment discrimination complaint files are destroyed four years after the date of the last action. Affirmative employment plans and reports of on site reviews are destroyed five years from the date of the plan.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Security Service, Director, Office of Affirmative Action and Equal Opportunity Policy, 1340 Braddock Place, Alexandria, VA 22314–1651.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314-1651.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314-1651.

A request for information must contain the full name of the subject individual.

Personal visits will require a valid driver's license or other picture identification and are limited to the Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314-1651.

Access to counseling records by individuals concerned may be obtained at the facility where counseling took place.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01–13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD SOURCE CATEGORIES:

Employees of DSS, applicants for employment, Equal Employment Opportunity Commission, and Office of Personnel Management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

V4–04

SYSTEM NAME:

Applicant Records *(February 22, 1993, 58 FR 10904).*

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Defense Security Service, Deputy Director, Support Services, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

Decentralized locations can be obtained from the above address.'

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Temporary records submitted before August 1997, of DSS applicants, stated interest in and/or qualifications for employment.'

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V4–04

SYSTEM NAME:

Applicant Records.

SYSTEM LOCATION:

Primary location: Defense Security Service, Deputy Director, Support Services, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

Decentralized locations can be obtained from the above address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions with the Defense Security Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary records submitted before August 1997, of DSS applicants, stated interest in and/or qualifications for employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FPM Chapters 332 and 333; and 5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

Identification of unsolicited applicants and determination of eligibility for positions with DSS; disclosure to other agencies for verification of information submitted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in files, loose-leaf binders, paper files of 3x5 cards.

RETRIEVABILITY:

Filed by type of position for which the applicant applied, or alphabetically by last name of applicant, or numerically by sequential control number.

SAFEGUARDS:

Records are maintained in files accessible only to authorized personnel who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Records are temporary. Applications of those not interviewed are returned to the applicants. All other records are destroyed two years after the last action.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, (Support Services), Defense Security Service, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Defense Security Service, Privacy Act Branch, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

A request for information must contain the full name and Social Security Number of the subject individual.

Personal visits will require a valid driver's license or other picture identification and are limited to the Defense Security Service, Privacy Act Branch, 881 Elkridge Landing Road, Building 10, Linthicum, MD 21090-2902.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01–13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

RECORD SOURCE CATEGORIES:

Personnel officers, personnel clerks, and personnel specialists of DSS and the Office of Personnel Management; the subject individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–17668 Filed 7–13–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 13, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 7, 1999.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0070–16 DASG

SYSTEM NAME:

Immunity Booster Files *(February 22, 1993, 58 FR 10002).*

CHANGE:

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SYSTEM NAME:

Delete entry and replace with 'Special Immunization System'.

SYSTEM LOCATION:

Delete entry and replace with 'U.S. Army Medical Research Institute of Infectious Diseases, 1425 Porter Street, Fort Detrick, MD 21702-5011.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry '10 U.S.C. 3031, Secretary of the Army and Occupational Safety and Health Act of 1970'.

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RETRIEVABILITY:

Delete entry and replace with 'By name or Social Security Number'.

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A0070–16 DASG

SYSTEM NAME:

Special Immunization System.

SYSTEM LOCATION:

U.S. Army Medical Research Institute of Infectious Diseases, 1425 Porter Street, Fort Detrick, MD 21702-5011.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian employees of Fort Detrick engaged in research who have been immunized with a biological product or who fall under the Occupational Health and Safety Act or Radiologic Safety Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name of biological agents, individual's name, Social Security Numbers, age, race, date of birth, occupation, titers, immunization schedules, known allergies, amount of dosage, reaction to immunization, radiologic agents, exposure level, health screening test results, health test schedule, similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3031, Secretary of the Army; Occupational Safety and Health Act of 1970; and E.O. 9397 (SSN).

PURPOSE(S):

To create a large data base of immunological data for research purposes, and to manage the scheduling of all health screening tests, immunizations, physicals, and other special procedures required by the U.S. Army Medical Research Institute of Infectious Diseases biosurveillance program, radiologic safety program, and occupational health and safety program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

Records are maintained in controlled areas; access is restricted to authorized persons having need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Medical Research Institute of Infectious Diseases, 1425 Porter Street, ATTN: MCMR-UIM, Fort Detrick, MD 21702-5011.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Medical Research Institute of Infectious Diseases, 1425 Porter Street, Fort Detrick, MD 21702-5011.

Individual should provide his/her full name, address and telephone number, Social Security Number, date of birth, and any other personal data which would assist in identifying records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Medical Research Institute of Infectious Diseases, 1425 Porter Street, Fort Detrick, MD 21702-5011.

Individual should provide his/her full name, address and telephone number, Social Security Number, date of birth, and any other personal data which would assist in identifying records pertaining to him/her.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From medical persons, their interview with individual concerned, laboratory results, immunization results, and other relevant test results.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–17669 Filed 7–13–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Department of the Army is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 13, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TALC-PAD-RP, Stop C, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth

below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 7, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0037–104-3a SAFM

SYSTEM NAME:

Military Pay System-Active Army (Manual) *(February 22, 1993, 58 FR 10002).*

Reason: These records are now covered under the Defense Finance and Accounting Service Privacy Act notices T7340, Defense Joint Military Pay System-Active Component and T7346, Defense Joint Military Pay System-Reserve Component.

[FR Doc. 99–17670 Filed 7–13–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend record systems.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective on August 13, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems report. The record system being amended is set forth below, as amended, published in its entirety.

Dated: July 7, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S200.50 DLA-M

SYSTEM NAME:

Individual Weight Management File *(February 22, 1993, 58 FR 10854).*

CHANGES:

SYSTEM IDENTIFIER:

Delete 'DLA-M' and replace with 'CAH.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 302(b)(1), Delegation of authority; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 9397 (SSN); and DoD Directive 1308.1, DoD Physical Fitness and Body Fat Program.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete 'Office of Military Personnel, DLA-M' and replace with 'Human Resources, Military Personnel (CAHM)'.

* * * * *

S200.50 CAH

SYSTEM NAME:

Individual Weight Management File.

SYSTEM LOCATION:

Records are maintained by the heads of the DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

For members assigned to Headquarters DLA, records are maintained by the Staff Director, Human Resources, Military Personnel (CAHM), 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military active duty and reserve personnel assigned to DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Member's name, Social Security Number, weight management record, and physical readiness data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 302(b)(1), Delegation of authority; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 9397 (SSN); and DoD Directive 1308.1, DoD Physical Fitness and Body Fat Program.

PURPOSE(S):

The system will be used to record the weight and physical readiness of military members assigned to DLA. It will also be used to monitor the progress of those entered into the weight management program.

Records may be used by member's service for remedial, corrective, or administrative separation actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper and computerized form.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their duties. The computer files are password protected with access restricted to authorized users.

Access to paper and computerized files is restricted to member's commander, the weight control officer, medical personnel, the director of the military personnel function at the activity where assigned, and the military personnel function of the member's service.

RETENTION AND DISPOSAL:

Records are retained until the member departs, at which time the member collects the record for forwarding to his or her next duty assignment.

SYSTEM MANAGER(S) AND ADDRESS:

The Staff Director, Human Resources, Military Personnel (CAHM), 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the heads of the DLA Primary Level Field Activities. Official mailing addresses are

published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221; or to the Privacy Act Officer of the DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221; or to the Privacy Act Officer of the DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is taken from the record subject, individual weigh-ins, medical personnel, and medical records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–17671 Filed 7–13–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Redesignation of Environmental Impact Statement as Environmental Assessment

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Navy's intent to prepare an Environmental Impact Statement is hereby withdrawn for the following action: Disposal and Reuse of Naval Air Station (NAS) Dallas, Texas. Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy published a Notice of Intent to prepare an Environmental Impact Statement for the Disposal and Reuse of Naval Air Station Dallas, Texas, in the **Federal Register** on May 18, 1994. The Notice of Availability for the Draft EIS (DEIS) was published in the **Federal Register** on July 14, 1995. The DEIS was distributed to various federal, state, and local agencies, elected officials, special interest groups, interested individuals, and the media.

During the preparation of the Final EIS, there was a change to the amount of property being disposed of through surplus. The amount of property subject to NEPA under the BRAC process is now only a small portion of the total base property, and proposed reuse appears to have no significant impacts. This notice announces to the public that this Environmental Impact Statement has been redesignated as an Environmental Assessment (EA).

FOR FURTHER INFORMATION CONTACT: Mr. Laurens Pitts, Southern Division, Naval Facilities Engineering Command, at telephone (843)820–5893, fax (843)820–7472, or e-mail: pittslm@efdsouth.navfac.navy.mil.

Dated: July 7, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 99–17964 Filed 7–13–99; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Rescheduled Public Hearing and Extension of the Public Comment Period on the Draft Environmental Impact Statement (DEIS) for Disposal and Reuse of Surplus Navy Property Identified in the Guam Land Use Plan (GLUP '94)

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) the DEIS for Disposal and Reuse of Surplus Navy Property Identified in the Guam Land Use Plan (GLUP '94). Navy previously announced locally that a public hearing would be held on July 15, 1999 at the Guam Hilton for the purpose of receiving oral and written comments on the DEIS. This notice announces to the public that Navy is further extending the public comment period for the DEIS until September 15, 1999 and rescheduling the public hearing that was previously announced in the **Federal Register** (64 FR 33274) and locally in Territory of Guam Newspapers and direct mailings. Federal and Government of Guam agencies, interested individuals, and organizations are invited to be present or represented at the public meeting that is hereby rescheduled as shown below.

DATES: The public meeting will be held on August 26, 1999 at 7:00 p.m.

ADDRESSES: Guam Hilton, Marianas Ballroom, 202 Pale San Vitores Road, Tumon, Guam 96931.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Gibbons (PLN231GG), Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, telephone (808) 471–9338, facsimile (808) 474–5909.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Navy has prepared and filed with the EPA the DEIS for Disposal and Reuse of Surplus Navy Property Identified in the GLUP '94. A Notice of Intent (NOI) to prepare an EIS was published in the **Federal Register** on April 10, 1998 (63 FR 17824). A public scoping meeting announcement was published on April 18, 19, and 20, 1998, in the *Pacific Daily News* on Guam. A public scoping meeting was held on May 7, 1998 at the Chamorro Village Main Pavilion, Paseo Complex, Agana, Guam. The Notice of Availability of the DEIS was published in the **Federal Register** on May 21, 1999 (64 FR 27781).

The proposed action is the disposal of approximately 2,798 acres of surplus Navy property in the Territory of Guam in a manner consistent with the reuse identified by the local redevelopment authority, the Guam Economic Development Authority (GEDA), in its Reuse Plan for GLUP '94 Navy Surplus Properties. The property covered in the EIS has been divided into 20 parcels located in Dededo, Tiyan, Tamuning, Barrigada, Nimitz Hill, Apra Heights, Naval Station, Piti, and Santa Rita. Nineteen parcels were identified as releasable in the GLUP '94. One parcel, the Officers Housing site at Naval Air Station (NAS) Agana, was not considered in the GLUP '94 but was recommended for disposal as part of the 1995 Base Realignment and Closure

(BRAC) decision. This parcel was included in GEDA's Reuse Plan and is included in the scope of this EIS.

The DEIS evaluates three reuse alternatives and a ''No Action'' Alternative. The reuse alternatives are based upon conceptual land use plans documented in GEDA's Reuse Plan and approved by Governor Carl T. C. Gutierrez of Guam. Each reuse alternative proposes various land uses, e.g., residential, commercial, etc., as well as roadway improvements. The ''No Action'' Alternative assumes Navy's retention of the parcels in caretaker status and continuation of existing leases according to their terms.

The Preferred Alternative recommended by GEDA consists of the following elements: retention of open space for recreation and conservation, single-family affordable housing, a golf resort, commercial centers, warehouse and light industrial space, and agricultural activities. The EIS also evaluates reuse alternatives with lower and higher intensities of development. The Lower Intensity Alternative would retain more open space and involve renovation rather than expansion of certain facilities and less new construction. The Higher Intensity Alternative would provide more new construction, and development densities would approach the maximum allowed under local zoning.

Except for traffic and air quality impacts at one intersection, potentially significant impacts under all of the reuse alternatives can be mitigated to nonsignificant levels. The impacts which can be mitigated by the local reuse authority to nonsignificant levels include infrequent exceedance of air quality standards during peak-hour traffic at intersections, incompatible land uses and noise, effects on cultural resources, traffic congestion at key intersections, increases in school enrollment in three districts due to new housing development, and cumulative impacts on health care, police, fire, and civil defense services. Unacceptable traffic conditions at the intersection of Route 1 and Route 16 would occur with or without the proposed reuse. Mitigation would compensate for the reuse component of traffic at this intersection, but it would still remain above capacity. The following potentially significant but mitigable impacts are identified for the Higher Intensity Alternative: inadequate capacity of the Agana wastewater treatment plant during peak flow conditions, cumulative solid waste impacts, and impacts of the proposed power plant at Rizal/Aflleje beach on the marine environment. The ''No Action'' Alternative has the least potential for environmental impacts and demands on Guam's infrastructure.

The DEIS has been distributed to agencies and other interested parties. Copies may be reviewed at the Agana, Barrigada, Dededo, Merizo, and Yona public libraries. A limited number of single copies are available upon request from the contact listed above.

A public hearing will be held on August 26, 1999 at the Guam Hilton to inform the public of the DEIS findings and to solicit and receive oral and written comments. Government agencies and interested parties are invited to be present at the hearing. Oral comments will be heard and transcribed by a court recorder; written comments are also requested to ensure accuracy of the record. All comments, both oral and written, will become part of the official record. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Mr. Gerald Gibbons at the address given above. Comments must be postmarked no later than September 15, 1999 to be considered in the Final EIS.

Dated: July 9, 1999.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Liaison Officer.

[FR Doc. 99–17965 Filed 7–13–99; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DOD.

ACTION: Notice of meeting.

SUMMARY: The Naval Research Advisory Committee will meet to discuss basic and advanced research and technology. All sessions of the meetings will be devoted to briefings, discussions and technical examination of information related to an assessment of unmanned vehicle (UMV) technologies, operational opportunities, and capabilities as they relate to mine countermeasures, surveillance, detection, classification, identification and neutralization, ordnance delivery, and reconnaissance and sensing; and an assessment of the technology opportunities and policy implications for increasing the effectiveness of ship's personnel without sacrificing readiness or mission capability.

DATES: The meetings will be held on Monday, July 19 through Friday, July 23, 1999, from 8:00 a.m. to 5:00 p.m.; Monday, July 26 through Thursday, July 29, 1999, from 8:00 a.m. to 5:00 p.m.; and Friday, July 30, 1999, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the Space and Naval Warfare Systems Center San Diego, 53560 Hull Street, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Diane Mason-Muir, Program Director, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217–5660, Telephone (703) 696–6769.

SUPPLEMENTARY INFORMATION: This notice of meetings is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meetings will be devoted to briefings, discussions and technical examination of information related to: (1) an assessment of unmanned vehicle (UMV) technologies for the Navy, Marine Corps, Army, Air Force, and foreign and commercial enterprises as they relate to mine countermeasures, surveillance, detection, classification, identification and neutralization, ordnance delivery, and reconnaissance and sensing, and an assessment of the potential options for sea and air operation, vehicle size and weight-bearing capability, remotely piloted and autonomous operation, and complexity and ease of use, real-time communications and avionics, and training and supportability; and (2) an assessment of engineering process change and technology development as they relate to optimized manning and enhanced personnel effectiveness and retention, a survey of emerging technological opportunities and organizational changes to identify those with the potential to improve overall fighting effectiveness while optimizing crew size, and recommendations for changes to policies, procedures and doctrines that block cultural change and the subsequent adoption of technologies and processes to improve overall fighting effectiveness while optimizing manning levels, and improving training and quality of life for the DD–21 and other ship design and construction efforts. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. In

accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1).

Dated: July 9, 1999.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 99–17935 Filed 7–13–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Delete and amend record systems.

SUMMARY: The Department of the Navy proposes to delete two systems of records and amend one system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective on August 13, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to delete and amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The deletions are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered system report.

Dated: July 7, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletions

N01001–2

SYSTEM NAME:

Naval Reserve Law Program Officer Personnel Information (February 22, 1993, 58 FR 10692).

Reason: Records are now covered under the Department of the Navy notice N01001–1, Database of Reserve/Retired Judge Advocates and Legalmen.

N01810–1

SYSTEM NAME:

Directory of Retired Regular and Reserve Judge Advocates (February 22, 1993, 58 FR 10726).

Reason: Records are now covered under the Department of the Navy notice N01001–1, Database of Reserve/Retired Judge Advocates and Legalmen.

N01001–1

SYSTEM NAME:

Roster, Naval Reserve Law Units (February 22, 1993, 58 FR 10692).

Changes

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Database of Reserve/Retired Judge Advocates and Legalmen.''

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General (Code 62), Department of the Navy, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374–5066.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Reserve and retired officers of the Judge Advocate General's Corps and reserve and retired legalmen.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Personal and professional information such as: full name and nickname; Social Security Number; date of birth; home address; home and office telephone/FAX/pager numbers; e-mail address; gender; spouse's name, school year and degrees earned, etc. Military information [i.e., rank/date of rank; branch of service; lineal number; date of entrance on duty (enlisted); pay entry base data; date commissioned; date retired; military accomplishments; Naval Officer Billet Codes; Naval Enlisted Billet Code; military decorations; Naval Reserve Awards; letters of appreciation; Sailor of the Quarterly/Year; military courses completed and dates attended; military certificates (e.g., Career Counselor, Surface Warfare, Naval Aviator); foreign language skills, Readiness Command; Unit Reserve Unit Identification Code; unit name; current unit; position; date joined unit; primary type of employment; employer/agency; job title; etc). Civilian job information, such as Civilian Occupational Codes; Federal and State Courts admitted; address of employer; etc.'

* * * * *

PURPOSE(S)

Delete entry and replace with 'To facilitate liaison between Naval Reserve Law Units, Law Program Director, Director, Naval Reserve Law Programs, and the Navy's legal assistance program.

To maintain a directory of Naval Reserve Judge Advocates' location, reserve assignment, etc. Information in the directory is made available to Navy Judge Advocates, active and reserve, to enable them to locate and identify the legal expertise of Naval Reserve Judge Advocates in the various states with varying legal qualifications and state licenses, and to permit contact between Navy Judge Advocates.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Department of the Navy, Washington Navy Yard, 1322 Patterson Street, SE, Washington, DC 20374–5066.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individual and Navy Personnel Command.'

* * * * *

N01001–1

SYSTEM NAME:

Database of Reserve/Retired Judge Advocates and Legalmen.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 62), Department of the Navy, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374–5066.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve and retired officers of the Judge Advocate General's Corps and reserve and retired legalmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and professional information such as: Full name and nickname; Social Security Number, date of birth; home address; home and office telephone/FAX/pager numbers; e-mail address; gender; spouse's name, school year and degrees earned, etc. Military information [i.e., rank/date of rank; branch of service; lineal number; date of entrance on duty (enlisted); pay entry base data; date commissioned; date retired; military accomplishments; Naval Officer Billet Codes; Naval Enlisted Billet Code; military decorations; Naval Reserve Awards; letters of appreciation; Sailor of the Quarter/Year; military courses completed and dates attended; military certificates (e.g., Career Counselor, Surface Warfare, Naval Aviator); foreign language skills, Readiness Command; Unit Reserve Unit Identification Code; unit name; current unit; position; date joined unit; primary type of employment; employer/agency; job title; etc.). Civilian job information, such as Civilian Occupational Codes; Federal and State Courts admitted; address of employer; etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 806 and E.O. 9397 (SSN).

PURPOSE(S):

To facilitate liaison between Naval Reserve Law Units, Law Program Director, Director, Naval Reserve Law Programs, and the Navy's legal assistance program.

To maintain a directory of Naval Reserve Judge Advocates' location, reserve assignment, etc. Information in the directory is made available to Navy Judge Advocates, active and reserve, to enable them to locate and identify the legal expertise of Naval Reserve Judge Advocates in the various states with varying legal qualifications and state licenses, and to permit contact between Navy Judge Advocates.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer and paper records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Computer database is password protected.

RETENTION AND DISPOSAL:

Records are kept until the person is deceased.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Department of the Navy, Washington Navy Yard, 1322 Patterson Street, SE, Washington, DC 20374–5066.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Department of the Navy, Washington Navy Yard, 1322 Patterson Street, SE, Washington, DC 20374–5066.

The request should contain full name and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Department of the Navy, Washington Navy Yard, 1322 Patterson Street, SE, Washington, DC 20374–5066.

The request should contain full name and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records and contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and Navy Personnel Command.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–17672 Filed 7–13–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records Notice

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend records systems.

SUMMARY: The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on August 13, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The record system being amended is set forth below, as amended, published in its entirety.

Dated: July 7, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N0588–02

SYSTEM NAME:

Admiralty Claims Files *(February 22, 1993, 58 FR 10785).*

CHANGES:

* * * * *

PURPOSE(S):

Delete entry and replace with 'To evaluate admiralty claims asserted for and against the Navy for settlement and for litigation support to the Department of Justice.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained at OJAG headquarters as long as necessary and destroyed when no longer required.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, Washington DC 20374-1566.'

* * * * *

N05880–2

SYSTEM NAME:

Admiralty Claims Files.

SYSTEM LOCATION:

Office of the Judge Advocate General; Office of the Commander in Chief, United States Naval Forces Europe; Office of the Commander Sixth Fleet; and the Federal Records Center, Suitland, MD. Local commands with which claims under the Public Vessels Act and the Suits in Admiralty Act are initially filed, typically retain copies of such claims and accompanying files. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have asserted claims or instituted suits under the Public Vessels Act and Suits in Admiralty Act against the Department of the Navy in the name of the United States and all individuals who have instituted suits against third parties who have impleaded the Department of the Navy in the name of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files may contain claims filed, correspondence, investigative reports, accident reports, medical and dental records, x-rays, allied reports (such as local police investigations, etc.), photographs, drawings, legal memoranda, opinions of experts, and court documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Admiralty Claims Act (10 U.S.C. 7622); 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101.

PURPOSE(S):

To evaluate admiralty claims asserted for and against the Navy for settlement and for litigation support to the Department of Justice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders stored in file cabinets or other storage devices and duplicate portions of the records are also stored in computer system.

RETRIEVABILITY:

Name of claimant or ship.

SAFEGUARDS:

Files are maintained in file cabinets or other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside of official working hours. Computer files subject to controlled access and maintained on a controlled access server.

RETENTION AND DISPOSAL:

Records are retained at OJAG headquarters as long as necessary and destroyed when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, Washington DC 20374-1566.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, Washington DC 20374-1566.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, Washington DC 20374-1566.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., driver's license, etc., and give some verbal information that could be verified in the file.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The sources of information contained in the files include the following: X-rays, medical and dental records from civilian and military doctors and medical facilities; investigative reports; witnesses; and correspondence from claimants and their representatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–17673 Filed 7–13–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 13, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 9, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Annual Report on Appeals Process

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 81; Burden Hours: 162.

Abstract: Form RSA–722 is needed to meet specific data collection requirements in Subsections 102c(8)(A) and (B) of the Rehabilitation Act of 1973, as amended on the number of requests for mediation, hearings and reviews filed. The information collected is used to evaluate the types of complaints made by applicants for and eligible individuals of the vocational rehabilitation program and the final resolution of appeals filed. Respondents are State agencies that administer the Federal/State Program for Vocational Rehabilitation.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *vivian*__reese@ed.gov or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically mail her at internet address sheila__carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Postsecondary Education

Type of Review: Extension.

Title: Guaranty Agency Monthly Claims and Collections Report.

Frequency: Monthly.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden: Responses: 37; Burden Hours: 2,220.

Abstract: This form is used by a guaranty agency to request payments of reinsurance for default, bankruptcy, death, disability claims paid to lenders and for costs incurred for spa, closed school, false certification and lender of last resort and lender referral fee pay.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *vivian*__reese@ed.gov or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically mail him at internet address joe__schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–17904 Filed 7–13–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 84–10–NG, et al.]

AVISTA Corporation (Formerly The Washington Power Company), et al.; Orders Granting and Amending Authorizations To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting and amending natural gas, including liquefied natural gas, import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on July 8, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Appendix

ORDERS GRANTING AND AMENDING IMPORT/EXPORT AUTHORIZATIONS

Order No.	Date issued	Importer/exporter FE docket No.	Import volume	Export volume	Comments
62–A and 71–A	06–04–99	Avista Corporation (Formerly The Washington Power Company) 84–10–NG and 85–02–NG.	.....	.....	Name change.
822–A	06–04–99	Avista Corporation (Formerly The Washington Power Company) 93–57–NG.	.....	.....	Name change.

ORDERS GRANTING AND AMENDING IMPORT/EXPORT AUTHORIZATIONS—Continued

Order No.	Date issued	Importer/exporter FE docket No.	Import volume	Export volume	Comments
664–C	06–04–99	Avista Corporation (Formerly The Washington Power Company) 92–18–NG.			Name change.
1486	06–04–99	Carthage Energy Services, Inc. 99–34–NG.	25 Bcf	25 Bcf	Import and export from and to Canada beginning on April 29, 1999, and extending through April 28, 2001.
1487	06–04–99	Sempra Energy Trading Corp. 99–36–NG.	300 Bcf	300 Bcf	Import and export from and to Canada, and import and export from and to Mexico, beginning on June 16, 1999, and extending through June 15, 2001.
1476–A	06–07–99	TXU Energy Trading Company (Formerly Enserch Energy Services, Inc.) 99–25–NG.			Name change.
1488	06–11–99	Texaco Natural Gas Inc. 99–41–NG		120 Bcf	Export to Mexico over a two-year term, beginning on date of first delivery after June 11, 1999.
1489	06–11–99	Coral Energy Resources, L.P. 99–37–LNG.	100 Bcf		Import LNG from various countries over a two-year term, beginning on the date of first import.
1490	06–11–99	Distribuidora de Gas Natural de Mexicali 99–35–NG.	18.3 Bcf	18.3 Bcf	Import and export from and to Canada beginning on July 31, 1999, and extending through July 30, 2001.
1491	06–14–99	Pan-Alberta Gas (U.S.) Inc. 99–38–NG.	730 Bcf		Import from Canada beginning on July 4, 1999, and extending through July 3, 2001.
1492	06–14–99	Phibro LLC 99–39–NG	200 Bcf	200 Bcf	Import including LNG from Canada, and export to Canada, over a two-year term beginning on initial import or export delivery.
1493	06–14–99	Phibro LLC 99–40–NG	200 Bcf	200 Bcf	Import including LNG from Mexico, and export to Mexico, over a two-year term beginning on initial import or export delivery.
1494	06–15–99	Tractebel Energy Marketing, Inc. 99–43–NG.	150 Bcf		Import and export combined total from and to Canada, over a two-year term beginning on the date of first import or export delivery.
1495	06–17–99	Ocean State Power II 99–42–NG	36.5 Bcf		Import and export combined total from and to Canada, beginning on July 15, 1999, and extending through July 14, 2001.
1496	06–21–99	Howard Energy Marketing, L.L.C. (Formerly Howard Energy Marketing, Inc.) 99–46–NG.	36 Bcf	36 Bcf	Import and export from and to Canada, beginning on July 1, 1999, and extending through June 30, 2001.
1497	06–21–99	Energetix, Inc. 99–45–NG	250,000 MMBTU.		Import from Canada, beginning on September 1, 1999, and extending through August 31, 2001.
1498	06–21–99	Wisconsin Public Service Corporation 99–44–NG.	6 Bcf		Import from Canada, beginning on September 1, 1999, and extending through August 31, 2001.

[FR Doc. 99–17971 Filed 7–13–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE Order and Manual on Radioactive Waste Management, and Implementation Guide

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of a revised DOE Order and Manual on Radioactive Waste Management (DOE O 435.1 and DOE M 435.1–1). These documents set forth the requirements that DOE programs and contractors must follow in managing DOE radioactive waste to provide for radiological protection from DOE facilities, operations, and activities in accordance with the Atomic Energy Act of 1954 (42 U.S. C. 2011 *et seq.*) and other authorities. As part of its mission, DOE generates, stores, treats, and disposes of high-level, transuranic, low-level, and mixed low-level radioactive wastes. Accompanying the Order and Manual is an Implementation Guide, which discusses, in a non-prescriptive manner, acceptable methods for meeting the requirements of the Order and Manual. In addition, DOE has prepared a summary of the significant and most

frequent public comments received after the draft Order and Manual were made available for public review on August 6, 1998, and DOE's responses. All public comments received on the draft documents also are available.

FOR FURTHER INFORMATION CONTACT: Martin Letourneau, U.S. Department of Energy, EM–35, 19901 Germantown Road, Germantown, MD 20874, by telephone at 301–903–7656 or by e-mail at: *martin.letourneau@em.doe.gov*.

ADDRESSES: Electronic copies of the Order and Manual and accompanying Implementation Guide are available on the Internet at: http://www.explorer.doe.gov: 1776/htmls/directives/html. A summary of the public comments and DOE's responses is available through an Internet Web Site at *http://www.em.doe.gov*. Copies of the public comments received by DOE are available for viewing at the Center for Environmental Management Information, 955 L'Enfant Plaza, North, SW, Suite 8200, Washington, DC 20024, 1–800–736–3282, in DC 202–863–5084; and DOE Public Reading Rooms. For locations of the DOE Reading Rooms or other public information repositories, please contact the Center for Environmental Management Information at above address and telephone.

SUPPLEMENTARY INFORMATION: The DOE Order and Manual on Radioactive Waste Management (DOE O 435.1 and DOE M 435.1–1) set forth the requirements that DOE programs and contractors must follow in managing DOE radioactive waste to provide for radiological protection from DOE facilities, operations, and activities. These documents replace the previous DOE Order on Radioactive Waste Management, DOE 5820.2A. The new Order and Manual reflect advances in radioactive waste management practices, and changes within DOE, since the previous DOE Order was issued in 1988.

On August 6, 1998, DOE published a Notice of Availability (NOA) of the draft DOE Order and Manual on Radioactive Waste Management (63 FR 42012). In the NOA, DOE requested comments from the public and interested parties on the draft Order and Manual by September 8, 1998.

Overall, approximately 250 comments were received from 18 different entities, including states, Indian Nations, citizen groups, DOE Site-Specific Advisory Boards, national laboratories, private individuals, government agencies, and corporations. The focus of the comments ranged from general Order and Manual process issues to specific technical issues. A summary of the significant and most frequently received public comments on DOE O 435.1, Radioactive Waste Management, and DOE's responses is available at the above locations.

Review Under the National Environmental Policy Act

The objective of the Order, Manual, and Implementation Guide is to continue to ensure that all DOE radioactive waste is managed in a manner that protects worker and public health and safety, and the environment. On July 30, 1998, DOE executed a record of categorical exclusion for the draft of the DOE Order and Manual. On August 8, 1998, DOE made the drafts available to the public for comment. DOE then reviewed each of the comments it received, and revised the draft Order and Manual where appropriate. After considering the public comments and the changes prompted by those comments, DOE believes that the final Order and Manual, and accompanying Guide, also qualify for a categorical exclusion. Because the Order and Manual amend or revise the existing Order but do not change its environmental effect, DOE has determined that this revision fits within the class of actions eligible for categorical exclusion found in DOE's National Environmental Policy Act Implementing Procedures, 10 CFR Part 1021, at paragraph A5 of Appendix A to subpart D. DOE has determined that there are no extraordinary circumstances related to the Order and Manual that may affect the significance of the environmental impacts of the Order and Manual, and that the Order and Manual are not ''connected'' to other actions with potentially significant impacts or to other proposed actions with cumulatively significant impacts. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Issued in Washington, D.C. July 8, 1999.

James M. Owendoff,

Acting Assistant Secretary for Environmental Management.

[FR Doc. 99–17972 Filed 7–13–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–345–002]

Arkansas Western Pipeline, L.L.C.; Tariff Filing

July 8, 1999.

Take notice that on June 30, 1999, Arkansas Western Pipeline, L.L.C. (AWP L.L.C.) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets, with an effective date of June 22, 1999.

AWP L.L.C. asserts that the purpose of this filing is to replace the revised sheets filed by AWP L.L.C. on June 22, 1999, and replacement sheets filed on June 23, 1999, in this proceeding because the docket numbers and citations in the footers on the replacement tariff sheets submitted on June 23, 1999 were incomplete.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17852 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–029]

Columbia Gas Transmission Corporation; Report

July 8, 1999.

Take notice that on June 30, 1999, Columbia Gas Transmission Corporation (Columbia) filed a report on the flow back to customers on June 10, 1999, of $5,702.76 representing the time value of money associated with the deferred taxes applicable to non-jurisdictional

facilities sold to Columbia Natural Resources, Inc. pursuant to Stipulation II, Article III, Section G(2) of Columbia's approved settlement in Docket No. RP95–408, *et al.* Columbia credited its customers' invoices issued on June 10, 1999.

Columbia states that a copy of this report is being provided to all recipients of a share of the flowback and all state commissions whose jurisdiction includes the location of any such recipient.

Any person desiring to protest said 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 on or before July 16, 1999. Protests will be considered by the Commission in determining 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc 99–17843 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–423–000]

Cove Point LNG Limited Partnership; Notice of Tariff Filing

July 8, 1999.

Take notice that on July 2, 1999, Cove Point LNG Limited Partnership (Cove Point) tendered for filing to become a part of Cove Point's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

First Revised Sheet No. 123A
Sixth Revised Sheet No. 136

On April 2, 1999, the Federal Energy Regulatory Commission issued Order No. 587–K directing gas pipelines to adopt Version 1.3 of the Gas Industry Standards Board standards. The above-described tariff sheets are filed to implement this requirement.

Cove Point states that copies of the filing were served upon Cove Point's customers and interested state regulatory commissions.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17831 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–428–000]

East Tennessee Natural Gas Company; Tariff Filing

July 8, 1999.

Take notice that on July 2, 1999, East Tennessee Natural Gas Company (East Tennessee), filed revised tariff sheets in compliance with the Order No. 587–K issued on April 2, 1999. Standards for Business Practices Of Interstate Natural Gas Pipelines, 87 FERC ¶ 61,021 (1999). Consistent with Order No. 587–K, East Tennessee proposes an effective date of August 1, 1999.

East Tennessee states that the revised tariff sheets incorporate by reference Version 1.3 of the GISB standards, with the exception of certain Electronic Data Interchange (EDI) datasets.

East Tennessee states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17836 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–573–000]

El Paso Natural Gas Company; Application

July 8, 1999.

Take notice that on June 30, 1999, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP99–573–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale to Southern Union Gas Company (Southern Union), a local distribution company, pipeline facilities, metering and tap facilities currently used by El Paso to provide transportation service to Southern Union for distribution and sale in and about the City of El Paso, Texas, through Line Nos. 1000 and 2043. In addition, El Paso seeks permission and approval to abandon the certificated service at 10 meter and tap facilities in Ward County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

El Paso proposes to abandon 20.12 miles of Line No. 1000, extending from Valve No. 23 near milepost 186.49 to milepost 206.61, and associated taps and meters in El Paso County, Texas. El Paso states that this segment of Line No. 1000 is currently utilized to deliver gas to Southern Union at 16 meters and 18 taps. El Paso states that it will retain and continue to utilize the remaining 139.85 miles of Line No. 1000, located upstream of Valve No. 23, to deliver fuel gas to El Paso's Pecos River, Guadalupe and Cornudas compressor stations in

support of El Paso's high pressure South System as well as deliver gas to serve Southern Union's distribution system in the City of El Paso, Texas.

In addition, El Paso proposes to abandon 2.92 miles of Line No. 2043, extending from El Paso Electric Co. Line to Southern Union Central Delivery Point, and associated taps and meters in El Paso County, Texas. El Paso states that this segment of Line No. 2043 is currently utilized to deliver gas to Southern Union at one meter and two taps. El Paso states that it will retain and continue to utilize the remaining 3.14 miles of Line No. 2043, located upstream, to provide service to existing direct industrial and residential customers on the west side of El Paso, Texas.

El Paso states that Line Nos. 1000 and 2043 and the associated delivery facilities proposed to be abandoned essentially serve a local distribution, end-use function, rather than an interstate mainline transmission function. El Paso states that such facilities serve customers at numerous delivery points and will, upon transfer, be utilized by Southern Union in conjunction with Southern Union's existing distribution system in the El Paso, Texas, area.

Also, El Paso proposes to abandon the certificated service at one meter and nine taps located in or near the Town of Monahans, Ward County, Texas. El Paso states that it is no longer directly serving Southern Union at these delivery points. El Paso states that Southern Union has informed El Paso that it will obtain gas supply and transportation services for the 10 delivery points from Sid Richardson Gasoline Company.

El Paso states that it will sell the subject facilities to Southern Union at the net book value.

Any questions regarding the application should be directed to Patricia A. Shelton at (915) 496–2600, El Paso Natural Gas Company, Post Office Box 1492, El Paso, Texas 79978.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1999, 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 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 El Paso to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–17842 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–035]

El Paso Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective July 1, 1999:

Twenty-Fifth Revised Sheet No. 30
Seventeenth Revised Sheet No. 31
Original Sheet No. 31A

El Paso states that the above tariff sheets are being filed to implement two negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17850 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-427-000]

Gulf States Transmission Corporation; Notice of Waiver of Electronic Data Interchange Requirement

July 8, 1999.

Take notice that on July 1, 1999, Gulf States Transmission Corporation (Gulf States), tendered for filing and acceptance a Motion for Waiver of Electronic Data Interchange (EDI) Requirement.

Gulf States states that it is seeking a waiver of the Commission's requirement in Order No. 587–I that interstate pipelines conduct business transactions though an EDI format by June 1, 2000. Gulf States further states that it currently has only two customers with valid contracts and that neither customer uses nor desires EDI transactions with Gulf States. Gulf States further states that it seeks a waiver of only the EDI requirement and that it intends to fully comply with all other Commission approved GISB standards related to communications on the Internet.

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, NE, Washington, DC 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 on or before July 16, 1999. 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 persons 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202-208-2222 for assistance).

David P. Boergers,

Secertary.

[FR Doc. 99–17835 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3240–000]

ISO New England Inc.; Notice of Filing

July 8, 1999.

Take notice that on July 1, 1999, ISO New England Inc. (the ISO), tendered for filing, pursuant to Section 205 of the Federal Power Act, a Request for Acceptance of Supplement to Revisions to NEPOOL Market Rule 5 on an Expedited Basis.

Copies of said filing have been served upon the Participants in the New England Power Pool, non-Participant transmission customers and to the New England State Governors and Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 16, 1999. 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17909 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–421–000]

K N Interstate Gas Transmission Co.; Notice of Waiver Request

July 8, 1999.

Take notice that on July 2, 1999 K N Interstate Gas Transmission Co. (K N Interstate) filed a request for a one-time waiver of certain notice and timing requirements of Section 18 of its FERC Gas Tariff, Volume No. 1–B, relating to the Right of First Refusal process.

K N Interstate requests that the notice requirement applicable to shippers be waived as to a contract with Midwest Energy, Inc. that expires on September 30, 1999, and that it be allowed to use an iterative bidding process limited to two rounds and, if necessary, to shorten the required time frame between the end of the bidding process and contract expiration from 45 days to 30 days.

K N Interstate states that copies of the filing have been served upon mainline transportation and storage shippers and affected state regulatory bodies.

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, NE, Washington, DC 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 on or before July 16, 1999. 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. This filing pay be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17829 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–023]

Koch Gateway Pipeline Company; Negotiated Rate Filing

July 8, 1999.

Take notice that on July 1, 1999, Koch Gateway Pipeline Company (Koch) filed with the Federal Energy Regulatory Commission a contract for disclosure of a recently negotiated rate transaction. As shown on the contracts, Koch requests an effective date of July 1, 1999.

Koch states that copies of the filing are being served upon each and all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 16, 1999. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17846 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–024]

Koch Gateway Pipeline Company; Negotiated Rate Filing

July 8,1999.

Take notice that on July 1, 1999, Koch Gateway Pipeline Company (Koch) filed with the Federal Energy Regulatory Commission a contract for disclosure of a recently negotiated rate transaction. As shown on the contracts, Koch requests an effective date of July 1, 1999.

Koch states that copies of the filing states that it has served copies of this filing upon each and all parties on the

official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 16, 1999. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17847 Filed 7–13–99; 8:45 am]

BILLING CODE 5617–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–429–000]

Midwestern Gas Transmission Company; Compliance Filing

July 8, 1999.

Take notice that on July 2, 1999, Midwestern Gas Transmission Company (Midwestern), filed revised tariff sheets in compliance with the Order No. 587–K issued on April 2, 1999. *Standards for Business Practices Of Interstate Natural Gas Pipelines,* 87 FERC ¶61,021 (1999). Consistent with Order No. 587–K, Midwestern proposes an effective date of August 1, 1999.

Midwestern states that the revised tariff sheets incorporate Version 1.3 of the GISB standards into its tariff, with the exception of certain Electronic Data Interchange (''EDI'') datasets.

Midwestern states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17837 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–425–000]

Mississippi River Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 2, 1999, Mississippi River Transmission Company (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective August 1, 1999:

Seventh Revised Sheet No. 80
Second Revised Sheet No. 112
First Revised Sheet No. 112A
Second Revised Sheet No. 114
First Revised Sheet No. 114A
Second Revised Sheet No. 120A
Third Revised Sheet No. 121

MRT states that the purpose of this filing is to comply with the Commission's Order No. 587–K, issued April 2, 1999.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17833 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–-01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–702–001]

Natural Gas Pipeline Company of America; Amended Application

July 8, 1999.

Take notice that on July 2, 1999, Natural Gas Pipeline Company of America (Natural), 747 E. 22nd Street, Lombard, IL 60148, filed an amendment to its application in Docket No. CP98–702–000 pursuant to Subpart A of part 157 of the Commission's Regulations. Natural is amending its original application to provide additional information.

On July 29, 1998, Natural filed under Section 7(b) to abandon by sale to MidCon Texas Pipeline Operator (an intrastate pipeline affiliate), the Sejita Lateral located in Duval and Jim Wells Counties, Texas. On February 1, 1999, the Commission issued an order approving Natural's abandonment of the Sejita Lateral by transfer to MidCon.[1] However, the Order found that MidCon's ownership and operation of the lateral would be subject to the Commission's jurisdiction. On March 3, 1999, Natural filed an Application for Rehearing and Request for Reconsideration.

In this filing Natural withdraws its request for rehearing and supplements its earlier abandonment application. Natural states that it has signed a letter of intent with PG&E Texas Pipeline, L.P., which contemplates the interconnection of the Sejita Lateral with another intrastate pipeline company and the processing of the lateral's volumes at a third party plant. Under this arrangement, all of the volumes currently flowing in the lateral would be diverted for processing and equivalent volumes would be redelivered on behalf of MidCon and its shippers to an existing interconnection with the other intrastate pipeline and Natural. Natural believes that this arrangement provides sufficient basis for a determination by the Commission that the Sejita Lateral will be non-jurisdictional after transfer to MidCon

[1] Natural Gas Pipeline Company of America 86 FERC ¶ 61,100 (1999).

and request such as an order in this filing.

This proposal to amend is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.us/online/rims.htm. Call 202–208–2222 for assistance. The contact person for Natural is Jansen C. Pollock (630) 691–3536.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1999, 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 and 385.211) and the regulations under the Natural Gas Act (18 CFR 157.20). 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, and if the Commission on its own review of the matter finds that a grant of 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 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 Natural to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–17841 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–-01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–347–016]

Northern Natural Gas Company; Filing

July 8, 1999.

Take notice that on July 1, 1999, pursuant to the Carlton Settlement filed in Docket No. RP96–347 and its FERC Gas Tariff, Northern Natural Gas Company (Northern) has filed various schedules detailing the Carlton surcharge dollars reimbursed to the appropriate parties.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17848 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–31–002]

Northern Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective November 1, 1998:

Substitute Fourth Revised Sheet No. 204
Substitute Fifth Revised Sheet No. 204

Northern states that the purpose of this filing is to refile Fourth and Fifth Revised Sheet Nos. 204 to reflect the Gas Industry Standards Board (GISB) modifications as filed and approved on Substitute First Revised Third Revised Sheet No. 204, which were inadvertently omitted from Fourth and Fifth Revised Sheet Nos. 204.

Northern states that copies of the filing were served upon the company's customers and interested 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 Sections 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17851 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–409–009]

Northwest Pipeline Corporation; Compliance Filing

July 8, 1999.

Take notice that on July 1, 1999, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, a number of tariff sheets which apply to the period from February 1, 1996 through February 28, 1997 during which Northwest's rates as established in Docket No. RP95–409–000 are applicable. The specific tariff sheets are enumerated in Appendix A of the filing.

Northwest states that the purpose of this filing is to comply with the Commission's June 1, 1999 Order on Initial Decision in Docket No. RP95–409–000. Northwest states that its compliance filing is consistent with the Commission's orders and directives that have been issued with respect to the Docket No. RP95–409–000 proceeding.

Northwest states that a copy of this filing has been served upon each person

designated on the official service list compiled by the Secretary in this proceeding.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17844 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–399–000]

PG&E Gas Transmission, Northwest Corporation; Compliance Filing and Request for Waiver

July 8, 1999.

Take notice that on June 30, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following revised tariff sheets, with an effective date of August 1, 1999:

Eighth Revised Sheet No. 52
Fifth Revised Sheet No. 61
Third Revised Sheet No. 61A
Seventh Revised Sheet No. 62
Fifth Revised Sheet No. 81A
Fourth Revised Sheet No. 81A
Fourth Revised Sheet No. 81A.03
Fourth Revised Sheet No. 81A.04
Fifth Revised Sheet No. 81A.05
Sixth Revised Sheet No. 91
Fourth Revised Sheet No. 95
Fourth Revised Sheet No. 100
Sixth Revised Sheet No. 105
Fifth Revised Sheet No. 107
Fourth Revised Sheet No. 110
Sixth Revised Sheet No. 144

PG&E GT–NW states that these tariff sheets are filed in compliance with Order No. 587–K.

PG&E GT–NW further requests a limited waiver of GISB EDI Invoicing Standards 3.4.1 through 3.4.4 to allow PG&E GT–NW to complete its Integrated Transportation Management System.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, interested state regulatory agencies and all parties on the Commission's official service list for this proceeding.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17855 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–394–000]

Pine Needle LNG Company, LLC; Proposed Change in FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Pine Needle LNG Company, LLC, (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with an effective date of August 1, 1999:

First Revised Sheet No. 89

Pine Needle states that the purpose of this filing is to comply with Order No. 587K, Final Rule issued April 2, 1999 in Docket No. RM96–1–011. Pine Needle states the revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Pine Needle states that copies of the filing are being served on all affected customers and applicable state regulatory agencies.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17854 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–426–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 2, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to be effective August 1, 1999:

First Revised Sheet No. 277
First Revised Sheet No. 284
Second Revised Sheet No. 288
First Revised Sheet No. 298
First Revised Sheet No. 304
Second Revised Sheet No. 309
First Revised Sheet No. 435

REGT states that the purpose of this filing is to comply with the Commission's Order No. 587–K, issued April 2, 1999.

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, NE, Washington, DC

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17834 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–042]

Reliant Energy Gas Transmission Company; Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on June 30, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective June 6, 1999:

Original Sheet No. 8G

REGT states that the purpose of this filing is to reflect the appropriate pagination and its name change consistent with its recently approved FERC Gas Tariff, Fifth Revised Volume No. 1.

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 motions 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17845 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–419–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's Order No. 587–K to become effective August 1, 1999:

Second Revised Sheet No. 98a
Second Revised Sheet No. 124a
Seventh Revised Sheet No. 126
Third Revised Sheet No. 127a
First Revised Sheet No. 129a
Third Revised Sheet No. 132
Fourth Revised Sheet No. 133
Second Revised Sheet No. 134
Sixth Revised Sheet No. 212h

On April 2, 1999, the Commission issued Order No. 587–K in Docket No. RM96–1–011 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow Version 1.3 of the business practices standards issued by the Gas Industry Standards Board (GISB) and incorporated by reference in Section 284.10(b) of the Commission's Regulations. The standards require pipelines to post certain information on World Wide Web homepages and to comply with the new and revised business practices governing nominations, flowing gas, electronic delivery mechanisms and capacity release. The revisions shown on the Tariff Sheets filed herewith reflect Southern's compliance filing to conform with Version 1.3 of the GISB standards approved under Order No. 587–K. Such standards specifically include nomination and confirmation practices, the definition of a gigacalorie for nominations in Mexico, the addition of an allocation methodology, and the format and content of information postings on Southern's web site. The order required Southern to submit its compliance filing for implementation of the approved standards by August 1, 1999.

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, NE, Washington, DC 20426, in accordance with Sections 385.314 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17828 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–99–412–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

July 8, 1999.

Take notice that on July 1, 1999, Tennessee Gas Pipeline Company (Tennessee) tendered for filing revised tariff sheets in compliance with the Order No. 587–K issued on April 2, 1999. *Standards for Business Practices of Interstate Natural Gas Pipelines,* 87 FERC ¶ 61,021 (1999). Consistent with Order No. 587–K, Tennessee proposes an effective date of August 1, 1999.

Tennessee states that the revised tariff sheets incorporate Version 1.3 of the GISB standards into its tariff, with the exception of certain Electronic Data Interchange (EDI) datasets.

Tennessee states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17826 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–418–000]

Texas Eastern Transmission Corporation; Notice of Tariff Filing

July 8, 1999.

Take notice that on July 1, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

Second Revised Sheet No. 650
Sixth Revised Sheet No. 681

Texas Eastern states that the purpose of this filing is to comply with Order No. 587–K, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17827 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–424–000]

Texas-Ohio Pipeline, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 2, 1999, Texas-Ohio Pipeline, Inc. (Texas-Ohio), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets with a proposed effective date of August 1, 1999:

Third Revised Sheet No. 41
First Revised Sheet No. 54C
Third Revised Sheet No. 78

Texas-Ohio states that the purpose of this filing is to comply with the requirements of the Commission's Order No. 587–K, issued in Docket No. RM96–1–011 on April 2, 1999.

Texas-Ohio further states that copies of this filing have been served on Texas-Ohio's historic customers and interested state commissions.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17832 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–404–000]

Trunkline Gas Company; Notice of Proposed Change In FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Second Revised Sheet No. 171A
Fifth Revised Sheet No. 242

Trunkline states that the purpose of this filing is to comply with Order No. 587K, Final Rule issued April 2, 1999 in Docket No. RM96–1–011. Trunkline states the revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Trunkline states that copies of the filing are being served on all affected customers and applicable state regulatory agencies.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17825 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–87–000]

Trunkline LNG Company; Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheet to be effective August 1, 1999:

First Revised Sheet No. 5

Trunkline states that this filing is being made in accordance with Section 19 (Fuel Reimbursement Adjustment) and Section 20 (Electric Power Cost Adjustment) of the General Terms and Conditions of TLNG's FERC Gas Tariff, Original Volume No. 1–A. The revised tariff sheet reflects: a 0.26% decrease to the currently effective fuel reimbursement percentage and a $0.0095 per Dt. Increase for the electric power cost adjustment under Rate Schedules FTS and ITS.

TLNG states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17838 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–403–000]

Trunkline LNG Company; Tariff Filing

July 8, 1999.

Take notice that on July 1, 1999, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheets to be effective August 1, 1999:

First Revised Sheet No. 67
Third Revised Sheet No. 115

TLNG states that the purpose of this filing is to comply with Order No. 587–K, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised tariff sheets reflect certain Version 1.3 standards promulgated by the gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

TLNG states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

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, NE., Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17856 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–422–000]

WestGas InterState, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 2, 1999, WestGas InterState, Inc. (WestGas), tendered for filing as part of its FERC Gas tariff, First Revised Volume No. 1, the following tariff sheets with a proposed effective date of August 1, 1999:

Fourth Revised Sheet No. 29
Second Revised Sheet No. 29A
Fourth Revised Sheet No. 40
Second Revised Sheet No. 40A
Second Revised Sheet No. 46B
Third Revised Sheet No. 92

WestGas states that the purpose of this filing is to comply with the requirements of the Commission's Order No. 587–K, issued in Docket No. RM96–1–011 on April 2, 1999.

WestGas further states that copies of this filing have been served on WestGas' jurisdictional customers and interested state commissions.

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, NE, Washington, DC 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17830 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–258–007 and RP97–454–003]

Williams Gas Pipelines Central, Inc.; Filing of Report

July 8, 1999.

Take notice that on June 29, 1999, Williams Gas Pipelines Central, Inc. (Williams), formerly named Williams Natural Gas Company, tendered for filing its report of activity under its Rate Schedule PS (Pooling Service) during the first year of operation of such service.

Williams states that in its Order Approving Settlement with Modifications issued March 2, 1998, in the above-captioned proceedings, the Commission required Williams to file a report of activity under its Rate Schedule PS (Pooling Service) during the first year of operation of such service. Williams hereby files the required report.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 16, 1999. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Sercretary.

[FR Doc. 99–17849 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–49–000]

Williston Basin Interstate Pipeline Company; Fuel Reimbursement Charge Filing

July 8, 1999.

Take notice that on July 1, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, with an effective date of August 1, 1999:

Second Revised Volume No. 1

Thirty-second Revised Sheet No. 15
Fourteenth Revised Sheet No. 15A
Thirty-fifth Revised Sheet No. 16
Fourteenth Revised Sheet No. 16A
Thirty-first Revised Sheet No. 18
Fourteenth Revised Sheet No. 18A
Fourteenth Revised Sheet No. 19
Fourteenth Revised Sheet No. 20
Twenty-eighth Revised Sheet No. 21

Original Volume No. 2

Seventy-seventh Revised Sheet No. 11B

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, pursuant to Williston Basin's Fuel Reimbursement Adjustment Provision, contained in Section 38 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1.

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, NE, Washington, DC 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 on or before July 16, 1999. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17839 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–14–000]

Williston Basin Interstate Pipeline Company; Tariff Filing

July 8, 1999.

Take notice that on July 1, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Seventh Revised Sheet No. 188, with an effective date of July 1, 1999.

Williston Basin is filing the proposed revision to its Tariff to reflect changes in Subsection 7.1 relating to shared facilities. More specifically, Seventh Revised Sheet No. 188 was revised to reflect the office located at 1250 West Century Avenue as a shared facility, and the removal of two office locations no longer utilized by Williston Basin personnel.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17840 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–381–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1999.

Take notice that on July 1, 1999, Wyoming Interstate Company, Ltd. (WIC) tendered for proposed changes in its FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Volume No. 2.

The proposed rate changes would increase revenues from existing system jurisdictional service by approximately $8.1 million based on the 12-month period ending February 28, 1999, as adjusted. WIC requested an effective date of August 1, 1999. WIC states the rate increase is necessary to: (1) Compensate WIC for increased operating costs; (2) depreciation expense; and (3) allow WIC to earn a rate of return on WIC's assets, at a level that will be competitive in capital markets.

WIC states that a full copy of its filing are being served on all jurisdictional customers, applicable state commissions and interested parties that have requested service.

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, NE, Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17853 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–181–000, et al.]

PanEnergy Lake Charles Generation, Inc., et al.; Electric Rate and Corporate Regulation Filings

July 7, 1999.

Take notice that the following filings have been made with the Commission:

1. PanEnergy Lake Charles Generation, Inc.

[Docket No. EG99–181–000]

Take notice that on June 29, 1999, PanEnergy Lakes Charles Generation, Inc. (PanEnergy Lake Charles Generation) of 5444 Westheimer Road, Houston, Texas 77056, filed with the Federal Energy Regulatory Commission an application for determination of Exempt Wholesale Generator (EWG) status pursuant to Part 365 of the Commission's regulations.

PanEnergy Lake Charles Generation is in the exclusive business of owning and operating a 16 MW electric generating facility located in Lake Charles, Louisiana. The electric energy generated by this facility will be sold at wholesale. Pan Energy Lake Charles Generation has been previously certified as an EWG for the subject facility. A change in ownership of the stock of Pan Energy Lake Charles Generation necessitates the instant filing.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. NRG Northeast Generating LLC, Dunkirk Power LLC, and Huntley Power LLC

[Docket No. EG99–161–000, Docket No. EG99–162–000 and Docket No. EG99–163–000]

Take notice that on June 18, 1999, NRG Northeast Generating LLC, Dunkirk Power LLC and Huntly Power LLC (collectively, Applicants), tendered for filing with the Federal Energy Regulatory Commission, a clarification to their pending applications.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Broad River Energy LLC

[Docket No. EG99–182–000]

Take notice that on June 30, 1999, Broad River Energy LLC (Applicant) with its principal office at c/o SkyGen Energy LLC, Edens Corporate Center, 650 Dundee Road, Suite 350, Northbrook, Illinois 60062, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it will be engaged in owning and operating the Broad River Energy Center (the Facility) consisting of three natural gas fueled simple cycle combustion turbines having a combined electrical output totaling approximately 500 MW. The Facility will be constructed outside of Gaffney in Cherokee County, South Carolina. The Applicant also states that it will sell electric energy exclusively at wholesale.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Mt. Poso Cogeneration Company, L.P.

[Docket No. EG99–183–000]

Take notice that on June 30, 1999, Mt. Poso Cogeneration Company, L.P., 10000 Stockdale Highway, Suite 100, Bakersfield, CA 93311, 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.

Mt. Poso owns and operates a nominal 49,500 kW, coal-fired, enhanced oil recovery cogeneration power plant that uses a circulating fluidized bed boiler (CFB) combustion system (the Facility). The Facility is located about 15 miles east of Highway 99 and about 25 miles north of Bakersfield in California's San Joaquin Valley.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. PP&L Colstrip III, LLC

[Docket No. EG99–184–000]

Take notice that on July 1, 1999, PP&L Colstrip III, LLC (Applicant), 11350 Random Hills Road, Fairfax, Virginia 22030–6044, 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 and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant, a limited liability company organized under the laws of the State of Delaware, is acquiring assets from The Montana Power Company that will be used to make sales of electric energy exclusively at wholesale.

Copies of the application have been served upon the Montana Public Service Commission, the Pennsylvania Public Utility Commission, and the Securities and Exchange Commission.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. PP&L Montana, LLC

[Docket No. EG99–185–000]

Take notice that on July 1, 1999, PP&L Montana, LLC (Applicant), 11350 Random Hills Road, Fairfax, Virginia 22030–6044, 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 and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant, a limited liability company organized under the laws of the State of Delaware, is acquiring assets from The Montana Power Company that will be used to make sales of electric energy exclusively at wholesale.

Copies of the application have been served upon the Montana Public Service Commission, the Pennsylvania Public Utility Commission, and the Securities and Exchange Commission.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Foote Creek II, LLC

[Docket No. EG99–186–000]

Take notice that on July 1, 1999, Foote Creek II, LLC, 1455 Frazee Road, Suite 900, San Diego, California 92108 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.

Foote Creek II, LLC, is a Delaware limited liability company that intends to construct, own and operate a 1.8 MW generation facility consisting of three (3) Mitsubishi WT Model 450/600 wind turbine generators in Carbon County, Wyoming. Foote Creek II, LLC, is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

8. Newport Electric Corporation

[Docket No. ER99–2469–000]

Take notice that on June 30, 1999, Newport Electric Corporation (Newport), tendered for filing an amendment to its cost of service formula to reduce the cost of common equity to 10.65%. Newport also provided an explanation of the differences between the proposed cost of service formula and the currently-effective formula.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER99–2779–000]

Take notice that on June 30, 1999, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) tendered for filing an amendment to its May 3, 1999, filing in this proceeding in response to a Letter Order issued in this proceeding on May 26, 1999.

The CSW Operating Companies state that a copy of the filing has been served on all parties to Docket No. ER99–2779–000.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER99–3416–000]

Take notice that on June 30, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for DukeSolutions, Inc., an amendment to a previously filed Network Integration Transmission Service Agreement for Buckeye Power Inc., on behalf of Ormet Primary Aluminum Corporation, and service specifications for a number of Long-Term Firm Point-to-Point Transmission Service reservations made on AEP's OASIS. All of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after June 1, 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER99–3417–000]

Take notice that on June 30, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Madison Gas and Electric Company, providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Kansas Gas and Electric Company

[Docket No. ER99–3418–000]

Take notice that on June 30, 1999, Western Resources, Inc. (Western Resources), on behalf of its wholly-owned subsidiary, Kansas Gas and Electric Company (KGE), tendered for filing a Ninth Revised Exhibit B to the Electric Power, Transmission and Service Contract between KGE and Kansas Electric Power Cooperative, Inc., (KEPCo). KGE states the filing is to update Exhibit B to reflect the installation of the Sharpe point of delivery.

This filing is proposed to become effective June 1, 1999.

A copy of this filing was served upon KEPCo and the Kansas Corporation Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER99–3419–000]

Take notice that on June 30, 1999, Central Power and Light Company, West

Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing service agreements under which the CSW Operating Companies will provide transmission and ancillary services to the City of Coffeyville, Kansas in accordance with the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing has been served on the City of Coffeyville, Kansas.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Sunbury Generation, LLC

[Docket No. ER99–3420–000]

Take notice that on June 30, 1999, Sunbury Generation, LLC (Sunbury Generation), tendered for filing its application for market-based rate authority pursuant to Section 205 of the Federal Power Act. The application included a tariff providing for sales of electric capacity and/or energy at market-based rates, a code of conduct and a form of service agreement. The tariff also provides for sales of ancillary services at market-based rates into the PJM Power Exchange, the New York ISO Market and the ISO New England market. Sunbury Generation also filed a Transition Power Purchase Agreement with PP&L, Inc.

Sunbury Generation requested that its tariff and related materials, and the Transition Power Purchase Agreement become effective on August 29, 1999, sixty days after the date of this filing.

Sunbury Generation states that it has served its filing on the Pennsylvania Public Utility Commission because Sunbury Generation will own a generating facility which in the past has been used to make power sales within the Commonwealth of Pennsylvania.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of Oklahoma

[Docket No. ER99–3421–000]

Take notice that on June 30, 1999, Public Service Company of Oklahoma (PSO) filed an Interconnection Agreement between PSO and the City of Coffeyville, Kansas (Coffeyville).

PSO requests an effective date for the Interconnection Agreement of July 1, 1999. Accordingly, PSO requests waiver of the Commission's notice requirements.

PSO states that a copy of the filing was served on Coffeyville and the Oklahoma Corporation Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Duke Energy Corporation

[Docket No. ER99–3422–000]

Take notice that on June 30, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered a Service Agreement for Market Rate Sales under Rate Schedule MR, FERC Electric Tariff First Revised Volume No. 3 (the MRSAs), between Duke and the United States of America, Department of Energy acting by and through the Southeastern Power Administration.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. SCC–L1, L.L.C.

[Docket No. ER99–3423–000]

Take notice that on June 30, 1999, SCC–L1, L.L.C. (SCC–L1), tendered for filing a service agreement establishing Enron Power Marketing, Inc. (EPMI), as a customer under SCC–L1's Rate Schedule No. 1.

SCC–L1 requests an effective date of June 1, 1999.

SCC–L1 states that a copy of the filing was served on EPMI.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. SCC–L3, L.L.C.

[Docket No. ER99–3424–000]

Take notice that on June 30, 1999, SCC–L3, L.L.C. (SCC–L3), tendered for filing a service agreement establishing Enron Power Marketing, Inc. (EPMI) as a customer under SCC–L3's Rate Schedule No. 1.

SCC–L3 requests an effective date of June 1, 1999.

SCC–L3 states that a copy of the filing was served on EPMI.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. SCC–L2, L.L.C.

[Docket No. ER99–3425–000]

Take notice that on June 30, 1999, SCC–L2, L.L.C. (SCC–L2), tendered for filing a service agreement establishing Enron Power Marketing, Inc. (EPMI) as a customer under SCC–L2's Rate Schedule No. 1.

SCC–L2 requests an effective date of June 1, 1999.

SCC–L2 states that a copy of the filing was served on EPMI.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. San Diego Gas & Electric Company

[Docket No. ER99–3426–000]

Take notice that on June 30, 1999, San Diego Gas & Electric Company (SDG&E) tendered for filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d, Original Sheet No. 3 to Vol. No. 7 of SDG&E's FERC Electric Tariff, providing for the sale of electric energy at market-based rates.

SDG&E states that it was authorized by prior Commission orders in Docket No. ER96–1663–000 to make sales of energy at market based rates through the California Power Exchange (the PX). SDG&E now proposes to remove the conditions that such sales be made only through the PX.

In support of its proposal, SDG&E submits a market power analysis reflecting the divestiture of its fossil-fuel generation. SDG&E also tenders the analysis to meet the requirement adopted in Docket No. ER96–1663–000 that it file such an analysis prior to the termination of the ''transition period'' during which, under state law, its retail rates are fixed at specified levels.

SDG&E states that it has served a copy of its filing on the California Public Utilities Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. SOWEGA Power LLC

[Docket No. ER99–3427–000]

Take notice that on June 30, 1999, SOWEGA Power LLC, tendered for filing, pursuant to Section 205 of the Federal Power Act, a request for blanket approval to make sales at market-based rates from its two generators located in southwestern Georgia.

SOWEGA also requests waiver of the Commission's open access transmission tariff and OASIS requirements to the extent required and requests the waivers traditionally granted to parties authorized to sell power at market-based rates. SOWEGA seeks a waiver of the Commission's 60 day prior notice and filing requirements and an effective date from the Commission of July 2, 1999.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Indianapolis Power & Light Company

[Docket No. ER99–3428–000]

Take notice that on June 29, 1999, Indianapolis Power & Light Company (IPL), tendered for filing a letter

agreement extending by one year to August 31, 2000, the service IPL currently provides to PSI Energy, a public utility subsidiary of Cinergy, under an existing interconnection agreement.

Copies of this filing were sent to the Indiana Utility Regulatory Commission and Cinergy.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Puget Sound Energy, Inc.

[Docket No. ER99–3429–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Cinergy Capital & Trading, Inc. (Cinergy).

A copy of the filing was served upon Cinergy.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Puget Sound Energy, Inc.

[Docket No. ER99–3430–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Calpine Power Services Company (Calpine).

A copy of the filing was served upon Calpine.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Puget Sound Energy, Inc.

[Docket No. ER99–3431–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Citizens Power Sales (CP Sales).

A copy of the filing was served upon CP Sales.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Puget Sound Energy, Inc.

[Docket No. ER99–3432–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with City of Anaheim, Public Utilities Department (Anaheim).

A copy of the filing was served upon Anaheim.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Puget Sound Energy, Inc.

[Docket No. ER99–3433–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with California Department of Water Resources (DWR).

A copy of the filing was served upon DWR.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Puget Sound Energy, Inc.

[Docket No. ER99–3434–000]

Take notice that on June 30, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with City of Burbank (Burbank).

A copy of the filing was served upon Burbank.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Arizona Public Service Company

[Docket No. ER99–3435–000]

Take notice that on June 30, 1999, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Network Integration Transmission Service under APS' Open Access Transmission Tariff to the Navajo Tribal Utility Authority (NTUA).

A copy of this filing has been served on NTUA, the Arizona Corporation Commission, and Walter Wolf, Esq.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Illinois Power Company

[Docket No. ER99–3436–000]

Take notice that on June 30, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing updated specification pages to the existing Network Service Agreement under which Corn Belt Energy Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1999.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Illinois Power Company

[Docket No. ER99–3437–000]

Take notice that on June 30, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing updated specification pages to the existing Network Service Agreement under which Soyland Power Cooperative will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1999.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. New York State Electric & Gas Corporation

[Docket No. ER99–3438–000]

Take notice that on June 30, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 87 filed with FERC corresponding to an Agreement with Consolidated Edison Company of New York, Inc., (Con Ed). The proposed amendment would decrease revenues by $7,901 based on the twelve month period ending August 31, 2000.

This rate filing is made pursuant to Article 3, Sections 1(e) and (f), and Sections 2 (e through g) of the August 23, 1983 Facilities Agreement between NYSEG and Con Ed, filed with FERC. The annual charges for routine operation, maintenance, general expenses, and revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ended December 31, 1998. The revised facilities charge is levied on the cost of Con Ed's use of NYSEG's substation, transmission and distribution facilities required for the supply of Con Ed's distribution feeders to serve its customers in the vicinity of NYSEG's Mohansic Substation.

NYSEG requests an effective date of September 1, 1999.

Copies of the filing were served upon Consolidated Edison Company of New

York, Inc. and the Public Service Commission of the State of New York.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. New York State Electric & Gas Corporation

[Docket No. ER99–3439–000]

Take notice that on June 30, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 191 filed with FERC corresponding to an Agreement with the Delaware County Electric Cooperative (Delaware). The proposed amendment would increase revenues by $484.92 based on the twelve month period ending June 30, 2000.

This rate filing is made pursuant to Paragraph 3 of the May 8, 1998 Facilities Agreement between NYSEG and Delaware, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ended December 31, 1998. The revised facilities charge is levied on the cost of Delaware's tap of NYSEG's 46 kV transmission line which extends from NYSEG's River Road Substation to NYSEG's Delhi Substation. The tap terminates at Delaware's Delhi Substation and is owned and operated by NYSEG for Delaware's sole use.

NYSEG requests an effective date of July 1, 1999.

Copies of the filing were served upon the Delaware County Electric Cooperative, Inc., and the Public Service Commission of the State of New York.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. New York State Electric & Gas Corporation

[Docket No. ER99–3440–000]

Take notice that on June 30, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 180 filed with FERC corresponding to an Agreement with the Oneida Madison Electric Cooperative (Oneida). The proposed amendment would increase revenues by $203.10 based on the twelve month period ending June 30, 2000.

This rate filing is made pursuant to Paragraph 3 of the December 16, 1996 Facilities Agreement between NYSEG and Oneida, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month ended December 31, 1998. The revised facilities charge is levied on the cost of Oneida's tap of NYSEG's 46 kV transmission line which extends from NYSEG's existing Eaton Tap to NYSEG's Eaton Substation. The new tap terminates at Oneida's Eaton Substation and is owned and operated by NYSEG for Oneida's sole use.

NYSEG requests an effective date of July 1, 1999.

Copies of the filing were served upon the Oneida Madison Electric Cooperative , Inc. and the Public Service Commission of the State of New York.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice

35. South Carolina Electric & Gas Company

[Docket No. ER99–3441–000]

Take notice that on June 30, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing service agreements establishing Snapping Shoals Electric Membership Corporation, Washington Electric Membership Corporation, and Cobb Electric Membership Corporation as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Snapping Shoals Electric Membership Corporation, Washington Electric Membership Corporation, and Cobb Electric Membership Corporation and the South Carolina Public Service Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Duquesne Light Company

[Docket No. ER99–3442–000]

Take notice that June 30, 1999, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated June 29, 1999 with Merrill Lynch Capital Services, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Merrill Lynch Capital Services, Inc., as a customer under the Tariff.

DLC requests an effective date of June 29, 1999, for the Service Agreement.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Carolina Power & Light Company

[Docket No. ER99–3443–000]

Take notice that on June 30, 1999, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with Cleco Corporation under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4.

CP&L is requesting an effective date of June 17, 1999 for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Carolina Power & Light Company

[Docket No. ER99–3444–000]

Take notice that on June 30, 1999, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Short-Term Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service with FPL Energy Power Marketing, Inc. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of June 15, 1999 for each Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. Carolina Power & Light Company

[Docket No. ER99–3445–000]

Take notice that on June 30, 1999, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with Seminole Electric Cooperative, Inc., and Southern Minnesota Municipal Power Agency under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the un-executed Agreements originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. Pacific Gas and Electric Company

[Docket No. ER99–3447–000]

Take notice that on June 30, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing certain recorded cost information for the period ending December 31, 1998, concerning generating units at five power plants under reliability must-run (RMR) contracts with the California Independent System Operator Corporation (CAISO).

Copies of this filing have been served upon the CAISO, the California Public Utilities Commission, and all other participants in the RMR proceedings.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. Duquesne Light Company

[Docket No. ER99–3462–000]

Take notice that on June 30, 1999, Duquesne Light Company (DLC), tendered for filing under DLC's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with Central Illinois Light Company (Customer).

DLC has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of June 29, 1999.

Copies of this filing were served upon Customer.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

42. PECO Energy Company

[Docket No. ES99–44–000]

Take notice that on June 30, 1999, PECO Energy Company filed an application under Section 203 of the Federal Power Act seeking authority to issue and reissue from time to time through September 30, 2001 up to $1.5 billion of promissory notes and other evidences of secured and unsecured indebtedness maturing in less than one year from the date of issuance.

Comment date: July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

43. New England Power Pool

[Docket Nos. OA97–237–008., *et al.*]

Take notice that on July 1, 1999, Boston Edison Company filed a report of refunds in compliance with the Commission's April 20, 1998 order in this proceeding.

Comment date: August 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17908 Filed 7–13–99; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100146; FRL–6089–4]

Systems Integration Group, Inc. and Micrographic Specialties, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Systems Integration Group, Inc. and its subcontractor, Micrographic Specialties, Inc. have been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Systems Integration Group, Inc. and its subcontractor Micrographic Specialties Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(I)(2), and will enable Systems Integration Group, Inc. and its subcontractor to fulfill the obligations of this contract.

DATES: Systems Integration Group, Inc. and its subcontractor Micrographics Specialties, Inc. will be given access to this information no sooner than July 19, 1999.

FOR FURTHER INFORMATION CONTACT: By Mail: Luis Rivera, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number; Rm. 230, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5362; e-mail: rivera.luis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract No. GS–35F–4713G, Order Nr. 9W–0516–YBSX, Systems Integration Group, Inc. will provide imaging, micrographic, and blowback services for OPP. The documents to be imaged/filmed include pesticide labels, pesticide studies submitted to OPP, pesticide incident reports, and EPA generated scientific reviews of submitted studies.

I. IMPORTANT INFORMATION

A. Does this apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How can I get additional information or copies of support documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home Page at the Federal Register-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–100146], (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 CBI, is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 A.M. to 4:00 P.M., Monday through Friday, excluding legal holidays.

II. INTRODUCTION

Some of the information included in these documents may be entitled to confidential treatment. The information has been submitted to EPA under sections 3,4, and 6 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Systems Integration Group, Inc. prohibits the use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency, and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security manual. In addition, Systems Integration Group, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release of compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs.

All information provided to Systems Integration Group, Inc. by EPA for use in connection with this contract will be returned to EPA when Systems Integration Group, Inc. has completed its work.

List of Subjects

Environmental Protection, Transfer of data.

Dated: July 8, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–18036 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6377–9]

Notice of Advisory Committee Teleconference Meeting of the Clean Air Scientific Advisory Committee (CASAC) Technical Subcommittee for Fine Particle Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Clean Air Scientific Advisory Committee (CASAC) Technical Subcommittee for Fine Particle Monitoring will meet via teleconference on Thursday, July 29, 1999. The teleconference will be hosted out of the Science Advisory Board Conference Room (Room 3709 Mall), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The meeting will begin at 11:00 am and end no later than 2:00 pm Eastern time.

Background: This technical subcommittee of CASAC was established in 1996 to provide advice and comment to EPA (through CASAC) on appropriate methods and network strategies for monitoring fine particles in the context of implementing the revised national ambient air quality standards (NAAQS) for particulate matter. The Subcommittee provided such advice on the Federal Reference Method and mass based fine particle network in July 1996. In November 1998, the Subcommittee met to examine EPA's plans and guidance for several components of the fine particle monitoring network and how these components are linked to research priorities for particulate matter (see 63 FR 57295 dated October 27, 1998 for more details). The primary purpose of the July 29, 1999 teleconference meeting will be to review the last half year of progress in the chemical speciation and Supersites programs, with an emphasis on the speciation program and the recent results from the intercomparison study. Review materials will be posted at EPA's internet site: (http://www.epa.gov/ttn/amtic/In).

FOR FURTHER INFORMATION: Members of the public desiring additional information about the meeting should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, Science Advisory Board (1400), Room 3702G, U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via e-mail at <flaak.robert@epa.gov>. A copy of the draft agenda is available from Ms. Diana Pozun at (202) 260–8432 or by FAX at (202) 260–7118 or via e-mail at <pozun.diana@epa.gov>.

Members of the public who wish to make a brief oral presentation to the Subcommittee must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, July 23, 1999 in order to be included on the Agenda. Public comments will be limited to five minutes per speaker or organization, with a total time allocated to oral public comments of fifteen minutes. The request should identify the name of the individual making the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

Providing Oral or Written Comments at SAB Meetings: The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (http://www.epa.gov/sab) and in The Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 260–4126 or via fax at (202) 260–1889.

Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: July 8, 1999.

John R. Fowle, III,

Acting Staff Director, Science Advisory Board.

[FR Doc. 99–17977 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34133A; FRL–6091–1]

Organophosphate Pesticide: Ethion; Availability of Revised Risk Assessments and Public Participation on Risk Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessments and related documents for one organophosphate pesticide, ethion. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34133A, must be received by EPA on or before September 13, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34133A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply To Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on ethion, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information, Including Copies Of This Document Or Other Related Documents?

A. Electronically

You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. In Person

The Agency has established an official record for this action under docket control number OPP–34133A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 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 (PIRIB) telephone number is (703) 305–5805.

III. How Can I Respond To This Action?

A. How And To Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPP–34133A in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. PIRIB is open 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you may mail or deliver your standard computer disk using the addresses in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34133A. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit To The Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version

of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

IV. What Action Is EPA Taking In This Notice?

EPA is making available for public viewing the revised risk assessments and related documents for one organophosphate, ethion. These documents have been developed as part of the pilot public participation process that EPA and the U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the ethion preliminary risk assessments, which where released to the public on September 9, 1998 (63 FR 48213) (FRL–6030–2), through a notice in the **Federal Register**.

As part of the pilot public participation process, EPA and USDA may hold public meetings (called Technical Briefings) to provide interested stakeholders with opportunities to become more informed about revised organophosphate risk assessments. During the Technical Briefings, EPA describes the major points (e.g. risk contributors), use data that were used (e.g. data from USDA's Pesticide Data Program (PDP)), and discusses how public comments impacted the assessment. USDA provides ideas on possible risk management. Stakeholders have an opportunity to ask clarifying questions, and all meeting minutes are placed in the OPP public docket. Technical Briefings may not be held for chemicals that have limited use patterns or low levels of risk concern. Ethion's use pattern is predominately citrus, therefore, no Technical Briefing is planned. In cases where no Technical Briefing is held, the Agency will make a special effort to communicate with interested stakeholders in order to better ensure their understanding of the revised assessments and how they can participate in the organophosphate pilot public participation process. EPA has a good familiarity with the stakeholder groups associated with the use of ethion who may be interested in participating in the risk assessment/risk management process, and will contact them individually to inform them that no Technical Briefing will be held. EPA is willing to meet with stakeholders to discuss the ethion revised risk assessments. Minutes of all meetings will be docketed.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for ethion. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific ethion use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commentors may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest (''pre-harvest intervals''), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commentors may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commentors may suggest ways to reduce environmental exposure, e.g., birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commentor's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before September 13, 1999 at the addresses given under the ''ADDRESSES'' section. Comments and proposals will become part of the Agency record for the organophosphate specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: July 8, 1999.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–17945 Filed 7-13-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66268; FRL 6085–2]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by January 10, 2000, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 67 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1:

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000004—00296	Bonide Turf & Ornamental Herbicide 75% W.P.	Dimethyl tetrachloroterephthalate
000004—00300	Bonide Garden Turf and Ornamental Herbicide 5G	Dimethyl tetrachloroterephthalate
000100 OR—91—0007	Dual 8E Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100 OR—95—0025	Dual 8E Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100 OR—96—0038	Dual 8E Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100 OR—96—0039	Dual Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100 VA—88—0004	Triumph 4E Insecticide	*O,O*-Dimethyl *O*-(1-isopropyl-5-chloro-1,2,4-triazol-3-yl) phosphorothioate
000241—00293	Amdro Insecticide Roach Control Stations	Tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone, (3-(4-(trifluoromethyl)
000241—00304	Amdro Ant Control Stations	Tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone, (3-(4-(trifluoromethyl)
000241—00311	Ala-Scept Herbicide	Alachlor (2-Chloro-*N*-(2,6-diethylphenyl)-*N*-(methoxymethyl)acetamide) 2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl)-3-
000241—00320	Amdro Insecticide Pharaoh Ant Control PCO Stations	Tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone, (3-(4-(trifluoromethyl)
000241—00329	Ala-Scept ESC Herbicide	Alachlor (2-Chloro-*N*-(2,6-diethylphenyl)-*N*-(methoxymethyl)acetamide) 2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl)-3-
000264—00229	Technical Bromoxynil	3,5-Dibromo-4-hydroxybenzonitrile
000264—00395	Bromoxynil Octanoate Technical	3,5-Dibromo-4-hydroxybenzonitrile octanoate
000305—00031	Repel Insect Repellent Scented Family Formula	*N,N*-Diethyl-meta-toluamide and other isomers
000305—00032	Repel Insect Repellant Unscented Sportsmen Formula	*N,N*-Diethyl-meta-toluamide and other isomers
000305—00033	Repel Insect Repellent Aerosol Spray	*N,N*-Diethyl-meta-toluamide and other isomers
000305—00039	Repel Insect Repellent Scented Family Formula 27	Dipropyl isocinchomeronate *N*-Octyl bicycloheptene dicarboximide *N,N*-Diethyl-meta-toluamide and other isomers
000352—00390	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352—00448	Dupont Preview Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)- 2-(((((4-Chloro-6-methoxy-2-pyrimidinyl)amino)carbonyl)amino)sulfonyl)benzoicacid,
000352—00549	Dupont Preview SP Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)- 2-(((((4-Chloro-6-methoxy-2-pyrimidinyl)amino)carbonyl)amino)sulfonyl)benzoicacid,
000352—00550	Dupont Lexone SP Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 WA—96—0001	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000432—00046	Rotenone Crystalline	Rotenone Cube Resins other than rotenone
000491—00214	Selig's Ambush	*o*-Isopropoxyphenyl methylcarbamate
000524—00315	Lasso 60% Technical Solution	Alachlor (2-Chloro-*N*-(2,6-diethylphenyl)-*N*-(methoxymethyl)acetamide)
000524—00341	Bronco—herbicide	Alachlor (2-Chloro-*N*-(2,6-diethylphenyl)-*N*-(methoxymethyl)acetamide) Isopropylamine glyphosate (*N*-(phosphonomethyl)glycine)
000538—00180	Scotts Fertilizer Plus Broadleaf Weed Control	Triethylammonium triclopyr

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
001203—00039	Foremost 4883-ES Resid-U-Cide Roach and Ant Killer	o-Isopropoxyphenyl methylcarbamate
001685—00072	State Formula 254 IRS Insect Repellent Spray	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
002792—00064	Deco Salt No. 35	2,6-Dichloro-4-nitroaniline
		3-(3,5-Dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide
003095—00023	Pic Tick Shield Repellent Lotion	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
003125 OR—98—0012	Folicur 3.6 F Foliar Fungicide	1*H*-1,2,4-Triazole-1-ethanol, alpha-(2-(4-chlorophenyl)ethyl)-alpha-(1,1-
004691—00152	Americare Flea and & Tick Shampoo Plus	*N*-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
004972—00032	Florida Swamp Insect Repellent	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
007401—00047	Ferti-Lome Ant and Roach Killer	o-Isopropoxyphenyl methylcarbamate
007401—00333	Hi-Yield Household Insect Spray Concentrate	o-Isopropoxyphenyl methylcarbamate
008660—00052	Vertagreen Lindane 20% Concentrate	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
008660—00056	Vertagreen 5% Lindane Spray	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
008660—00076	Borer Killer	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer
008660—00081	Vertagreen Borer Killer Aerosol.	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
008660—00114	Vertagreen Baygon 1.5 E.C.	o-Isopropoxyphenyl methylcarbamate
008660—00117	Vertagreen Lindane 12.5% Concentrate	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
008660—00140	Lindane 20% Insecticide	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
008660—00141	Vertagreen Lindane 12.5% Insecticide	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
009444—00026	Purge Personal Insect Repellent Foam	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
009779—00331	Methomyl 5G Insecticide for Use on Corn	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
010182 DE—98—0003	Abound Fungicide	Azoxystrobin (BSI, ISO)
010182 NJ—98—0003	Abound Fungicide	Azoxystrobin (BSI, ISO)
010182 NY—98—0004	Abound Fungicide	Azoxystrobin (BSI, ISO)
010182 PA—98—0003	Abound Fungicide	Azoxystrobin (BSI, ISO)
010182 VA—98—0005	Abound Fungicide	Azoxystrobin (BSI, ISO)
010806—00086	Contact Insect Repellent	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
010807—00160	Keep Away Insect Repellent	*N,N*-Diethyl-meta-toluamide and other isomers
011715—00106	Magic Guard Residual Insecticide contains Baygon	o-Isopropoxyphenyl methylcarbamate

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
011715—00109	Speer Insect Spray with Propoxur	o-Isopropoxyphenyl methylcarbamate
033688—00008	Bromoxynil Technical 94.0%	3,5-Dibromo-4-hydroxybenzonitrile
033688—00009	Bromoxynil Octanoic Acid Technical	3,5-Dibromo-4-hydroxybenzonitrile octanoate
041878—00002	M-100 Mosquito Repellent Solution	*N,N*-Diethyl-meta-toluamide and other isomers
045639—00177	Hoelon 3EW Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
046515—00035	Sevin 11.7 Flowable	1-Naphthyl-*N*-methylcarbamate
046813—00046	Ccl Quick Breaking Insect Repellent Foam	*N*-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
051036 PA—95—0010	Vertagreen Lindane 20% Concentrate	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
057476—00001	Liquified Chlorine Gas Under Pressure	Chlorine
064240—00028	Combat Ant Killer Granular Bait 0.65%	Tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone, (3-(4-(trifluoromethyl)
064248—00007	Maxforce Ant Killer Granular Bait 0.65%	Tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone, (3-(4-(trifluoromethyl)
065247 CA—90—0003	Gnatrol - As	Bacillus *thuringiensis subsp.* israelensis

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000004	Bonide Products Inc., 2 Wurz Ave., Yorkville, NY 13495.
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000241	American Cyanamid Co., Agri Research Div - U.S. Regulatory Affairs, Box 400, Princeton, NJ 08543.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000305	Wisconsin Pharmacal Co., Inc., Box 198, Jackson, WI 53037.
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000491	Selig Chemical Industries The, 840 Selig Dr., SW., Atlanta, GA 30378.
000524	Monsanto Co., Agent For: Monsanto Agricultural Co., 600 13th Street, NW., Suite 660, Washington, DC 20005.
000538	The Scotts Co., 14111 Scottslawn Rd., Marysville, OH 43041.
001203	Delta Foremost Chemical Corp., 3915 Air Park St., Memphis, TN 38118.
001685	The State Chemical Mfg. Co., 3100 Hamilton Ave, Cleveland, OH 44114.
002792	Elf Atochem N.A. Inc., Decco Division, 1713 S. California Ave, Monrovia, CA 91017.
003095	PIC Corp., 23 S. Essex Ave, Orange, NJ 07050.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
004691	Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Highway, St Joseph, MO 64506.
004972	Protexall Products Inc., 1075 North CR 427, Longwood, FL 32750.
007401	Brazos Associates, Inc., Agent For: Voluntary Purchasing Group In, c/o Voluntary Purchasing Groups, Inc., Box 460, Bonham, TX 75418.
008660	Pursell Industries, Inc., Box 540, Sylacauga, AL 35150.
009444	Waterbury Companies Inc., Box 640, Independence, LA 70443.
009779	Terra International, Inc., 600 Fourth St, Sioux City, IA 51102.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
010806	Contact Industries, Div of Safeguard Chemical Corp., 411 Wales Ave, Bronx, NY 10454.
010807	AMREP, Inc., 990 Industrial Dr, Marietta, GA 30062.
011715	Speer Products Inc., 4242 B.F. Goodrich Blvd., Memphis, TN 38181.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
033688	Registration & Regulatory Services, Agent For: CFPI Agro, S.A., 7474 Creedmoor Rd., Suite 239, Raleigh, NC 27613.
041878	LJB Laboratories, 1001 E Cass, St. Johns, MI 48879.
045639	Agrevo USA Co., Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808.
046515	Celex, Division of United Industries Corp., Box 15842, St Louis, MO 63114.
046813	CCL Custom Mfg. Inc., 1 W. Hegeler Ln, Danville, IL 61832.
051036	Micro-Flo Co, Box 772099, Memphis, TN 38117.
057476	Chempura Pools, Ltd., 586 Benjamin's Way, Box 56, Lewisville, TX 75067.
064240	Combat Insect Control Systems, c/o PS&RC, Box 493, Pleasanton, CA 94566.
064248	Maxforce Insect Control Systems, c/o PS&RC, Box 493, Pleasanton, CA 94566.
065247	Forbio America, 2603 E. Ower Terrace, Boise, ID 83706.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 10, 2000. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 14, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–17775 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–877; FRL–6085–5]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number [PF–877], must be received on or before August 13, 1999.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. CBI should not be submitted through e-mail. Information marked as CBI 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 may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Eugene Wilson	Rm. 235, CM #2, 703–305–6103, e-mail:wilson.eugene@epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
James A. Tompkins	Rm. 239, CM #2, 703–305–5697, e-mail: tompkins.james@epa.gov.	
Bipin Gandhi	Rm. 713J, CM #2 703–308–8380, e-mail:gandhi.bipin@epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–877] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-877]) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 25,1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. AgrEvo USA Company

PP 8F3607 and 5F4578

EPA has received pesticide petitions (PP 8F3607 and 5F4578) from AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Road, Wilmington, DE 19808, proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.473(a)(1) and (b)(1) by establishing permanent tolerances for residues of the herbicide, glufosinate-ammonium: butanoic acid-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt and its metabolite, 3-methylphosphinicopropionic acid expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents in or on the following raw agricultural commodities (RAC): almond hulls at 0.50 parts per million (ppm), apples at 0.05 ppm, bananas at 0.3 ppm (not more than 0.2 ppm shall be present in the pulp after the peel is removed), cattle, fat at 0.05 ppm, cattle, meat at 0.05 ppm, cattle, meat-by-products at 0.10 ppm, eggs at 0.05 ppm, goats, fat at 0.05 ppm, goats, meat at 0.05 ppm, goats, meat-by-products at 0.10 ppm, grapes at 0.05 ppm, hogs, fat at 0.05 ppm, hogs, meat at 0.05 ppm, hogs, meat-by-products at 0.10 ppm, horses, fat at 0.05 ppm, horses, meat at 0.05 ppm, horses, meat-by-products at 0.10 ppm, milk at 0.02 ppm, poultry, fat at 0.05 ppm, poultry, meat-by-products at 0.10 ppm, poultry, meat at 0.05 ppm, sheep, fat at 0.05 ppm, sheep, meat at 0.05 ppm, sheep, meat-by-products at 0.10 ppm, and the tree nuts group at 0.10 ppm.

AgrEvo has also proposed to amend 40 CFR 180.473(c) by establishing permanent tolerances for residues of the herbicide, glufosinate-ammonium: butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt and its metabolites, 3-methylphosphinicopropionic acid, and 2-acetamido-4-methylphosphinicobutanoic acid expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents in or on the following raw agricultural commodities: aspirated grain fractions at 25.0 ppm, corn, field, forage at 4.0 ppm, corn, field, grain at 0.2 ppm, corn, field, stover at 6.0 ppm, soybean, hulls at 5.0 ppm, and soybeans at 2.0 ppm. The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by gas chromatography.

The preceding tolerances for glufosinate-ammonium and its metabolites have already been established for the aforementioned commodities on a time-limited basis in 40 CFR 180.473 (a)(1), (b)(1) and (c). These time-limited tolerances expire on July 13, 1999. AgrEvo has proposed to re-establish these tolerances on the same crop commodities and at the same levels on a permanent basis.

A notice of filing and petitioner summary of the pesticide petition for EPA Pesticide Petitions 7F4910 and 7E4911 was published in the **Federal Register** of October 8, 1997 (62 FR 52544) (FRL–5746–9). These petitions pertain to additional tolerances for residues of glufosinate-ammonium and its metabolites on sugar beets, canola and potatoes. Data and assessments pertaining to residue chemistry, toxicological profile, endocrine effects, aggregate exposure, cumulative effects, safety determinations and international tolerances for both the existing and the proposed additional crop tolerances are provided in this publication. The petitioner's risk assessment presentation represents the maximum exposure scenario as it assesses the summative exposure from the existing time-limited

tolerances delineated above in addition to the tolerances proposed in the aforementioned petitions.

2. E. I. DuPont de Nemours and Co., Inc.

4F4391

EPA has received a pesticide petition (4F4391) from DuPont, P.O. Box 80038, Wilmington, DE 19880-0038 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by extending time-limited tolerance for residues of pyrithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate) in or on the raw agricultural commodity (RAC) cottonseed at 0.02 ppm until September 30, 2001. In the **Federal Register** of October 25, 1995 (60 FR 54607) (FRL 4982-8), EPA established a time-limited tolerance pursuant to the FFDCA for residues of the herbicide pyrithiobac sodium salt in or on the RAC cottonseed at 0.02 ppm. In the **Federal Register** of October 22, 1997 (62 FR 54778) (FRL 5746-6), EPA extended the time-limited tolerance pursuant to the FFDCA for residues of the herbicide pyrithiobac sodium salt in or on the RAC cottonseed at 0.02 ppm. This time-limited tolerance expires September 30, 1999. The tolerance was issued and renewed as a time-limited tolerance because EPA required additional residue data on the commodity of cotton gin byproducts. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of the residues of pyrithiobac sodium in cotton is adequately understood. Metabolism studies with pyrithiobac sodium indicate the major metabolic pathway being o-dealkylation of the parent compound resulting in o-desmethyl pyrithiobac sodium (O-DPS), both free and conjugated, was the major metabolite identified in cotton foliage. The results of a confined crop rotation study with pyrithiobac sodium revealed the presence of a metabolite 2-chloro-6-sulfobenzoic acid (CSBA) not seen in the cotton metabolism study. This metabolite appeared to originate from soil metabolism of pyrithiobac sodium. Since preemergence applications of pyrithiobac sodium are allowed, crop residues of CSBA were considered a possibility. In consideration of PP 4F4391, Chemistry Branch Tolerance Support (CBTS), EPA, in consultation with the Health Effects Division (HED) Metabolism Committee has previously concluded that for the proposed use on cotton, none of the pyrithiobac sodium metabolites including O-DPS and CSBA warrant inclusion in the tolerance regulation, and that the only residue of concern is the parent, pyrithiobac sodium.

2. *Analytical method*. There is a adequately validated practical analytical method available using HPLC-UV with column switching, to measure levels of pyrithiobac sodium in or on cotton with a limit of quantitation (LOQ) that allows monitoring of cottonseed at or above tolerance levels. EPA has provided information on this method to FDA for future publication in PAM II.

3. *Magnitude of residues*. Crop field trial residue data from a 60– day pre-harvest interval (PHI) study shows that the established pyrithiobac sodium time-limited tolerance on cottonseed of 0.02 ppm will not be exceeded when Staple Herbicide is used as directed. An adequate cottonseed processing study shows that pyrithiobac sodium does not concentrate in cottonseed processed commodities; thus, no tolerances on these commodities are required.

B. Toxicological Profile

1. *Acute toxicity*. Pyrithiobac sodium technical has been placed in EPA Toxicity Category II for acute eye irritation based on the test article inducing irritation in the form of corneal opacity, iritis and conjunctival redness, and discharge in the eyes of rabbits after receiving ocular doses of 36 mg (0.1 ml). Signs of irritation were clear within 14–days of treatment. Pyrithiobac sodium has been placed in Toxicity Category III for acute dermal toxicity based on the test article being nonlethal and nonirritating at the limit dose (LTD) of 2,000 milligrams/kilograms (mg/kg) highest dose tested (HDT). Pyrithiobac sodium has been placed in Toxicity Category III for acute oral toxicity based on acute oral LD_{50} of 3,200 mg/kg for both male and female (M/F) rats. Pyrithiobac sodium has been placed in Category IV for the remaining acute toxicity tests based on the following: a rat acute inhalation study with an LC_{50} of > 6.9 milligrams/per liter (mg/l); and a primary dermal irritation test that did not induce a dermal irritation response. A dermal sensitization test with pyrithiobac sodium technical in guinea pigs demonstrated no significant effects. Based on these results, pyrithiobac sodium does not pose an acute dietary or exposure risk.

2. *Genotoxicity*. Pyrithiobac sodium technical was negative (non-mutagenic and non-genotoxic) in the following tests: Ames microbial mutation assay; the hypoxanthine-guanine phosphoribosyl transferase gene mutation assay using Chinese hamster ovary cells; and induction of unscheduled DNA synthesis (UDS) in primary rat hepatocytes. Pyrithiobac sodium was positive in an *in vitro* assay for chromosome aberrations in human lymphocytes. It was negative for the induction of micronuclei in the bone marrow cells of M/F CD-1 mice administered the test article by oral gavage at 500, 1,000 or 2,000 mg/kg. Based on the weight of these data, pyrithiobac sodium is neither genotoxic nor mutagenic.

3. *Reproductive and developmental toxicity*. A 2-generation, 4 litter reproduction study with CD rats treated at dietary levels of 0, 25, 1,500, 7,500 or 20,000 ppm of pyrithiobac sodium demonstrated a maternal no observed adverse effect level (NOAEL) of 1,500 ppm (103 mg/kg/day) and a maternal lowest observed adverse effect level (LOAEL) of 7,500 ppm (508 mg/kg/day), based on decreased body weight (bwt) gain and food efficacy. An offspring NOAEL of 7,500 ppm (508 mg/kg/day) and LOAEL of 20,000 ppm (1,551 mg/kg/day) were also demonstrated based on decreased offspring bwt. Pyrithiobac sodium was not teratogenic when administered to rats or rabbits.

A developmental toxicity study with pyrithiobac sodium in rats demonstrated a maternal NOAEL of 200 mg/kg and LOAEL of 600 mg/kg due to increased incidence of salivation.

A developmental NOAEL of 600 mg/kg and LOAEL of 1,800 mg/kg were demonstrated based on an increased incidence of skeletal variations.

A developmental toxicity study with pyrithiobac sodium in rabbits demonstrated maternal and developmental NOAELs of 300 mg/kg and a maternal LOAEL of 1,000 mg/kg based on mortality, decreased bwt gain and feed consumption, increased incidence of clinical signs, and an increase in early resorptions. A developmental LOAEL of 1,000 mg/kg was based on decreased fetal bwt gain. Based on the weight of these data, pyrithiobac sodium is not considered a reproductive or developmental hazard.

4. *Subchronic toxicity*. In a 90–day feeding study in rats conducted with pyrithiobac sodium at dietary levels of 0, 10, 50, 500, 7,000 and 20,000 ppm, the NOAEL was 500 ppm (31.8 and 40.5 mg/kg/day, Ms and Fs and the LOAEL

was 7,000 ppm (466 and 588 mg/kg/day, Ms/Fs) based on decreased bwt gains and increased rate of hepatic B-oxidation in Ms.

In a 90–day feeding study in mice conducted with pyrithiobac sodium at dietary levels of 0, 10, 50, 500, 1,500 and 7,000 ppm, the NOAEL was 500 ppm (83.1 and 112 mg/kg/day, Ms/Fs) and the L0AEL was 1,500 ppm (263 and 384 mg/kg/day, Ms/Fs) based on increased liver weight and increased incidence of hepatocellular hypertrophy in Ms and decreased neutrophil count in Fs.

In a 90–day feeding study in dogs conducted with pyrithiobac sodium at dietary levels of 0, 50, 5,000, or 20,000 ppm, the NOAEL was 5,000 ppm (165 mg/kg/day) and the LOAEL was 20,000 ppm (626 mg/kg/day) based on decreased red blood cell count, hemoglobin, and hematocrit in females and increased liver weight in both sexes.

In a 21–day dermal study with rats conducted with pyrithiobac sodium at exposure levels of 0, 50, 500, or 1,200 mg/kg/day, the dermal irritation NOAEL was 500 mg/kg/day and the dermal irritation LOAEL was 1,200 mg/kg/day. There were no systemic effects observed at this high dose; therefore, the systemic NOAEL is considered to be 1,200 mg/kg/day.

5. *Chronic toxicity*. A 1–year feeding study in dogs conducted with pyrithiobac sodium at dietary levels of 0, 100, 5,000, and 20,000 ppm resulted in a NOAEL of 5,000 ppm (143 and 166 mg/kg/day, Ms/Fs) and a LOAEL of 20,000 ppm (580 and 647 mg/kg/day, Ms/Fs) based on decreases in bwt gain and increased liver weight.

A 78–week oncogenicity study in mice was conducted with pyrithiobac sodium at dietary levels of 0, 10, 150, 1,500 and 5,000 ppm. The systemic NOAEL is 1,500 ppm (217 and 319 mg/kg/day, Ms/Fs) and the LOAEL is 5,000 ppm (745 and 1,101 mg/kg/day, Ms/Fs), based on decreased bwt gain and liver lesions. Kidney effects were also observed at 5,000 ppm; however, these were present at low incidence and were of minimal severity and were considered to be of only minimal biological significance. Increased incidence of foci/focus of hepatocellular alteration was observed in males fed 5,000 ppm diets. Increased incidences of hepatocellular neoplasms (adenomas or adenomas plus carcinomas) were observed only in 150 and 1,500 ppm Ms. The incidence of these liver tumors was not significantly increased in the 5,000 ppm Ms or in Fs at any dose level; the 5,000 ppm male tumor incidence was within the historical control range.

A 2–year study in rats was conducted at dietary pyrithiobac sodium levels of 0, 5, 25, 1,500 or 5,000 ppm for Ms and 0, 5, 25, 5,000 or 15,000 ppm for Fs. The NOAEL for systemic effects was 1,500 ppm (58.7 mg/kg/day) for Ms and 5,000 ppm (278 mg/kg/day) for Fs. The lowest effect level (LEL) was 5,000 ppm (200 mg/kg/day for Ms)/15,000 ppm (918 mg/kg/day) for Fs. The LEL was based on the following: decreased bwt gain, and food efficiency (for Fs); mild changes in hematology and urinalysis, clinical signs indicative of urinary tract dysfunction (both sexes); increased incidence of focal cystic degeneration in the liver and increased rate of hepatic peroxisome beta-oxidation (Ms); and an increased incidence of inflammatory and degenerative microscopic lesions in the kidney (Fs). There was evidence of oncogenicity based on an increased trend for kidney tubular combined adenoma/carcinoma on male rats and an increased trend for kidney tubular adenomas in female rats. Although the incidences were low, they were statistically significant. The highest dose level tested (HDLT) in male rats (5,000 ppm) was considered adequate for assessment of oncogenic potential, that in female rats (15,000 ppm) exceeded the maximum tolerated dose (MTD).

6. *Carcinogenicity*. In consideration of PP 4F4391, the HED Carcinogenicity Peer Review Committee has previously concluded that the available data provide limited evidence of the carcinogenicity of pyrithiobac sodium in mice and rats and has classified pyrithiobac sodium as a Group C (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines published in the **Federal Register** of September 24, 1986 (51 FR 33992) and recommend that for the purpose of risk characterization a low-dose extrapolation model should be applied to the experimental animal tumor data for quantification for human risk (Q1*). This decision was based on liver adenomas, carcinomas and combined adenoma/carcinomas in the male mouse and kidney tubular adenomas, carcinomas and combined adenoma/carcinomas in the male rat. The unit risk, Q1* $(mg/kg/day)^{-1}$, of pyrithiobac sodium is 1.05×10^{-3} $(mg/kg/day)^{-1}$ in human equivalents based on male kidney tumors.

7. *Animal metabolism*. Disposition and metabolism of pyrithiobac sodium were tested in M/F rats using two radio-labeled forms of pyrithiobac sodium. Either phenyl-labeled or pryimidine-labeled compounds were administered orally at 5 or 250 mg/kg. In addition, intravenous administration was evaluated at 5 mg/kg. Essentially all of the dose was excreted in the urine and feces, with greater than 90% being excreted within 48 hours. No label was detected in the expired air. Only minute quantities of radioactivity (at or near the limit of detection (LOD)) were detected in the major organs of metabolism and excretion. This study indicates that pyrithiobac sodium has low toxicity and does not accumulate within the body. The major compound eliminated in urine and feces was O-DPS (desmethyl metabolite), formed by demethylation of the pyrimidine ring. There was evidence that conjugation with glucuronic acid and 5-hydroxylation of the pyrimidine ring of pyrithiobac sodium were additional minor routes of metabolism in the rat.

The ruminant metabolism of pyrithiobac sodium was studied in lactating goats fed at a level of 15 mg/kg for 5 consecutive days, equaling a dose greater than 1,000 times the anticipated residues of pyrithiobac sodium and its metabolites in cottonseed, and greater than 100 times the anticipated residues in cotton gin byproducts. Seventy-six to 80% of the total administered dose was recovered in the excreta plus cage washes. Concentrations of radioactivity in milk, muscle, fat, whole-blood, and plasma were negligible. Biotransformation of the parent compound was not substantial with 90% of urine radioactivity and 40% of fecal extract corresponding to parent test substance. The major biotransformation pathway was O-demethylation. The results of this study indicate low potential for transfer of residues of pyrithiobac sodium and/or its metabolites into edible tissues or milk of ruminants, even at highly exaggerated feeding levels.

8. *Metabolite toxicology*. There is no evidence that the metabolites of pyrithiobac sodium as identified in either the plant metabolism, confined crop rotation, or animal metabolism studies are of any toxicological significance.

9. *Neurotoxicity*. A 90–day rat neurotoxicity screen battery conducted with pyrithiobac sodium resulted in a systemic NOAEL of 7,000 ppm (466 and 588 mg/kg/day, Ms/Fs) and a systemic LOAEL of 20,000 ppm (1,376 and 1,609 mg/kg/day, Ms/Fs) based on reduced bwt gain and food efficiency and increased liver weight. Slight reductions in hind-leg grip strength and slightly increased foot splay in Ms were observed in 20,000 ppm Ms. However, because these were of small magnitude, lacked statistical significance, and corresponding histopathology,

pyrithiobac sodium was not considered a neurotoxin. The NOAEL for neurotoxicity was 20,000 ppm highest dose tested (HDT).

10. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of pyrithiobac sodium have been conducted. However, the standard battery of required toxicology studies has been completed and found acceptable. These include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure to doses that far exceed likely human exposures. Based on these studies there is no evidence to suggest that pyrithiobac sodium has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. For purposes of assessing the potential dietary exposure under this tolerance, an estimate of aggregate exposure is made using the tolerance on cottonseed at 0.02 ppm. The potential exposure is obtained by multiplying the tolerance level residues by the consumption data which estimates the amount of cottonseed products translated as cottonseed meal and cottonseed oil eaten by various population subgroups. Cottonseed is fed to animals, thus exposure of humans to residues of cottonseed might result if such residues are transferred to meat, milk, poultry, or eggs. However, in consideration of PP 4F4391, CBTS has previously concluded that secondary residues in meat, milk, poultry, and eggs are not expected from the use of cottonseed (undelinted) as an animal feed. There are no other established tolerances or registered uses for pyrithiobac sodium in the United States. Based on a NOAEL of 58.7 mg/kg/day, from the chronic rat toxicity study and a 100-fold safety factor, the reference dose (RfD) is 0.58 mg/kg/day. Assuming residues at tolerance levels and that 100% of the crop is being treated, a theoretical maximum residue contribution (TMRC) of > 0.000001 mg/kg/day is calculated. With the above assumptions which clearly overestimate potential human exposure and are a most conservative assessment of risk, dietary (food) exposure to pyrithiobac sodium will utilize significantly less than 1% of the RfD for the overall U.S. population. For the most highly exposed subgroup, children aged 1–6 years, the TMRC is 0.000001 mg/kg/day, which is still less than 1% of the RfD. The unit risk, Q1* $(mg/kg/day)^{-1}$, of pyrithiobac sodium is 1.05×10^{-3} $(mg/kg/day^{-1}$ in human equivalents based on male kidney tumors. Based on this upper bound potency factor (Q1*), a 70–year life span, and the assumption that 100% of the crop is treated with pyrithiobac sodium, the upper-bound limit of a dietary carcinogenic risk is calculated in the range of one incidence in a billion (1.0×10^{-9}).

ii. *Drinking water*. Other potential dietary sources of exposure of the general population to pesticides are residues in drinking water. There is no maxium concentration level (MCL) established for residues of pyrithiobac sodium. The petitioner has reported to the Environmental Fate and Ground Water (EFGWB) branch of EPA the interim results of a prospective ground water monitoring study conducted at a highly vulnerable site. In consideration of this information in support of PP 4F4391, EFGWB has previously concluded by preliminary evaluation, that pyrithiobac sodium may not be stable enough to leach to ground water at most use sites, even in sandy soils. All other environmental fate data requirements for pyrithiobac sodium have been satisfied and based on these studies and the conditions of use, the potential for finding pyrithiobac sodium residues in drinking water is minimal.

2. *Non-dietary exposure*. Pyrithiobac sodium is not registered for any use which could result in non-occupational, non-dietary exposure to the general population.

D. Cumulative Effects

Pyrithiobac sodium is based on a new chemical class; there are no known registered herbicides with similar structure. Therefore, EPA should consider only the potential risks of pyrithiobac sodium in its exposure assessment. The herbicidal activity of pyrithiobac sodium is due to the inhibition of acetolactate synthase (ALS), an enzyme only found in plants. ALS is part of the biosynthetic pathway leading to the formation of branched chain amino acids. Animals lack ALS and this biosynthetic pathway. This lack of ALS contributes to the low toxicity of pyrithiobac sodium in animals. There is no evidence to indicate or suggest that pyrithiobac sodium has any toxic effects on mammals that would be cumulative with those of any other chemical.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicity data base, the EPA has adopted an RfD value of 0.58 mg/kg/day using the NOAEL of 58.7 mg/kg/day, from the 2–year chronic toxicity study in rats and a 100-fold safety factor. Using crop tolerance levels and assuming 100% of the crop being treated a TMRC was calculated for the overall U.S. population and 22 population subgroups. This analysis concluded that aggregate exposure to pyrithiobac sodium will utilize significantly less that 1% of the RfD for either the entire U.S. population or any subgroup population. The TMRC for the most highly exposed subgroup identified as children aged 1–6 years was 0.000001 mg/kg/day. EPA generally has no concern for exposure 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 risk to human health. Thus, there is a reasonable certainty that no harm will result from aggregate exposure to pyrithiobac sodium residues. The unit risk, Q1* $(mg/kg/day)^{-1}$, of pyrithiobac sodium is 1.05×10^{-3} $(mg/kg/day)^{-1}$ in human equivalents based on male kidney tumors. Based on this upper bound potency factor (Q1*) and assuming a 70–year lifetime exposure an upper-bound limit of a dietary carcinogenic risk is calculated in the range of one incidence in a billion (1.0×10^{-9}). This indicates a negligible cancer risk.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of pyrithiobac sodium, data from the previously discussed developmental and reproduction toxicity studies were considered. Developmental studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from prenatal and postnatal exposure to the pesticide. Based on the weight of these data, pyrithiobac sodium was not a reproductive toxicant. Maternal and developmental effects NOAEL's, LOAEL's were comparable indicating no increase in susceptibility of developing organisms. No evidence of endocrine effects were noted in any study. FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on current toxicological data requirements, the data base for pyrithiobac sodium relative to prenatal and postnatal effects for children is complete. The NOAEL of 58.7 mg/kg/day from the 2–year rat study with pyrithiobac sodium, which was used to calculate the RfD, is lower than any of the NOAEL's defined in the

developmental and reproductive toxicity studies with pyrithiobac sodium. When the weight of these facts is considered, an additional safety factor is not warranted for developmental effects. As stated above, aggregate exposure assessments utilized significantly less than 1% of the RfD for either the entire U.S. population or any of 22 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to pyrithiobac sodium residues.

F. International Tolerances

There are no established Codex MRLs for pyrithiobac sodium on cottonseed. An established Mexican tolerance for pyrithiobac sodium on cottonseed is identical to the United States tolerance. Compatibility is not a problem at this time.

3. Magna Bon Corporation

PP 8F4982

EPA has received a pesticide petition [PP 8F4982] from Magna Bon Corporation, 3213 Ocean Drive, Vero Beach, FL 32963 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for copper sulfate pentahydrate on the RAC copper sulfate pentahydrate at 0.050 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. Copper sulfate pentahydrate has been used for years as a micronutrient, added to soils for up-take-into plants for sustaining vigorous growth. The metabolism is well-known in plant physiology as a vital component of plant growth. The labeled rate will not exceed any applications given during growth. The product will be applied post-harvest and no additional metabolism of harvested products is expected.

2. *Analytical method*. Standard methodology for copper sulfate is adequate.

3. *Magnitude of residues*. The cover letter (attached) notes the various clearances based on uses in plants, animals, humans and potable water.

The products will be applied according to labels approved by EPA which are at or below the levels on the current labeled rates for application to growing crops. The plants will only be exposed to washes of the product. Since the product is not systemic, the product can be washed from the surface of the plant or animal parts before being consumed.

B. Toxicological Profile

The toxicology of copper compounds are well-known. The toxicology file for Mega Bon Corporation registrations are incorporated by reference.

1. *Acute toxicity*. Copper and the salts are solids. Individuals use copper bracelets, and chains in contact with their skin as jewelry. There is no known skin sensitization. Please refer to 21 CFR 184.1261 when used as a human supplement.

2. *Genotoxic*. There is no known genotoxicity. All studies have been negative.

3. *Reproductive and developmental toxicity*.[1]

4. *Subchronic toxicity*.[1]

5. *Chronic toxicity*.[1]

6. *Animal metabolism*.[1]

7. *Metabolite toxicology*.[1]

C. Aggregate Exposure

1. *Dietary exposure*. Copper is used in vitamins and occurs on a very small part of the daily foods. However, the small amount that may occur on plants is washed off prior to food preparation.

Copper being used as a crop protector or as a post-harvest application may add little to the exposure given the use pattern and general application of new fungicides.

i. *Food*. The total consumption of all agricultural, fish, shell-fish, and meat treated with copper sulfate pentahydrate can be calculated as being at or below daily minimums of mineral requirements for humans. In addition, the plant and meat products are washed before cooking.

ii. *Drinking water*. A food additive tolerance of 2 ppm in potable water is established under 40 CFR 185.1200 for residues of copper from use of copper compounds.

2. *Non-dietary exposure*. The population is exposed to copper compounds on an almost daily basis. Dermal exposure is the most prevalent. There have been several impingements by the copper compounds with little to no effect.

[1]Although there are no guidline studies for this data requirement *per se*, there is adequate information in the extensive open literture on copper sulfate to characterize its toxicity.

D. Cumulative Effects

The amount of copper sulfate pentahydrate used to treat the harvested plant products, fish, shellfish, poultry, and meat would be a way of lowering bacterial, fungi and even-viral organisms from becoming a problem under most circumstances.

E. Safety Determination

1. *U.S. population*. Using the copper sulfate pentahydrate would reduce costs of protecting the above-mentioned products and giving adequate protection to such target post-harvested crops, fish, shellfish, poultry, and meat products without harm to humans, animals, plants, plant products, and the environment.

2. *Infants and children*. Foods are washed and processed. Copper sulfate pentahydrate is a solid, but will be washed. The foods are further processed with little or no detectable levels. The copper in the application is a vital nutrient for infants and children.

F. International Tolerances

The countries of the world have not restricted copper for the purposes we request.

[FR Doc. 99–17317 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00609; FRL–6088–6]

Pesticides; Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: To assure that EPA's policies related to implementing the Food Quality Protection Act are transparent and open to public participation, EPA is soliciting comments on a draft science policy paper entitled ''The Role of Use-Related Information in Pesticide Risk Assessment and Risk Management.'' This notice is the tenth in a series concerning science policy documents related to the Food Quality Protection Act and developed through the Tolerance Reassessment Advisory Committee.

DATES: Written comments, identified by docket control number OPP–00609 should be submitted by September 13, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as

provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, your comments must identify docket control number OPP–00609 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT:

Debby Sisco, Environmental Protection Agency (7503C), 401 M St., SW., Washington, DC 20460, telephone number: (703) 308-8121; fax: (703) 305-8091; e-mail address: sisco.debby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

You may be potentially affected by this notice if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide Producers	32532	Pesticide manufacturers Pesticide formulators

This listing 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 could also be affected. If available, the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice affects certain entities. If you have any questions regarding the applicability of this announcement to you, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document and the draft science policy paper from the Office of Pesticide Programs Home Page at http://www.epa.gov/pesticides/. On the Office of Pesticide Programs Home Page select ''TRAC'' and then look up the entry for this document. You can also go directly to the listings at the EPA 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 go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax on demand*. You may request a faxed copy of this document, as well as supporting information, by using a faxphone to call (202) 401–0527 and selecting item 6039. You may also follow the automated menu.

3. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for the draft science policy paper listed in the ''SUMMARY'' section, including the public version, has been established under docket control number OPP–00609 (including comments and data submitted electronically as described below). This record not only includes the documents that are physically located in the docket, but also includes all the documents that are referenced in those documents. A public version of each 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 Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch the telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPP–00609 in the subject line on the first page of your response.

1. *By mail*. Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

3. *Electronically*. Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments 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 docket control number. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

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. In addition to one complete version of the comment that includes any information claimed as CBI, 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 call the Public Information and Records Integrity Branch. The PIRIB telephone number is (703) 305–5805.

E. What Should I Consider As I Prepare My Comments for EPA?

EPA invites you to provide your views on the various draft science policy papers, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide solid technical information and/or data to support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate.
5. Indicate what you support, as well as what you disagree with.
6. Provide specific examples to illustrate your concerns.
7. Make sure to submit your comments by the deadline in this notice.
8. At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You

can do this by providing docket control number OPP–00609, along with the name, date, and **Federal Register** citation.

II. Background

On August 3, 1996, the Food Quality Protection Act of 1996 (FQPA) was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard (''a reasonable certainty of no harm'') for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10-year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs. The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard, but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to OPP.

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the Tolerance Reassessment Advisory Committee (TRAC), chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states and other interested groups. The TRAC has met six times as a full committee from May 27 through April 29, 1999.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process and related policies would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas they believed were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL–6041–5), EPA has been issuing a series of draft documents concerning nine science policy issues identified by the TRAC related to the implementation of FQPA.

In addition to the nine science policy issues, the Agency has decided to make available several more draft policy documents which are related to the implementation of FQPA, but which are not purely science policy issues. This notice announces the availability of a draft document as identified in the ''SUMMARY'' section.

III. Summary of ''The Role of Use-Related Information in Pesticide Risk Assessment and Risk Management''

In assessing the risks of pesticides and in making risk management (regulatory) decisions, EPA uses a wide range of data and information, such as how each pesticide is applied, where it is used, and how much is actually used. This paper summarizes the types of use-related information used by EPA in risk assessment and risk management, where the data come from, and how the Agency employs these data.

EPA pesticide use data come from a variety of sources for both agricultural and non-agricultural pesticides use sites. There are three general categories of methods for obtaining use data: Agreements with other regulatory entities that produce pesticide-use data; purchases from vendors whose business is to obtain pesticide-use data; and voluntary submissions of data from interested parties who have developed such data.

EPA also obtains use information from a variety of interested parties. For example, registrants who are going through the special review and/or reregistration process may have submitted data in support of a new use, risk mitigation, or in support of a registrant sponsored risk study. Individual states submit data in support of emergency exemption (FIFRA section 18) requests. Growers and food processors have also submitted use data. Additionally, state departments of agriculture, as part of their extension program efforts, provide use data or pesticide use recommendations for crops grown under their jurisdictions.

The kinds of pesticide use information which risk assessors use in developing human dietary risk assessments are equally important to those who develop drinking water and ecological risk assessments. This use-related information is used to assess human exposure to pesticides in drinking water; to assess fish and wildlife exposure to pesticides; and to interpret monitoring results and develop models that can be used to accurately estimate pesticide concentrations in drinking water and surface and ground water.

Use-related information plays a vital, even critical role in EPA's formulation of risk management decisions for pesticides in registration, reregistration, tolerance reassessment, and special review. The availability or lack of use-related information can significantly influence the outcome of EPA's regulatory decisions about pesticides under review, especially if they pose significant risks.

The way in which use information has been incorporated into risk assessments has changed since the passage of the Food Quality Protection Act in 1996. EPA has been working to enhance its pesticide use data base by working more closely with the U.S. Department of Agriculture, California EPA, registrants, and grower groups as well as other stakeholders. The draft science policy paper lists projects EPA is currently working on for this purpose.

IV. Questions/Issues for Comment

While comments are invited on any aspect of the draft science policy paper, EPA is particularly interested in comments on the following questions and issues.

1. Is the EPA's description of the kinds of use and usage data obtained and evaluated by EPA complete? Are

there other data or sources which the Agency should consider?

2. Are the ways in which usage data are employed in risk assessment and risk management of pesticides clear?

V. Policies Not Rules

Each draft policy document discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, the policy in this guidance is not binding on either EPA or any outside parties. Although this guidance provides a starting point for EPA risk assessments, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that a policy is not appropriate for a specific pesticide or that the circumstances surrounding a specific risk assessment demonstrate that a policy should be abandoned.

EPA has stated in this notice that it will make available revised guidance after consideration of public comment. Public comment is not being solicited for the purpose of converting any policy document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is soliciting public comment so that it can make fully informed decisions regarding the content of each guidance document.

The ''revised'' guidance will not be unalterable. Once a ''revised'' guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance. In the course of inviting comment on each guidance document, EPA would welcome comments that specifically address how a guidance document can be structured so that it provides meaningful guidance without imposing binding requirements.

VI. Contents of Docket

Documents that are referenced in this notice will be inserted in the docket under docket control number OPP–00609. In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) have also been inserted in the docket under docket control number OPP–00557.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: June 29, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–17318 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6377–8]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Voda Petroleum Inc., Site, Clarksville City, Texas with the parties referenced in the Supplementary Information portion of this document.

The settlement requires the settling parties to pay a total of $62,203.28 as payment of past response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before August 13, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Carl Bolden, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6713. Comments should reference the Voda Petroleum Superfund Site, Clarksville City, Texas and EPA Docket Number 6–10–98, and should be addressed to Carl Bolden at the address listed above.

FOR FURTHER INFORMATION CONTACT: Michael Boydston,1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–7376.

SUPPLEMENTARY INFORMATION:

American Norit Company, Inc.
Andrews Transmission
ATP Results Inc.
Ben E. Keith
Billy Cox Trucking
Bright Truck Leasing Corp.
Brown & Root
Burland Enterprises
Carrier Air Conditioning
Central Power and Light
Channel Shipyard
Chaparral Steel
City Motor Supply, Inc.
City of Dallas, TX
City of Jefferson, TX
City of Plano, TX
Clarke Checks
Continental Can Co./Crown Beverage
Coors Dist.
CPL Industries
D & D Radiator and Muffler
Dallas Power and Light
Daniel Oil
Dart
Denfense Reutilization & Marketing (Fort Polk)
Denfense Reutilization & Marketing (Kelly AFB)
Denfense Reutilization & Marketing (Richards Gebaur AFB)
Delta Chemical/Delta Solvents/Delta Distributors
Dowell/Schlumberger
Dunlap Swain
Eaton Corp.
Exxon, USA
Firestone
General Electric Co.
General Telephone Co.
Gentry Trucking
Georgia Pacific
Giffird Hill Cement
Gifford Hill Readymix
Greyhound Lines, Inc
GTE
Harris Brothers Co.
Hertz—Penske Leasing
Highland Pump Co.
Industrial Lubricants
Industrial Solvents
Ingersoll—Rand Company
Inland Container Corporation
J & E Die Casting
Kelly Truck Terminal, Inc.
Kmart
Lance, Inc.
Lockheed missiles & Space Co., Inc.
Lone Star Logistics
Lube-O-Seal
Lubrizol
M Lipsitz & Company, Inc.
MacMilan Bloedel Containers
Marathron Battery Co.
Mathews
Metro Aviation
Metro-Ford Truck

Monsanto Co.
National Oilwell
National Scientific Balloon Facility
National Supply Co.
Noble Trans/Noble Auto
North Highland Mobil
Occidental Electrochemicals
Olympic Fastening Systems
Paramount Packaging Co.
Parrott Oil
Pearl Brewing Company
Performance Friction Products
Peterbilt Motors Co.
Physical Science Laboratory
Pipes Equipment
Pitts Industries
Presbyterian Hospital of Dallas
Prestige Ford
Ralph Wilson Plastic Co.
Reeves Oil
Renewable Energy
Rollins Leasing
Ruan Truck Leasing
Safeway
San Augustine
Santos Radiator
Schepps Dairy
Sears Roebck & Co.
Shell
Shipper Car Line, Inc.
Smith Oil Co.
Snow Coils
South Coast Products
Southern Gulf
Southern Plastics
Southwest Disposal
Southwest Electrical Power Co.
St.Regis Paper
Stemco, Inc.
Sullivan Transfer & Storage
TEC
Texas Gas
Texas Mill Supply
Trinity Industries
Truckstops of America
Tuneup Master
Twin City transmission
TXI
United Gas Pipeline
U.S. Industries/Axelson
Wilson Riley
Witco Ford
Wray Ford
XL Oil and Chemical, Inc.

Dated: July 1, 1999.

W. B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–17942 Filed 7–13–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 7, 1999.

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, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 13, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the 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 the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0850.

Title: Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services.

Form Number: FCC 605.

Type of Review: Revision to Existing Collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 177,000.

Estimated Time Per Response: .44 hours.

Frequency of Response: On occasion.

Total Annual Burden: 74,800 hours.

Needs and Uses: FCC 605 application is a consolidated application form for Ship, Aircraft, Amateur, Restricted and Commercial Radio Operators, and General Mobile Radio Services and will be utilized as part of the Universal Licensing System currently under development.

The data collected on this form includes the applicant's Taxpayer Identification Number, however, this information will be redacted from public view.

The form is being revised to provide for developmental licensing, military addresses, foreign addresses and compulsory vessel 4 letter call signs. In addition, instructions are being revised to clarify filings for Special Temporary Authority (STAs), filing Proof of Passing Certificates for Commercial Operator and submitting photographs for Commercial Operator T1, T2 and T3 permits. The collection also requests approval for collection of Trustee Primary Station Call Sign, Applicant Classification and a club administrator signature when an application is submitted via batch file for Amateur clubs.

There is no change to the estimated average burden or number of respondents.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–17912 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2344]

Petitions for Reconsideration of Action in Rulemaking Proceeding

July 9, 1999.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by July 29, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Hyperian of Tennessee, L.P., Petition for Preemption of Tennessee Code Annotated Sec. 65–4–201(d) and Tennessee Regulatory Authority Decision Denying Hyperian's Application Requesting Authority to

Provide Service in Tennessee Rural LEC Service Area (CC Docket No. 98–92).

Number of Petitions Filed: 2.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–17911 Filed 7–13–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 15, 1999, 10 a.m., meeting open to the public.

The following item was added to the agenda: Status of Regulations.

DATE AND TIME: Tuesday, July 20, 1999 at 10 a.m.

PLACE: 999 E Street. N.W., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Wednesday, July 21, 1999 at 10 a.m.

PLACE: 999 E Street, N.W., Washington, DC (ninth floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Oral Hearing—Buchanan for President Committee, Inc.

DATE AND TIME: Thursday, July 22, 1999 at 10 a.m.

PLACE: 999 E Street, N.W., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–16: Commercial Finance Association by counsel, Michael A. Nemeroff.

Final Rules and Explanation and Justification on the Definition of a ''Member'' of a Membership Organization.

Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–18116 Filed 7–12–99; 3:26 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 10573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011117–024.

Title: United States/Australasia Interconference and Carrier Discussion Agreement.

Parties:

United States/Australia New Zealand Association
P&O Nedlloyd Limited
Australia New Zealand Direct Line
Columbus Line
Ocean Star Container Line
Wallenius Wilhelmsen Lines AS
Compagnie Marseille Fret
Compagnie General Maritime S.A.
Fesco Ocean Management Limited, d/b/a Fesco Australia North America Line.

Synopsis: The parties are modifying their agreement to add authority for them to discuss and agree on voluntary guidelines applicable to their individual service contracts.

By Order of Federal Maritime Commission.

Dated: July 9, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–17941 Filed 7–13–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Charter One Financial, Inc., Cleveland, Ohio; to acquire St. Paul Bancorp, Inc., Chicago, Illinois, and its subsidiaries including, St. Paul Federal Bank for Savings, Chicago, Illinois, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y; St. Paul Trust Company, Oak Lawn, Illinois, and thereby engage in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y; St. Paul Securities, Inc., Chicago, Illinois, Investment Network, Inc., Franklin Park, Illinois, and Investment Network Advisors, Inc., Franklin Park, Illinois, and thereby engage in financial and investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y, and securities brokerage, private placement, riskless principal, futures commission merchant and other agency transactional services for customers, pursuant to § 225.28(b)(7) of Regulation Y; Community Finance Corporation, Chicago, Illinois, and thereby engage in community development activities, pursuant to § 225.28(b)(12)(i) of Regulation Y; EFS/San Diego Service Corporation, Chicago, Illinois, and thereby engage in leasing personal or real property, pursuant to § 225.28(b)(3) of Regulation Y; Serve Corp Mortgage Corporation, Naperville, Illinois, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; and ATM Connection, Inc., Chicago, Illinois, and

thereby engage in data processing and data transmission activities, pursuant to § 225.28(b)(14) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. AmSouth Bancorporation, Birmingham, Alabama; to acquire First American Community Development Corporation, Nashville, Tennessee, and thereby engage in community development activities, pursuant to § 225.28(b)(12) of Regulation Y.

Board of Governors of the Federal Reserve System, July 8, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–17877 Filed 7–13–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Government in the Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 19, 1999.

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 items 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: July 9, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–18000 Filed 7–9–99; 4:32 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Promoting Investigator-Initiated Prevention Research in Managed Care, Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Promoting Investigator-Initiated Prevention Research in Managed Care, Program Announcement #99108, meeting.

Times and Date: 8:30 a.m.–9:15 a.m., July 23, 1999 (Open); 9:25 a.m.–4:30 p.m., July 23, 1999 (Closed).

Place: CDC, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, Koger Center, Williams Building.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Acting Director, Office of Program Support, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99108.

Due to administrative delays, this notice is being published less than 15 days prior to the meeting.

Contact Person for More Information: Lisa R. Tylor, CDC Epidemiology Program Office, 1600 Clifton Road, Atlanta, GA 30333, m/s K73. Telephone 770/488–8201, e-mail LRM3@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 9, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 99–18018 Filed 7–12–99; 12:16 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research, Subcommittee for Management Review of the Chernobyl Studies: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research (ACERER), Subcommittee for Management Review of the Chernobyl Studies.

Time and Date: 8:30 a.m.–5 p.m., July 20, 1999.

Place: Hubert H. Humphrey Building, Room 305A, 200 Independence Avenue, SW, Washington, D.C. 20202.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 35 people.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This subcommittee is charged with providing guidance to the scientific reviewers and staff, and reporting back to the full ACERER on the charge from the Department and Congress to assess the management, goals, and objectives of the National Cancer Institute (NCI) Chernobyl studies.

Matters to be Discussed: Agenda items will include developing an action plan to address basic questions for the management review and audit of the thyroid and leukemia studies being conducted by the United Sates and the Governments of Belarus and Ukraine; deciding technical, logistical, and personnel support needs; and a public input plan.

Agenda items are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

Contact Person for More Information: Michael J. Sage, Deputy Director, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway, NE, (F–28), Atlanta, Georgia 30341–3724, telephone 770/488–7300, fax 770/488–7310.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 9, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 99–18017 Filed 7–13–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health; Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

Time and Date: 5:30 p.m.–7:30 p.m., July 27, 1999.

Place: Santa Fe Community College, Lecture Hall Room 216, 6401 Richards Avenue, Santa Fe, New Mexico 87505, telephone 505/428–1675.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) is given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This Study Team is charged with locating, evaluating, cataloguing, and copying documents that contain information about historical chemical or radionuclide releases from facilities at the Los Alamos National Laboratory since its inception. The purposes of this meeting is to review the goals, methods, and schedule of the project, discuss progress to date, provide a forum for community interaction, and serve as a vehicle for members of the public to express concerns to CDC.

Matters to be discussed: Agenda items include presentations from NCEH and/or its contractor regarding the information gathering project that recently began, and presentations from the National Institute for Occupational Safety and Health (NIOSH) and the Agency for Toxic Substances and Disease Registry (ATSDR) regarding the progress of current studies. There will be time for public input, questions, and comments. All agenda items are subject to change as priorities dictate.

Contact persons for additional information: Paul G. Renard, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (M/S F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, fax 770/488–7044.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: July 6, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–17899 Filed 7–13–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2244]

Bayer Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bayer Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a terpolymer of styrene, divinyl benzene and ethylvinyl benzene, aminomethylated, then quaternized with methyl chloride as an ion exchange resin for use in treating aqueous solutions of sugar and hydrolyzed starch.

FOR FURTHER INFORMATION CONTACT: Parvin M. Yasaei, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3023.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9A4677) has been filed by Bayer Corp., 100 Bayer Rd., Pittsburgh, PA 15205, c/o ENVIRON International Corp., 4350 North Fairfax Dr., suite 300, Arlington, VA 22203. The petition proposes to amend the food additive regulations in § 173.25 *Ion-exchange resins* (21 CFR 173.25) to provide for the safe use of a terpolymer of styrene, divinyl benzene and ethylvinylbenzene, aminomethylated, then quaternized with methyl chloride (chemical abstracts name: Benzene, diethenyl-, polymer with ethenylbenzene and ethenylethylbenzene, aminomethylated, chloromethane-quaternized, chloride (CAS Reg. No. 113114–5–9)) as an ion-exchange resin for use in treating aqueous solutions of sugar and hydrolyzed starch.

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cummulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 25, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–17821 Filed 7–13–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2245]

BP Amoco Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that BP Amoco Chemicals, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(oxy[1,1'-biphenyl]-4,4'-diyloxy-1,4-phenylenesulfonyl-1,4-phenylene) prepared by the reaction of biphenol and 4,4'-dichlorodiphenylsulfone as articles or components of articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration,

200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)(21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 9B4672) has been filed by BP Amoco Chemicals, Inc., 28100 Torch Pkwy., Warrenville, IL 60555–4015. The petition proposes to amend the food additive regulations in part 177(21 CFR part 177) by adding a section to provide for the safe use of poly(oxy[1,1'-biphenyl]-4,4'-diyloxy-1,4-phenylenesulfonyl-1,4-phenylene) prepared by the reaction of biphenol and 4,4'-dichlorodiphenylsulfone as articles or components of articles intended for contact with food.

The agency has determined under 21 CFR 25.32(j)that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 25, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–17915 Filed 7–13–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of the OIG Special Advisory Bulletin on Gainsharing Arrangements and CMPs for Hospital Payments to Physicians to Reduce or Limit Services to Beneficiaries

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: In its role of identifying and eliminating fraud, waste and abuse in the Department's health care programs, the OIG periodically develops and issues guidance, including Special Fraud Alerts and Advisory Bulletins, to alert and inform health care providers and program beneficiaries about potential problems or areas of special interest. This **Federal Register** notice sets forth the recently-issued OIG Special Advisory Bulletin addressing the civil money penalty (CMP) for hospital payments to physicians as an inducement to reduce or limit services to Medicare or Medicaid beneficiaries, and its application to ''gainsharing'' arrangements involving hospitals and physicians.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, Office of Counsel to the Inspector General, (202) 619–1306.

SUPPLEMENTARY INFORMATION:

I. Background

This Special Advisory Bulletin addresses the CMP for hospital payments to physicians to induce reductions or limitations in services to Medicare or Medicaid beneficiaries (section 1128A(b)(1) and (2) of the Social Security Act (the Act)), and its application to ''gainsharing'' arrangements and potentially to certain other hospital-physician clinical ventures. The OIG has concluded that section 1128A(b)(1) of the Act specifically prohibits any gainsharing arrangements that involve payments by or on behalf of a hospital, directly or indirectly, to induce physicians with clinical care responsibilities to reduce or limit services to Medicare or Medicaid patients.

II. Special Advisory Bulletin: Gainsharing Arrangements and CMPs for Hospital Payments to Physicians to Reduce or Limit Services to Beneficiaries

A. Introduction

The Office of Inspector General (OIG) was established at the Department of Health and Human Services by Congress in 1976 to identify and eliminate fraud, abuse and waste in the Department's programs and to promote efficiency and economy in departmental operations. The OIG carries out this mission through a nationwide program of audits, investigations and inspections.

The Fraud and Abuse Control Program, established by the Health Insurance Portability and Accountability Act of 1996, authorized the OIG to provide guidance to the health care industry to prevent fraud and abuse, and to promote the highest level of ethical and lawful conduct. To further these goals, the OIG issues Special Advisory Bulletins about industry practices or arrangements that potentially implicate the fraud and abuse authorities subject to enforcement by the OIG.

This Special Advisory Bulletin addresses the application of sections 1128A(b)(1) and (2) of the Social Security Act (the Act) to gainsharing arrangements.[1] The civil money penalty (CMP) set forth in section 1128A(b)(1) of the Act prohibits any hospital or critical access hospital from knowingly making a payment directly or indirectly to a physician as an inducement to reduce or limit services to Medicare or Medicaid beneficiaries under the physician's care.

While the OIG recognizes that appropriately structured gainsharing arrangements may offer significant benefits where there is no adverse impact on the quality of care received by patients, section 1128A(b)(1) of the Act clearly prohibits such arrangements. Moreover, regulatory relief from the CMP prohibition will require statutory authorization.

Some hospitals and physicians may have already implemented programs that involve Medicare or Medicaid beneficiaries. In exercising its enforcement discretion, and in the absence of any evidence that a gainsharing arrangement has violated any other statutes or adversely affected patient care, the OIG will take into consideration whether a gainsharing arrangement was terminated expeditiously following publication of this Bulletin.

B. Prohibition on Hospital Payments to Physicians to Induce Reduction or Limitation of Services

Under section 1128A(b)(1) of the Act, a hospital is prohibited from making a payment, directly or indirectly, to induce a physician to reduce or limit services to Medicare or Medicaid beneficiaries under the physician's direct care. Hospitals that make (and physicians that receive) such payments are liable for CMPs of up to $2,000 per patient covered by the payments (section 1128A(b)(2) of the Act).

The statutory proscription is very broad. The payment need not be tied to an actual diminution in care, so long as the hospital knows that the payment may influence the physician to reduce or limit services to his or her patients. There is no requirement that the prohibited payment be tied to a specific patient or to a reduction in medically necessary care. In short, any hospital incentive plan that encourages physicians through payments to reduce or limit clinical services directly or indirectly violates the statute.

The breadth of the prohibition was intentional. As initially enacted by Congress, section 1128A(b)(1) of the Act prohibited payments by both hospitals and Medicare managed care plans to induce physicians to reduce clinical services.[2] Section 1128A(b)(1) of the Act was subsequently amended to delete the reference to Medicare managed care plans, and to add a new subsection to section 1876 of the Act that permitted

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[1] Gainsharing arrangements may also implicate the anti-kickback statute (section 1128B(b) of the Act) and the physician self-referral prohibitions of the Act (section 1876 of the Act).

[2] Section 9313(c) of the Omnibus Budget Reconciliation Act (OBRA) of 1986 (P.L. 99–509).

Medicare managed care plans to implement physician incentive plans, provided the managed care plan did not induce the reduction of *medically necessary* care to *individual* patients and did not place the physician at substantial financial risk for services not provided by the physician.[3] Further, Congress explicitly gave the Secretary authority to regulate physician incentive plans offered by Medicare risk managed care plans. Because the resulting two provisions address the same issues and were drafted together, the stark difference in otherwise parallel language reflects a congressional decision to prohibit any payment arrangement between hospitals and physicians that is intended to induce a reduction or limitation in services.

This reading of the statute is also consistent with the legislative history surrounding the enactment of section 1128A(b)(1) of the Act. The prohibition was prompted in part by a General Accounting Office (GAO) report for the Chairman of the Subcommittee on Health of the House Ways and Means Committee regarding the physician incentive plans being implemented by hospitals in response to the then-recently enacted diagnostic related group prospective payment system and their potential detrimental effects on quality of care for Medicare patients.[4] The report analyzed four types of hospital-physician incentive plans, of which at least two bear strong similarities, and contain safeguards comparable, to the gainsharing arrangements currently being marketed by the healthcare consulting industry.[5] While the GAO report discussed several features in these plans that reduced the incentive to give substandard care, it concluded that no combination of features could guarantee that such plans would not be subject to abuse.[6]

Congress concurred. The House Committee Report that accompanied the House provision that became section 1128A(b)(1) of the Act stated that ''[t]he Committee believes that such incentive payments may create a conflict of interest that may limit the ability of the physician to exercise independent professional judgment in the best interest of his or her patients.'' [7] In explaining the inclusion of the prohibition in the final budget reconciliation bill that became OBRA 1986, the Chairman of the Subcommittee on Health of the House Ways and Means Committee, who was also a member of the Conference Committee, stated on the floor of the House that:

> ''[T]he House held firm in its insistence on outlawing certain physician incentive plans. We must not tolerate hospitals paying physicians to reduce or limit services to the elderly.'' [8]

In sum, we believe that section 1128A(b)(1) of the Act prohibits any hospital payments that induce physicians to reduce or limit clinical services to the physicians' patients.

C. Gainsharing Arrangements

While there is no fixed definition of a ''gainsharing'' arrangement, the term typically refers to an arrangement in which a hospital gives physicians a percentage share of any reduction in the hospital's costs for patient care attributable in part to the physicians' efforts. In most arrangements, in order to receive any payment, the clinical care must not have been adversely affected as measured by selected quality and performance measures. In addition, many plans require a determination by an independent consultant that the payment represents ''fair market value'' for the collective physician efforts. Medicare Part B and Medicaid payments to physicians generally are unaffected by a gainsharing arrangement.

Gainsharing arrangements seek to align physician incentives with those of hospitals by offering physicians a share of the hospital's variable cost savings attributable to Medicare and Medicaid reimbursement. Since the institution of the Medicare Part A DRG system of hospital reimbursement and with the growth of managed care, hospitals have experienced significant financial pressures to reduce costs. However, because physicians are paid separately under Medicare Part B and Medicaid, physicians do not have the same incentive to save hospital costs. Gainsharing arrangements are designed to bridge this gap by offering physicians a portion of the hospital's cost savings in exchange for identifying and implementing cost saving strategies.

The OIG recognizes that hospitals have a legitimate interest in enlisting physicians in their efforts to eliminate unnecessary costs. Savings that do not affect the quality of patient care may be generated in many ways, including substituting lower cost but equally effective medical supplies, items or devices; re-engineering hospital surgical and medical procedures; reducing utilization of medically unnecessary ancillary services; and reducing unnecessary lengths of stay. Achieving these savings may require substantial effort on the part of the participating physicians. Obviously, a reduction in health care costs that does not adversely affect the quality of the health care provided to patients is in the best interest of the nation's health care system. Nonetheless, the plain language of section 1128A(b)(1) of the Act prohibits tying the physicians' compensation for such services to reductions or limitations in items or services provided to patients under the physicians' clinical care.

D. Application of Section 1128A(b)(1) of the Act to Gainsharing Arrangements

Gainsharing arrangements that directly or indirectly provide physicians financial incentives to reduce or limit items or services to patients that are under the physicians' clinical care are precisely the kind of physician incentive plans that Congress prohibited when it enacted section 1128A(b)(1) of the Act. The language of the statute, the language of the companion statute on managed care physician incentive plans, and the legislative history compel the conclusion that section 1128A(b)(1) of the Act prohibits any hospital-physician incentive plan that compensates a physician directly or indirectly based on cost savings on items and services furnished to patients under the physician's clinical care. We can perceive no meaningful difference between the kinds of incentive plans proposed in 1986 at the time of enactment of section 1128A(b)(1) of the Act (as reflected in the GAO report) and the variants being promoted by hospitals and health care consultants today.

Moreover, given the clear statutory prohibition on hospital-physician incentive plans, the OIG cannot provide any regulatory relief absent further authorizing legislation. Where Congress intended the Department to regulate physician incentive plans, such as plans offered by risk-based Medicare managed care plans, it did so explicitly. Congress' omission of comparable regulatory authority for the Secretary over hospital-physician incentive plans represents its considered judgment that such plans are flatly prohibited.

We note, however, that hospitals may align incentives with physicians to achieve cost savings through means that do not violate section 1128A(b)(1) of the Act. For example, hospitals and physicians may enter into personal services contracts where hospitals pay

[3] Sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) (codified at section 1876(i)(8) of the Act).

[4] U.S. General Accounting Office, *Physician Incentive Payments by Hospitals Could Lead to Abuse*, GAO/HRD–86–103 (July 1986).

[5] *Id.* at 14–21.

[6] *Id.* at 23.

[7] H.R. Rep. No. 99–727, at 441 (1986).

[8] 144 Cong. Rec. H11,446 (October 17, 1986).

physicians based on a fixed fee that is fair market value for services rendered, rather than a percentage of cost savings. Such contracts must meet the requirements of the anti-kickback statute (section 1128B(b) of the Act).

Notwithstanding the statutory prohibition, the OIG has given extensive consideration to whether it would be appropriate to protect individual gainsharing arrangements from OIG administrative sanctions through the issuance of favorable advisory opinions. Based on our review of a number of requests, we have concluded that they contain common elements that preclude our issuance of any favorable opinion. First, to date, the OIG has exercised its discretion to protect various arrangements from sanction only where such arrangements pose a minimal risk of fraud or abuse. By contrast, gainsharing arrangements pose a high risk of abuse. In order to retain or attract high-referring physicians, hospitals will be under pressure from competitors and physicians to increase the percentage of savings shared with the physicians, manipulate the hospital accounts to generate phantom savings, or otherwise game the arrangement to generate income for referring physicians. Given these pressures and the potential adverse impact on patient care from gainsharing arrangements, the OIG believes that immunizing such arrangements from sanction would be imprudent and inappropriate.

Second, gainsharing arrangements will require ongoing oversight both as to quality of care and fraud that is not available through the advisory opinion process. Apart from the potential for fraud and abuse, a critical inquiry is whether the arrangements have adequate and accurate measures of quality of care that would provide assurance that there is no adverse impact on patient care. Based on discussions with experts both within and without the Federal Government, the OIG has determined that any performance measures would require extensive verification through audits or review by an independent party on a continuing basis. The Office of Counsel to the Inspector General, which issues advisory opinions, has neither the resources nor the expertise to police a multitude of such arrangements on an ongoing basis.

Third, case by case determinations by advisory opinions are an inadequate and inequitable substitute for comprehensive and uniform regulation in this area. Were the OIG to issue a favorable opinion to one provider, that provider would have a significant competitive advantage in recruiting and attracting physicians to admit patients to its facility, since the physicians would have the opportunity to earn significant additional income not available at other institutions. The consequences would be that every hospital in the country would request an advisory opinion for its own program, and many would implement their own programs in the hope that their programs were close enough. Given the potentially serious adverse effects on patient care from improperly designed or implemented gainsharing arrangements, regulation of gainsharing arrangements requires clear, uniform, enforceable and independently verifiable standards applicable to all affected providers and not case by case decision-making.

E. Application to Other Arrangements

We are aware of reports that hospitals and physicians are engaging in a number of clinical joint ventures, including both freestanding specialty hospitals (e.g., heart, orthopedic, or maternity hospitals), and arrangements in which a high revenue generating unit or service (e.g., cardiology or cardiac surgery) of an existing hospital is restructured and legally incorporated as a separate hospital.

Typically marketed only to physicians in a position to refer patients to the venture and structured to take advantage of the exception in the physician self-referral law for physician investments in ''whole hospitals'', these ventures may induce investor-physicians to reduce services to patients through participation in profits generated by cost savings in clinical care. Accordingly, we believe such arrangements may also violate section 1128A(b)(1) of the Act, in at least some circumstances. In addition, such arrangements may implicate the anti-kickback statute (section 1128B(b) of the Act).

F. Conclusion

Absent legislative relief, section 1128A(b)(1) of the Act prohibits any gainsharing arrangements that involve payments by or on behalf of a hospital to physicians with clinical care responsibilities, directly or indirectly, to induce a reduction or limitation of services to Medicare or Medicaid patients. Parties interested in pursuing gainsharing arrangements that are currently prohibited by section 1128A(b)(1) of the Act should seek legislative relief. In the light of reports that some hospitals may already have such arrangements in place, the OIG will, in the absence of any evidence that an arrangement has violated any other statutes or adversely affected patient care, take into consideration in exercising its enforcement discretion whether a gainsharing arrangement was terminated expeditiously following publication of this Bulletin in the **Federal Register**.

Dated: July 6, 1999.

June Gibbs Brown,

Inspector General.

[FR Doc. 99–17889 Filed 7–13–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Data Collection; Comment Request, Survey of National Cancer Organizations Served by the NCI Office of Liaison Activities (OLA)

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: Title: Survey of National Cancer Organizations Served by the NCI Office of Liaison Activities. Type of Information Collection Request: New. Need and Use of Information Collection: The information to be collected in this survey is of vital importance to the National Cancer Institute's Office of Liaison Activities in determining the communication needs of the national cancer advocacy and voluntary organizations it serves and the desirability and usefulness of NCI's products and services. Information collected in this survey will be used to improve program services and make appropriate programmatic decisions. The respondents are leaders of organizations served by OLA and have a deep commitment to cancer advocacy in areas of cancer prevention, detection, treatment, control, and survivorship. They seek to improve the communication and collaboration between their organizations and the NCI. Frequency of Response: one time. Affected Public: Not-for-profit organizations. Type of Respondents: Organization leaders. The annual reporting burden is as follows: Estimated Number of Respondents: 150; Estimated Number of Responses per Respondent: 1; Average Burden Hours Per Response: .3841 and Estimated Total

Annual Burden Hours Requested: 57.61. The annualized cost to respondents is estimated at: $1,152.30. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION: To request more information on the proposed project or obtain a copy of the data collection plans and instruments, contact Ms. Kristie Dionne, Program Analyst, Office of Liaison Activities, NCI, NIH, Building 31, Room 10A06, 9000 Rockville Pike, Bethesda, MD 20892–2580, or call non-toll-free number (301) 594–3194 or e-mail your request, including your address, to *liaison@od.nci.nih.gov*.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: July 2, 1999.

Reesa Nichols,

OMB Project Clearance Liaison.

[FR Doc. 17927 Filed 7–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; The Impact and Costs of Sealants in Young Child Population

SUMMARY: Under the provisions of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute of Dental and Craniofacial Research (NIDCR), National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 31, 1999, page 15367, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: The Impact and Costs of Sealants in Young Child Populations.

Type of Information Collection Request: Revision. Need and use of Information Collection; This study will assess the value (costs and effects) of providing dental sealants to the child population with erupted permanent posterior teeth (approximately ages 6–12) under alternative financial support programs in existing oral health care delivery systems and across two socioeconomic groups. The primary objectives of the study are to determine if various levels of dental insurance influence the use of dental sealants, if costs attributable to sealants in a payment program provide value in terms of reduced caries, and if providing dental sealants to specific tooth surfaces of children merits the investment of limited resources within a larger oral health care program. The findings will provide valuable information concerning: 1. Real disease reductions possible using dental sealants for age-appropriate child populations within the existing oral health delivery system, 2. the costs of, and estimated savings from, providing sealants rather than restorative care,and 3. the marginal benefits and cost benefits of adding sealants to ''normative'' caries prevention efforts in age-appropriate child populations.

Frequency of Response: On occasion. Affected Public: Individuals or Households, Businesses or other For-Profits. Type of respondents: Children, Parents, and Dentists. Estimated Number of Respondents: 1,200. Estimated Number of Responses per Respondent: 1. Average Burden hours per Response: .1200; and Estimated Total Annual Hours Requested: 766. The annualized cost to respondents is estimated at: $964. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

The number of required respondents has been reduced significantly due to the proposed modification of the approach to meeting the objectives of the study. Data gathered from approximately 400 children enrolled to date under the study's insurance coverage will be supplemented by administrative data already collected from large numbers of children who are receiving dental care through private insurance, the Children's Health Insurance Program, and Medicaid. No contact with these children is required, and there will be no identifying information in the data obtained. The result of the proposed modification is that the respondent burden for the component of this study that involves direct contact with subjects is reduced substantially. The burden estimates are as follows:

	No. of respondents	No. of responses per respondent	Avg. burden/ response (hour)
Parents	500	4	.125
Children	400	4	.129
Dentists	300	1	.033

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and

clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Robert H. Selwitz, Health Policy Analysis and Development Branch, NIDCR, NIH, Natcher Building, Room 3AN–44J, 9000 Rockville Pike, Bethesda, MD 20892, or call non-toll-free number (301) 594–3977, or e-mail your request, including your address to: Robert.Selwitz@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before August 13, 1999.

Dated: July 7, 1999.

Yvonne H. du Buy,

Executive Officer, NIDCR.

[FR Doc. 99–17926 Filed 7–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing: ''Immunotoxin Containing a Disulfide-Stabilized Antibody Fragment Joined to a Pseudomonas Exotoxin that does not Require Proteolytic Activation''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J.R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E-Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION:

Invention Title: ''Immunotoxin Containing a Disulfide-Stabilized Antibody Fragment Joined to a Pseudomonas Exotoxin that does not Require Proteolytic Activation''

Inventors: Drs. Ira H. Pastan (NCI), and Chin-Tsun Kuan (NCI)

DHHS Ref. No. E–163–93/1 & 2 & 3—USPA SN: 08/809,668—Filed August 21, 1997, [=60/005,388—Filed: October 13, 1995, & PCT/US96/16327/WO 97/13529—Filed: October 11, 1996]

Licensing Contract: J.R. Dixon, Ph.D., (301)–496–7056 Ext. 206; E-Mail: jd212g@NIH.GOV

Immunotoxins were initially produced by chemically coupling antibodies to toxins to form chimeric molecules. In these molecules, the antibody portion mediates selective binding to target cells, while the toxin portion mediates translocation into the cytosol and subsequent cell killing. Several toxins have been used to make immunotoxins including ricin A chain, blocked ricin, saporin, pokeweed antiviral protein, diphtheria toxin, and Pseudomonas Exotoxin (''PE'').

The technology disclosed in the above mentioned patent application relates to the production and use of Pseudomonas-derived immunotoxins modified to increase their toxicity and potency and therapeutic agents. In particular, the immunotoxins of this invention includes a disulfide-stabilized (''ds'') target-binding agent, such as the variable region of an antibody molecule, and a Pseudomonas Exotoxin that does not require proteolytic activation for cytotoxic activity. Specifically, the invention provides for immunotoxins comprising a Pseudomonas Exotoxin that does not require proteolytic activation for cytotoxic activity attached to an Fv antibody fragment having a variable heavy chain region bound through at least one disulfide bond to a variable light chain region. The combination of a ''disulfide-stabilized'' binding agent fused to a PE that does not require proteolytic activation and provides an immunotoxin having surprising cytotoxic activity.

The above mentioned Invention is available, including any available foreign intellectual property rights, for licensing.

Dated: July 2, 1999.

Jack Spiegel,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–17928 Filed 7–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing: ''Methods for Predicting the Efficacy of a Chemotherapeutic Regimen for Gastrointestinal Cancers Using Antibodies Specific for Thymidylate Synthase''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J. R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E-Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION:

Invention Title: ''Methods for Predicting the Efficacy of a Chemotherapeutic Regimen for Gastrointestinal Cancers using Antibodies specific for Thymidylate Synthase''

Inventors: Drs. Patrick G. Johnson (NCI), Edwin R. Fisher (NCI) and Carmen J. Allegra (NCI)

DHHS Ref. No. E–194–95/1 USPA SN: 08/758,034 [= 60/007,825—Filed: December 1, 1995] Filed: November 27, 1996 [E–194–95/1].

Gastric adenocarcrinoma is characterized by an extremely virulent behavior and for which mortality approximates the incidence. The vast majority of patients with gastric cancer are diagnosed with advanced stage disease and even after ''curative''

gastrectomy, most will die from recurrent disease. Recently, there has been increasing interest in the use of neoadjuvant or primary chemotherapy, frequently using fluropyrimidine-based combination chemotherapy, in an attempt to increase respectability and improve survival or patients with locally advanced gastric cancer. Neoadjuvant chemotherapeutic treatment provides an early opportunity to assess individual patient response using the in situ primary tumor. Overall response rates in studies using neoadjuvant 5-fluorouracial (''5-FU'') based regiments in locally advanced gastric cancer range from 25–45%. Therefore, at least half of all patients treated in this setting are being subjected to unnecessary toxicity and delay in operation with no therapeutic benefit. Strategies that would accurately predict tumor responsiveness to 5-FU therapy would provide an opportunity to selectively treat patients most likely to benefit from treatment and avoid unnecessary toxicity in those who would not.

The '034 invention is directed to methods for determining whether a chemotherapeutic treatment is appropriate for patients afflicted with gastrointestinal cancers, comprising;

a. Obtaining a solid tumor tissue sample from the patient;

b. Measuring a thymidylate synthase expression level in the tissue sample; and

c. Comparing the thymidylate synthase expression level with a group of standard tumor tissue samples, the standards having known thymidylate synthase expression levels and known responses to the chemotherapeutic treatment, to determine if the chemotherapeutic treatment is appropriate for the patient.

The above mentioned Invention is available, including any available foreign intellectual property rights, for licensing.

Dated: July 2, 1999.

Jack Spiegel,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–17929 Filed 7–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center

Privacy Act of 1974; New System of Records

AGENCY: Program Support Center (PSC), HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the PSC is publishing a notice of a new system of records, 09–40–0013, ''PSC Parking Program and PSC Transhare Program Records, HHS/PSC/AOS.'' We are also proposing routine uses for this new system.

DATES: The PSC invites interested parties to submit comments on the proposed internal and routine uses on or before August 18, 1999. The PSC has sent a Report of a New System to the Congress and to the Office of Management and Budget (OMB) on July 2, 1999. The new system of records will be effective 40 days from the date submitted to OMB unless PSC receives comments which would result in a contrary determination.

ADDRESSES: Address comments to the Privacy Act Officer, Program Support Center, 5600 Fishers Lane, Room 17A–08, Rockville, Maryland 20857. We will make comments received available for public inspection at the above address during normal business hours, 8:30 a.m.–5 p.m.

FOR FURTHER INFORMATION CONTACT: Irene West, Room 17A–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–2045. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Program Support Center (PSC) proposes to establish a new system of records: 09–40–0013, ''PSC Parking Program and PSC Transhare Program Records, HHS/PSC/AOS.'' This system of records will be used by PSC staff to: (1) Administer the parking program at the Parklawn Building complex; (2) manage the PSC Transhare Program, including receipt and processing of employee applications, and coordination of the fare media distribution to employees; and (3) monitor the use of funds used to support the PSC Transhare Program.

The system will contain records that contain information such as participant's name; pay plan; grade level; employing organization; building and room; duty hours and location; name of supervisor; home address; office telephone number; assigned parking space number; vehicle information, i.e., tag number and State; make and model of car; physician's statement in support of handicapped parking assignments and query to supervisors in support of handicapped parking assignments, where applicable; Transhare commuter card number; commute mode to work; and type of fare media used.

The amount of information recorded on each individual will be only that which is necessary to accomplish the purpose of the system. Each record is established from an application form that has been submitted to the Parking and Information Office, Building Management Branch, Division of Property Management, Administrative Operations Service, PSC, by the applicant.

Authorities: The Federal Property and Administrative Services Act of 1949, as amended; and, Pub. L. 101–509 section 629, as amended, (5 U.S.C. 7905, ''Programs to encourage commuting by means other than single-occupancy motor vehicles'').

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses proposed for this system are compatible with the stated purposes of the system, i.e., to administer and manage the PSC Parking and Transhare Programs and to monitor the use of funds used to support the PSC Transhare Program.

The PSC will disclose relevant information to third parties outside the Department as follows: Routine use 1: PSC may disclose information from this system of records to city, county, State, and Federal law enforcement agencies should PSC become aware of evidence of a potential violation of civil or criminal law. Routine use 2: Disclosure may be made to a congressional office from the record of an individual upon the written request of the record subject to obtain assistance from his/her congressional representative. Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before HHS. The Member of Congress then writes HHS and HHS must be able to give sufficient information to be responsive to the inquiry. Routine use 3: Disclosure may be made to the Department of Justice, or to a court or other tribunal, in case of litigation where HHS determines that such disclosure is relevant and necessary and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were

collected. Routine use 4: Disclosure may be made to a contractor for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. HHS occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. HHS must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. Routine use 5: Disclosure may be made to officials of labor organizations when relevant and necessary to their duties of exclusive representation concerning practices and matters affecting working conditions. Routine use 6: Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments or utilization review.

SAFEGUARDS:

The PSC has instituted extensive safeguards to protect both the automated and non-automated records. The PSC Systems Security Officer has certified that the safeguards for the system are commensurate with the sensitivity and criticality of the records. The system notice describes: (1) The safeguards that are in effect to ensure that only authorized users have access to the records; (2) the physical security measures used to protect the records; (3) the procedural safeguards to ensure data integrity and prevent unauthorized access and disclosure; and (4) security guidelines for contractors, as applicable.

The system notice is written in the present rather than future tense to avoid the unnecessary expenditure of public funds to republish the notice after the new system becomes effective.

Dated: July 2, 1999.

Lynda M. Regan,

Director, Program Support Center.

09–40–0013

SYSTEM NAME:

PSC Parking Program and PSC Transhare Program Records, HHS/PSC/AOS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Property Management, Administrative Operations Service, Program Support Center, Room 5B–07, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current HHS employees and others who use Parklawn Building parking facilities; HHS employees who apply for and participate in the PSC Transhare Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to the administration of the parking permit system and the PSC Transhare Program for the Parklawn Building complex. The records include information such as name; pay plan; grade level; employing organization; building and room; duty hours and location; name of supervisor; home address; office telephone number; assigned parking space number; vehicle information, i.e., tag number and State; make and model of car; physician's statement in support of handicapped parking assignments and query to supervisors in support of handicapped parking assignments, where applicable; Transhare commuter card number, commute mode to work; and type of fare media used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949, as amended; and, Pub. L. 101–509 section 629, as amended, (5 U.S.C. 7905, ''Programs to encourage commuting by means other than single-occupancy motor vehicles'').

PURPOSE(S):

These records are used to:

1. Administer the parking program at the Parklawn Building complex.

2. Manage the PSC Transhare Program, including receipt and processing of employee applications, and coordination of the fare media distribution to employees.

3. Monitor the use of funds used to support the PSC Transhare Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information from these records may be used:

1. To disclose pertinent information to appropriate city, county, State and Federal law enforcement agencies responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations or orders, when HHS becomes aware of evidence of a potential violation of civil or criminal law.

2. To disclose information to a congressional office from the record of an individual in response to a verified inquiry from that congressional office made at the written request of that individual.

3. To disclose information to the Department of Justice, a court or other tribunal, when: (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS where it is authorized to do so) has agreed to represent the employee; or (d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tributnal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records are collected.

4. When HHS contemplates contracting with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system, relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records. These safeguards are explained in the section entitled ''Safeguards.''

5. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation, concerning personnel policies, practices, and matters affecting working conditions.

6. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments or utilization review.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, cabinets, on disks and in an automated data base.

RETRIEVABILITY:

These records are retrieved by the name, parking space number, permit number, address, vehicle information and PSC Transhare commuter card number of the individuals on whom they are maintained.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by authorized users who are PSC employees and who are responsible for implementing the program.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours,

rooms are unlocked but are controlled by on-site personnel.

3. *Procedural and Technical Safeguards:* A password is required to access the terminal, and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see Authorized Users above) protect information from public view and from unauthorized personnel entering an unsupervised office.

4. *Contractor Guidelines.* A contractor who is given records under routine use 4 must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent unauthorized persons from gaining access to the records, and return the records to the System Manager immediately upon completion of the work specified in the contract. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager and as stated in the contract.

RETENTION AND DISPOSAL:

Parking records are maintained for varying periods of time, in accordance with NARA General Records Schedule 11 (parking permits). Disposal of manual records is by shredding; electronic data is erased.

PSC Transhare records are retained for a maximum of two years following the last month of an employee's participation in the PSC Transhare Program. Paper copies are destroyed by shredding. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Office Manager, Parking and Information Office, Building Management Branch, Division of Property Management, Administrative Operations Service, PSC, Room 5B–07, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURES:

Same as Access Procedures. The requester is required to specify reasonably the contents of the records being sought.

RECORD ACCESS PROCEDURES:

To determine whether information about themselves is contained in this system, the subject individual should contact the System Manager at the above address. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be. Individuals must provide the following information for their records to be located and identified: (a) Full name, (b) parking space number (if appropriate); (c) vehicle license number (if appropriate) and (d) for the PSC Transhare Program, the requester must provide the commuter card number and the dates of participation in the Program. The requester must also understand that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine. An individual who is the subject of records maintained in this records system may also request an accounting of disclosures that have been made of his or her records.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

CONTESTING RECORD PROCEDURES:

Contact the System Manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Records are developed from information supplied by applicants and, for handicapped parking assignments, by physicians and supervisors.

SYSTEM(S) EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–17762 Filed 7–13–99; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Nation Toxicology Program; Meeting

National Toxicology Program Public Meeting to receive comment on the review procedures and listing criteria used in the preparation of the DHHS Report on Carcinogens (RoC); September 15, 1999, Ronald Reagan Building, The International Trade Center, 1300 Pennsylvania Avenue, NW., Horizon Room, Washington, DC, beginning at 9 a.m.

The National Toxicology Program announces a public meeting for the purpose of reviewing nominations for listing in or delisting from the RoC and the current listing criteria used for evaluation of the nominations to the RoC. The purpose of this public meeting is to obtain input and to provide all interested parties an opportunity to express their views about the review process and/or the evaluation criteria and to comment on the views expressed by others.

The meeting will begin at 9 a.m. and will conclude at 5 p.m. or at the conclusion of the public comment and discussion, if sooner. On-site registration will begin at 8:30 a.m. Details regarding registration follow. Attendance at the meeting is limited only by the space available.

Background

The DHHS Report on Carcinogens (RoC) is a public information document prepared for the U.S. Congress by the National Toxicology Program in response to Section 301(b)(4) of the Public Health Service Act, as amended. The intent of the document is to provide a listing of those agents, substances or exposure circumstances which are either ''known'' or ''reasonably anticipated'' to cause cancer in humans, and to which a significant number of people in the United States are exposed. The first edition of the report (then known as the Annual Report on Carcinogens) was published in 1980, and similar criteria and review processes were used to consider nominated substances for listing through preparation of the 7th edition published in 1994. In 1994 Dr. Ken Olden, Director of NTP and NIEHS established an ad hoc working group of the NTP Board of Scientific Counselors and charged them to review and make recommendations on two issues: the adequacy of the existing criteria and the incorporation of mechanistic data as part of the criteria for listing substances in future Reports. In addition Dr. Olden directed that the process used to review nominations for listing in or delisting from the Report be revised to allow more public input throughout the process and to add external review to broaden the scope of scientific review. As a consequence, in 1994 and 1995 the criteria were examined by a panel whose membership included academia, industry, labor, public/environmental organizations, state and local health departments and government who met in public session in public meetings. Recommendations were made for revising the listing criteria and the nomination review process which were

approved by the Secretary, HHS on September 13, 1996 [**Federal Register:** September 26, 1996, Volume 61, Number 188, Page 50499–50500]. The substances newly included in the 8th edition of the Report on Carcinogens (1998) and the nominations for listing in or delisting from the 9th edition were evaluated using these revised review process and criteria.

Public Review and Comment Encouraged

A panel to include NTP staff and representatives of the NTP Board of Scientific Counselors and the NTP Executive Committee will receive comments and participate in the discussion. NTP staff will summarize the process and the listing criteria. Presentations from the panel will be tentatively from 9–10 a.m. The remainder of the time will be devoted to public comment and discussion.

The NTP welcomes the continued and meaningful input from all stakeholders in reviewing the RoC process and the listing criteria as we move forward to the 10th edition of the RoC. The experience and perspective of all stakeholdres are critical to ongoing evaluations of nominations to the RoC.

Written comments are welcome and can be sent to the address given below. Written comments must include name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any). Comments received by September 15 will be considered for their implications with respect to the reviews of nominations for the 10th edition of the RoC and the December 16–17, 1999, public review.

Oral comments may be presented to the panel described above. Each speaker will be asked to identify their supporting organization (if any). The time allotted for each presentation will be largely dependent upon the number of individuals who register to speak at this one day meeting. Speakers will be registered and assigned time on a first-come, first-served basis. Registration to speak at this meeting will be accepted until the 9 a.m. start of the meeting. It is anticipated that at least 10 minutes will be available for each presenter to address the panel. When oral comments are read from printed copy, it is requested that 10 copies of the text be provided when registering at the meeting to be distributed to the panel members and to supplement the record of the meeting.

RoC Listing/Delisting Procedures and Listing Criteria

The current procedures and listing criteria follow this announcement. Revised criteria were announced first in the **Federal Register** and other publications in 1996 [**Federal Register:** September 26, 1996, Volume 61, Number 188, Page 50499–50500] and clarified in the FR and other publications in April 1999 (FR Vol. 64, No. 63, pp 15983–15984 and Vol. 64, No. 74; pp 19188–19189). The procedures and criteria can also be found on the NTP website located at *www.ntp-server.niehs.nih.gov*

Registration for Meeting

Pre-registration to attend this meeting can be made by notifying Ms. Angie Wilson by mail at NIEHS, Building 101, Room A328, P.O. Box 12233, Research Triangle Park NC 27709, by phone at (919) 541–3971, by FAX at (919) 541–0295, or by e-mail at *wilson9@niehs.nih.gov*. Please indicate if you wish to make an oral presentation. On site registration will be available the morning of September 15, 1999 from 8:30 am to 9:00 am. If possible, those wishing to speak should provide a written copy of their statement before the September 15th meeting, to speak should provide a written copy of their statement before the September 15th meeting, to permit copying for the panel members. Those registering on site are requested to provide 10 copies of their statement for distribution to the panel and to supplement the record of the meeting. Written statements should supplement and may expand on the oral presentation, or may be submitted in lieu of an oral presentation. When registering to comment, please provide your name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any).

Dated: July 1, 1999.

Kenneth Olden,

Director, NTP and NIEHS.

Report on Carcinogens Listing/Delisting Procedures

Petitions for listing or delisting an agent, substance, mixture, or exposure circumstance in the Report on Carcinogens (RoC) should be submitted to the National Toxicology Program (NTP)[1]. Petitions must contain a rationale for listing or delisting as either a ''known human carcinogen'' or a ''reasonably anticipated human carcinogen.'' Appropriate background information and relevant data (e.g. journal articles, NTP Technical Reports, IARC listings, exposure surveys, release inventories, etc.) which support a petition should be provided or referenced.

An agent, substance, mixture, or exposure circumstance petitioned for listing or delisting will be announced in the **Federal Register**, trade journals, and NTP publications to solicit public comment. The original petition and all comments received will be evaluated by a National Institute of Environmental Health Sciences (NIEHS/NTP) Report on Carcinogens Review Committee (RG1), composed of scientists from the NIEHS/NTP, to determine if the information provided is sufficient to merit further consideration. If it is determined the petition warrants formal consideration, the NTP may initiate an independent search of the literature and prepare a draft review document for the substance under consideration. Draft documents will be prepared according to the following general format:

1.0 Introduction
  1.1 Chemical Information
  Synonyms, trade names, CAS #'s, molecular formula, molecular structure, etc.
  1.2 Physical-Chemical Properties
  1.3 Identification of Structural Analogs
2.0 Exposure Assessment
  2.1 Production
  2.2 Use
  2.3 Environmental Exposure
  Environmental occurrence, environmental release, drinking water and food content, consumer products, occupational exposures, biomarkers of exposure
  2.4 Regulations
  Occupational Exposure Limits (standards and criteria), ''other'' standards and criteria
3.0 Human Studies
  3.1 Epidemiology Studies
  Occupational studies, clinical trials, consumer exposure, other ''non-occupational'' exposures
  3.2 Laboratory Studies
  Controlled exposures
  3.3 Poisonings
  Case reports, accidents, symptoms and clinical signs
4.0 Animal Carcinogenicity Studies
  Subdivided by species
5.0 Genotoxicity
6.0 Mechanistic and Other Relevant Studies

Data used in the preparation of Sections 3 through 6 of the draft document must come from publicly available, peer reviewed sources.

If it is determined that the petition contains insufficient information to warrant consideration by the NTP, it will be returned to the original petitioner who will be invited to resubmit the petition with additional justification, which may include new data, exposure information, etc. A notice, stating the action taken for a petitioned substance found to contain insufficient justification for consideration, will be published in the

Federal Register, trade journals, and NTP publications, and included in subsequent editions of the RoC with the reason(s) why it was not considered further. This decision will also be forwarded to the NTP Executive Committee and Board of Scientific Counselors.

Formal Review Steps

The following describes the review process for petitions that are considered by the NTP for listing in or delisting from the Report on Carcinogens.

NIEHS/NTP Review Committee for the Report on Carcinogens (RG1)

The original petition and all public comments received in response to a petition will be reviewed by RG1. Assignment of a primary and secondary reviewer will be made upon receipt of a petition. Reviewers will lead discussions concerning the adequacy of the petition. If the petition warrants formal consideration, a search of pertinent databases will be performed and available citations will be reviewed by the primary reviewer. The primary reviewer will identify the relevant articles. After consultation with the secondary reviewer, the identified literature will be obtained and a draft summary of all available information from the original petition and the literature search will be prepared. The primary and secondary reviewers will examine the petition, the literature citations, and the draft document for completeness and adequacy. The draft document will be revised if necessary and presented by the primary reviewer to the RG1. Public comments received in response to announcements of petitions will also be considered. The RG1 will make a formal recommendation for those petitions determined to contain sufficient information for listing or delisting in the RoC. The petition then continues through the review process.

Petitions reviewed by RG1 for which sufficient information could *not* be obtained will not proceed further. The other RoC review groups, as well as the NTP Executive Committee, will be informed of this action. The original petitioner will be notified of the RG1 action and invited to resubmit the petition will additional justification. All petitioned agents, substances, or mixtures reviewed by RG1 but not selected for listing or delisting will be included in the subsequent edition of the RoC with the reason(s) why they were not considered further.

NTP Executive Committee's Interagency Working Group for the Report on Carcinogens (RG2)

The second review phase of petitions will be done by the NTP Executive Committee's Interagency Working Group for the Report on Carcinogens (RG2). RG2 is a Governmental interagency group that assesses whether relevant information on the petitioned agent, substance, or mixture is available and sufficient for listing in or delisting from the RoC. A reviewer for each petition will be assigned from the RG2 who will be responsible for reviewing the draft document and for leading the Working Group's discussion of the petition. Public comments received in response to announcements of petitions will also be considered by RG2 during the review. Upon completion of its review, RG2 will provide comments and recommendations for any changes and/or additions to the draft document and also make its recommendation for listing or delisting. The petition then continues through the review process.

Board of Scientific Counselors RoC Subcommittee (External Peer Review)

The third review phase for petitions will be performed by a subcommittee of the NTP Board of Scientific Counselors. This subcommittee serves as another independent peer review group that assesses whether the relevant information available is sufficient for listing in or delisting. The NTP Board RoC Subcommittee will review petitions in a public meeting. Prior to public review, a notice will be published in the **Federal Register,** trade journals, and NTP publications, soliciting public comment. The notice will also invite interested groups or individuals to submit written comments and/or to address the NTP Board RoC Subcommittee during the review meeting. Reviewers for each petition will be assigned from the NTP Board RoC Subcommittee who will be responsible for reviewing the draft document and leading the subcommittee's discussion of the petition. Upon completion of its review, NTP Board RoC Subcommittee will provide comments and recommendations for any changes and/or additions to the draft document and also make its formal recommendation for listing or delisting the petitioned agent, substance, or mixture.

Upon completion of the reviews by RG1, RG2, and NTP Board RoC Subcommittee, those petitioned agents, substances, mixtures, or exposure circumstance which are recommended for listing in or delisting from the RoC, will be published in the **Federal Register,** trade journals, and NTP publications, and public comment and input on the recommendations will be solicited.

NTP Executive Committee

The independent recommendations of RG1, RG2, and NTP Board RoC Subcommittee and all public comment will be presented to the NTP Executive Committee [2] for review and comment.

NTP Director

The Director, NTP receives the four independent recommendations from RG1, RG2, NTP Board RoC Subcommittee, and the NTP Executive Committee and makes the final decision regarding the proposed listing and/or delisting and submits the RoC to the Office of the Secretary, DHHS. Upon review and approval by the Secretary, DHHS and submission to Congress, a notice of the RoC publication, indicating all newly listed or delisted agents, substances, mixtures, or exposure circumstance will be published in the **Federal Register**, trade journals, and NTP publications.

National Toxicology Program, Report on Carcinogens, P.O. Box 12233, 79 Alexander Drive, Bldg. 4401, Room 3127, MD–EC–14, Research Triangle Park, NC 27709

For information contact: Dr. C.W. Jameson, phone: (919) 541–4096, fax: (919) 541–2242, email: jameson@niehs.nih.gov

Agencies represented on the NTP Executive Committee include: Agency for Toxic Substances and Disease Registry (ATSDR), Consumer Product Safety Commission (CPSC), Environmental Protection Agency (EPA), Food and Drug Administration (FDA), National Center for Toxicological Research (NCTR), National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), Department of Health and Human Services (DHHS), National Institutes of Health (NIH), National Cancer Institute (NCI), National Library of Medicine (NLM), and National Institute of Environmental Health Sciences/NTP (NIEHS/NTP).

Report on Carcinogens

Criteria for Listing Agents, Substances or Mixtures

1. Known to be Human Carcinogens

There is sufficient evidence of carcinogenicity from studies in humans which indicates a causal relationship between exposure to the agent, substance or mixture and human cancer.

2. Reasonably Anticipated To Be Human Carcinogens

There is limited evidence of carcinogenicity from studies in humans which indicates that causal interpretation is credible but that alternative explanations such as chance, bias or confounding factors could not adequately be excluded; *or*

There is sufficient evidence of carcinogenicity from studies in experimental animals which indicates there is an increased incidence of malignant and/or a combination of malignant and benign tumors: (1) In multiple species, or at multiple tissue sites, or (2) by multiple routes of exposure, or (3) to an unusual degree with regard to incidence, site or type of tumor or age at onset; *or*

There is less than sufficient evidence of carcinogenicity in humans or laboratory animals, however; the agent, substance or mixture belongs to a well defined, structurally-related class of substances whose members are listed in a previous Report on Carcinogens as either a known to be human carcinogen, or reasonably anticipated to be human carcinogen or there is convincing relevant information that the agent acts through mechanisms indicating it would likely cause cancer in humans.

Conclusions regarding carcinogenicity in humans or experimental animals are based on scientific judgment, with consideration given to all relevant information. Relevant information includes, but is not limited to dose response, route of exposure, chemical structure, metabolism, pharmacokinetics, sensitive sub populations, genetic effects, or other data relating to mechanism of action or factors that may be unique to a given substance. For example, there may be substances for which there is evidence of carcinogenicity in laboratory animals but there are compelling data indicating that the agent acts through mechanisms which do not operate in humans and would therefore not reasonably be anticipated to cause cancer in humans.

[FR Doc. 99–17930 Filed 7–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Projects for Assistance in Transition from Homelessness (PATH) Annual Report—New

The Center for Mental Health Services awards grants each fiscal year to each of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands from allotments authorized under the PATH program established by Public Law 101–645, 42 U.S.C. 290cc–21 *et seq.*, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 (section 521 *et seq.* of the Public Health Service (PHS) Act). Section 522 of the PHS Act requires that the grantee States and Territories must expend their payments under the Act solely for making grants to political subdivisions of the State, and to non-profit private entities (including community-based veterans organizations and other community organizations) for the purpose of providing services specified in the Act. Available funding is allotted in accordance with the formula provision of section 524 of the PHS Act.

This submission is for approval of the annual grantee reporting requirements. Section 528 of the PHS Act specifies that not later than January 31 of each fiscal year, a funded entity will prepare and submit a report in such form and containing such information as is determined necessary for securing a record and description of the purposes for which amounts received under section 521 were expended during the preceding fiscal year and of the recipients of such amounts and determining whether such amounts were expended in accordance with statutory provisions.

The estimated annual burden for these reporting requirements is summarized below.

Respondent	Number of respondents	Number of responses/respondent	Average burden/response	Total burden hours
States—automated	34	1	26	884
States—hard copy	22	2	28	616
Local provider agencies—automated	213	1	31	6,603
Local provider agencies—hard copy	142	1	24	3,408
Total	411			11,511

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 7, 1999.

Barbara M. Prince,

Acting Executive Officer, SAMHSA.

[FR Doc. 99–17900 Filed 7–13–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4443–N–07]

Notice of Proposed Information Collection for Public Comments, for Family Self-Sufficiency Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* September 12, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Family Self-Sufficiency Program (FSS).

OMB Control Number: 2577–0178.

Description of the need for the information and proposed use: The FSS Program promotes the development of local strategies that coordinate the use of public housing assistance and assistance under Section 8 rental certificate and voucher programs with public-private resources to enable eligible families to achieve economic independence and self-sufficiency. Housing agencies enter into a Contract of Participation with each eligible family that opts to participate in the program; consult with local officials to develop an Action Plan; and report annually to HUD on implementation of the FSS program.

Agency form numbers, if applicable: Form HUD–52650 and HUD–52652.

Members of affected public: Individuals or households, State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 50 respondents, annually (Plan), Forms HUD–52650 (10 times a year) and HUD–52652 (50 times a year), 39,000 hours total reporting burden.

Status of the proposed information collection: Extension.

Authority: Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 8, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Family Self-Sufficiency (FSS) Program Contract of Participation

Section 8, Public Housing and Indian Housing Programs

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0178 (exp. 7/31/99)

This Contract of Participation for the Family Self-Sufficiency (FSS) Program is between _____

_____, Housing Agency (HA), and

_____, head of the FSS family.

The FSS family includes everyone in the household, and is referred to in this contract as "family".

Type of FSS Program.

The family is a participant in the:(Check only one)

- ☐ Section 8 Rental Certificate or Rental Voucher FSS Program
- ☐ Public Housing FSS Program
- ☐ Indian Housing FSS Program

Purpose of Contract

The purpose of this contract is to state the rights and responsibilities of the family and the HA, the resources and supportive services to be provided to the family, and the activities to be completed by the family.

Term of Contract

This contract will be effective on _____.

This contract will expire on _____.

The HA can extend the term of the contract up to 2 years if the family gives the HA a written request for an extension and the HA finds that good cause exists for the extension.

Resources and Supportive Services

During the term of the contract, the HA will try to provide the resources and services listed in the individual training and services plans. If the resources and services are not available, the HA will try to substitute other resources and services. However, the HA has no liability to the family if the resources and services are not provided.

FSS Escrow Account

The HA will establish an FSS escrow account for the family. A portion of the increases in the family's rent because of increases in earned income will be credited to the FSS escrow account in accordance with HUD requirements.

Listed below are the family's annual income, earned income, and family rent when the family begins the FSS program. These amounts will be used to determine the amount credited to the family's FSS escrow account because of future increases in earned income.

Annual Income $ _____

Earned Income $ _____

Family Rent (Total Tenant Payment or, for rental vouchers, 30% of monthly Adjusted Income)$ _____

The HA will invest the FSS escrow account funds in HUD-approved investments.

The HA will give the family a report on the amount in the family's FSS escrow account at least once a year.

If the family is participating in the Section 8 program and moves outside the HA's jurisdiction under Section 8 portability procedures, the HA may transfer the balance of the family's FSS escrow account to another HA.

Withdrawal of Funds from FSS Escrow Account

The HA may permit the family to withdraw funds from the FSS escrow account before completion of the contract if the family has completed specific interim goals, designated by the HA, and needs some of the FSS escrow account funds to complete the contract (example: to pay for school costs).

The HA will pay the head of the family the amount in the family's FSS escrow account, less any amount owed to the HA, when:

(1) the HA determines that the family has completed this contract, and,

(2) at the time of contract completion, the head of the family provides written certification to the HA that no member of the family is receiving welfare assistance. Welfare assistance means income assistance from Federal or state welfare programs including AFDC, SSI that is subject to an income eligibility test, Medicaid, food stamps, and general assistance. Welfare assistance does not include transitional Medicaid or child care for JOBs participants or SSI payments to guardians of disabled children.

If the head of the family leaves the assisted unit, the remaining family members may, after consulting the HA, name another family member to receive the FSS escrow account funds.

Loss of FSS Escrow Account

The family will not receive the funds in its FSS escrow account if:

(1) the contract of participation is terminated,

(2) the contract of participation is declared null and void; or

(3) the family has not met its family responsibilities within the times specified as stated in this contract.

Family Responsibilities

The head of the family must:

- o Seek and maintain suitable employment after completion of the job training programs listed in the individual training and services plan. The HA, after consulting with the head of the family, will determine what employment is suitable based on the skills, education, and job training of that individual and available job opportunities in the area.

The head of the family and those family members who have decided, with HA agreement, to execute an individual training and services plan, must:

- o Complete the activities within the dates listed in each individual training and services plan.

- Provide the HA and HUD with information about the family's participation in the FSS program in order to help the HA and HUD evaluate the FSS program. This could include information regarding employment, job interviews, training, educational attendance, and other FSS services and activities.

All family members must:

- Comply with the terms of the lease.
- If receiving welfare assistance, become independent of welfare assistance and remain independent of welfare assistance for at least 12 consecutive months before the contract expires.
- If participating in the Section 8 program, live in the jurisdiction of the HA that enrolled the family in the FSS program at least 12 months from the effective date of this contract and comply with the family obligations under the Section 8 rental certificate or rental voucher program.

Corrective Actions for Failure to meet Family Responsibilities

If any member of the family does not meet his or her responsibilities under this contract, the family will not receive the money in its FSS escrow account and the HA may:

(1) stop supportive services for the family,

(2) terminate the family's participation in the FSS program, and

(3) if the family is participating in the rental certificate or rental voucher program, terminate the Section 8 assistance, when allowed by HUD requirements.

HA Responsibilities

- Attempt to obtain commitments from public and private sources for supportive services for families.
- Establish an FSS escrow account for the family, invest the escrow account funds, and give the family a report on the amount in the FSS escrow account at least once a year.
- Determine which, if any, interim goals must be completed before any FSS escrow funds may be paid to the family; and pay a portion of the FSS escrow account to the family if the HA determines that the family has met these specific interim goals and needs the funds from the FSS escrow account to complete the contract.
- Determine if the family has completed this contract.
- Pay the family the amount in its FSS escrow account, if the family has completed the contract and the head of the family has provided written certification that no member of the family is receiving welfare assistance.

Completion of the Contract of Participation

Completion of the contract occurs when the HA determines that:

(1) the family has fulfilled all of its responsibilities under the contract; or

(2) 30 percent of the family's monthly adjusted income equals or is greater than the Fair Market Rent amount for the unit size for which the family qualifies.

Termination of the Contract of Participation

The HA may terminate this contract if:

(1) the family and the HA agree to terminate the contract;

(2) the HA determines that the family has not fulfilled its responsibilities under this contract;

(3) the family withdraws from the FSS program;

(4) an act occurs that is inconsistent with the purpose of the FSS program; or

(5) the HA is permitted in accordance with HUD requirements.

The HA may declare this contract null and void if the resources and services necessary to complete the contract are not available.

The HA must give a notice of termination or nullification to the head of the family. The notice must state the reasons for the HA decision to terminate or nullify the contract.

If the contract is terminated or declared null and void, the family has no right to receive funds from the family's FSS escrow account. The HA must close the family's FSS escrow account and may use the funds for purposes in accordance with HUD requirements.

If the family is participating in the Section 8 program, the HA will terminate the contract if the family moves outside the HA's jurisdiction under Section 8 portability procedures and enters the FSS program of another HA.

If the family is participating in the Section 8 program, this contract is automatically terminated if the family's section 8 assistance is terminated in accordance with HUD requirements.

Conflict with the Public or Indian Housing Lease

If part of this contract conflicts with the public or Indian housing lease, the lease will prevail.

Compliance with HUD Regulations and Requirements

The contract of participation must be interpreted and administered in accordance with HUD regulations and requirements. Terms and figures, such as the income and rent amount on page 1, are subject to correction by the HA for compliance with HUD regulations and requirements. The HA must notify the family in writing of any adjustments made to the contract.

Signatures:

Family	**Housing Agency**
_____ (Signature of head of family)	_____ (Name of HA)
_____ (Date Signed)	_____ (Signature of HA Official)
	_____ (Official Title)
	_____ (Date Signed)

Each Housing Agency (HA) must enter into a contract of participation with each eligible family that opts to participate in the FSS program. Each HA must consult with local officials to develop and action plan containing descriptions of the size, characteristics, and needs of the population to be served by its proposed FSS program; the services and activities it will provide; how the program will implemented; the public and private resources through which services and activities will be provided; a time-table for implementation; and other data necessary for HUD to ensure coordinated implementation of program services and activities.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Response to this collection of information is mandatory by law (Section 23 (c) & (g) of the U.S. Housing Act of 1937, as added by Section 554 of the Cranston-Gonzalez National Affordable Housing Act (PL 101-625) for participation in the FSS program.

The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to ,their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

HA Instructions for Executing the FSS Contract of Participation

Parties to the Contract/Signatures

The head of the participating family must be the adult member of the family who is the head of the household for income eligibility and rent purposes.

Term of Contract

The effective date is the first day of the month following the date the contract was signed by the family and the HA's representative.

The expiration date is five years from the effective date of the contract.

If the HA decides to extend the term of the contract, the original expiration date listed on page one of the contract must be crossed out and the new expiration date added.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the effective date of the contract between the family and the receiving HA is the first day of the month following the date the contract was signed by the family and the HA's representative. The expiration date of the contract between the receiving HA and the family **must** be the same as the expiration date of the contract between the initial HA and the family.

FSS Escrow Account

The income and rent numbers to be inserted on page one may be taken from the amounts on the last reexamination or interim determination before the family's initial participation in the FSS program, unless more than 120 days will pass between the effective date of the reexamination and the effective date of the contract of participation. If it has been more than 120 days, the HA must conduct a new reexamination or interim redetermination.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the receiving HA must use the amounts listed for annual income, earned income, and family rent on page one of the contract between the initial HA and the family.

Changes to the Contract

This contract of participation can only be changed to modify the contract term, the head of the family, or the individual training and services plans.

Any change of the head of the family under the contract must be included as an attachment to the contract. The attachment must contain the name of the new designated head of the family, the signatures of the new head of the family and an HA representative, and the date signed.

Any change/s to an individual training and services plan must be included as a revision to the individual training and services plan (attachment) to which the change applies. The revision must include the item changed, signatures of the participant and an HA representative, and the date signed.

For extensions to the contract term, see the "Term of Contract" section.

If, twelve months after the effective date of the contract, a family in the Section 8 FSS program moves outside of the HA's jurisdiction under Section 8 portability procedures, an HA may take one of the following actions:

(1) The initial HA may permit the family to continue to participate in its FSS program, if the family demonstrates to the initial HA's satisfaction that it can meet the family responsibilities of the contract in the new location. In this case, the existing contract remains in effect with no change. The initial HA must transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA.

(2) The receiving HA may permit the family to participate in its FSS program. If so, the initial HA must terminate its contract with the family. The initial HA must also transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA. The receiving HA will execute a new contract with the family.

(3) In cases where the family cannot fulfill its family obligations in the new location, and the receiving HA does not permit the family to participate in its FSS program, the contract between the initial HA and the family shall terminate and the family will lose the funds in its FSS escrow account.

Individual Training and Services Plans

The contract must include an individual training and services plan for the head of the family. Other family members age eighteen and older may choose to execute an individual training and services plan if agreed to by the HA.

The resources and supportive services to be provided to each family member must be listed in the individual training and services plans which are attachments to the contract of participation.

Page one of each participant's individual training and services plan includes space for the final goal and the first interim goal needed to achieve the final goal. The additional pages provide a format for recording each interim goal and specific information related to its achievement. The first page of each participant's plan must be signed by the participant and an HA representative.

Interim goals must be specified along with the activities and services needed to achieve them. For example, a single mother with two children who has an interim goal of completing her secondary education might require several different activities and services to achieve that goal. These could include transportation, tutoring, and child care.

All completion dates included in the individual training and services plan/s must be on or before the contract of participation expires.

One of the interim goals for families receiving welfare assistance is to become independent of welfare assistance for at least twelve consecutive months before the end of the contract. Any family that is receiving welfare assistance **must** have this included as an interim goal in the head of the family's individual training and services plan.

The final goal listed on the individual training and services plan of the head of the family **must** include getting and maintaining suitable employment specific to that individual's skills, education, job training, and the available job opportunities in the area.

Incentives

If the HA has chosen to offer other incentives in connection with the FSS program, these incentives may be included in the individual training and services plans or as an attachment to this contract.

Family Self-Sufficiency Program
Individual Training and Services Plan

Attachment _____

Name of Participant	Social Security Number

Final Goal

Interim Goal Number _____

Date Accomplished _____

Activities/Services	Responsible Parties	Date/s

Comments

Signatures

Family	**Housing Agency**
_____ (Participant)	_____ (Signature of HA Representative)
_____ (Date Signed)	_____ (Date Signed)

Family Self-Sufficiency Program
Individual Training and Services Plan

Attachment _____

Name of Participant	Social Security Number

Interim Goal Number _____

Date Accomplished _____

Activities/Services	Responsible Parties	Date/s

Comments

Family Self-Sufficiency Program
FSS Escrow Account Credit Worksheet

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0178 (exp. 7/31/99)

Escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS Contract of Participation while the family is participating in the FSS program.

Head of the FSS family	Date
1. Current Annual Income (Enter amount on line 5 of form HUD-50058.)	1.
2. Applicable Lower-Income Limit (Enter the current lower-income limit for the jurisdiction in which the FSS family is living.)	2.
3. Current Adjusted Income (Enter amount on line 10b of form HUD-50058.) **If line 3 is greater than line 2, this family does not qualify for an FSS credit.**	3.
4. Earned income included in line 1 (Add up the income items coded B, M, F, and W in column 3a of form HUD-50058.)	4.
5. Earned income included in Annual Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	5.
6. Increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 5 from line 4. If negative, enter 0.)	6.
7. Current Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 1.)	7.
8. Thirty percent of current monthly Adjusted Income (Line 3 divided by 40. The calculated amount should equal the amount on line 11 of form HUD-50058.)	8.
9. Current Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 3.)	9.
10. 30% of current monthly Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 9 divided by 40)	10.
11. 10% of current monthly Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 7 divided by 120)	11.
12. If applicable, welfare rent (enter amount on line 13 of form HUD-50058) or public housing ceiling rent (enter amount on line 16a of form HUD-50058)	12.
13. TTP based on current Annual Income less increase in earned income since effective date of the FSS Contract of Participation. (If rental vouchers, enter the amount on line 10, otherwise, enter the greater of line 10, 11, or 12.)	13.
14. Difference between 30% of current monthly Adjusted Income and TTP adjusted for increases in earned income. (Subtract line 13 from line 8. Enter 0 if negative.)	14.
15. Current TTP (Enter the amount on line 16b of form HUD-50058 or, in the case of rental vouchers, enter the amount on line 8 of this form.)	15.
16. TTP on effective date of the FSS Contract of Participation or, in the case of rental vouchers, 30% of monthly Adjusted Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	16.
17. Difference between current TTP and TTP on effective date of the FSS Contract of Participation. (Subtract line 16 from line 15. Enter 0 if negative.)	17.
18. Enter the lesser of line 14 or line 17.	18.
19. Applicable Very Low-Income Limit (Enter the current very low-income limit for the jurisdiction in which the FSS family is living.)	19.
20. Amount by which Adjusted Income exceeds the Very Low-Income Limit (Subtract line 19 from line 3.)	20.
21. 30% of the amount by which Adjusted Income exceeds the Very Low-Income Limit (Line 20 divided by 40)	21.
22. Escrow credit (Subtract line 21 from line 18.)	22.

This HUD form is optional and is used here to illustrate the process. PHAs may develop their own FSS Worksheet.

Previous Editions are Obsolete

form **HUD-52652** (12/93)
ref. Handbook 7420.8

Each Housing Agency (HA) must enter into a contract of participation with each eligible family that opts to participate in the FSS program. Each HA must consult with local officials to develop and action plan containing descriptions of the size, characteristics, and needs of the population to be served by its proposed FSS program; the services and activities it will provide; how the program will implemented; the public and private resources through which services and activities will be provided; a time-table for implementation; and other data necessary for HUD to ensure coordinated implementation of program services and activities.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including 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 this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0178), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 .

Do not send this form to the above address.

Response to this collection of information is mandatory by law (Section 23 (c) & (g) of the U.S. Housing Act of 1937, as added by Section 554 of the Cranston-Gonzalez National Affordable Housing Act (PL 101-625) for participation in the FSS program.

The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to ,their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Instructions for Completing the FSS Escrow Account Credit Worksheet

1. An escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS contract of participation while the family is participating in the FSS program.

2. The amount of the escrow credit can be calculated using Form HUD-52652, or another document which incorporates the procedures in Form HUD-52652.

3. The amount of the escrow credit will vary depending on the income level of each FSS family and is based on increases of **earned** income since the effective date of the contract of participation. If the family's adjusted income exceeds the lower-income limit in the jurisdiction in which the FSS family is living (the amount on line 3 is greater than the amount on line 2), the family does not qualify for an escrow credit. In such cases, line 4 - line 22 of Form HUD-52652 will not be completed.

Previous Editions are Obsolete

form **HUD-52652** (12/93)
ref. Handbook 7420.8

[FR Doc. 99–17897 Filed 7–13–99; 8:45 am]
BILLING CODE 4210–33–C

INTER-AMERICAN FOUNDATION

Board Meeting

TIME AND DATE: July 23, 1999, 11:30 a.m.–3:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open session except for the portion specified as closed session as provided in 22 CFR Part 1004.4(f).

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the April 21, 1999, Meeting of the Board of Directors
2. President's Report
3. Report on Fiscal Year 1999 Grantmaking Activities
4. Report on Request for Appropriations for Fiscal Year 2000
5. Report on External Affairs Initiative
6. Status Report on the Grant Results Initiative
7. Closed Session To Discuss Personnel Issues. Closed session as provided in 22 CFR Part 1004.4(f).

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 306–4325.

Dated: July 12, 1999.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 99–18053 Filed 7–12–99; 2:35 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Golden-Cheeked Warbler (Dendroica chrysoparia) During Construction of a Single Family Residence on 0.75 acres of the 10.13 Acres on City Park Road in Travis County, Texas

SUMMARY: John and Christine Caster (Applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicants have been assigned permit number TE–012423–0. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of one single family residence on City Park Road, Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of whether jeopardy will occur to the species or a Finding of No Significant Impact (FONSI) will not be made until 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before August 13, 1999.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCPs should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number TE–012423–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Christina Longacre at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: John and Christine Caster plan to construct one single family residence on City Park Road in Austin, Travis County, Texas. This action will eliminate less than one acre of habitat and indirectly impact less than four additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of the golden-cheeked warbler habitat by donating $1,500 into the Balcones Canyonlands Preserve to acquire/manage lands for the conservation of the golden-cheeked warbler and place the remaining balance of the property in a conservation easement in perpetuity.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible and alteration of the project design would increase the impacts.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–17901 Filed 7–13–99; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–99–1310–00]

Price Field Office; Notice of Availability of the Final Environmental Impact Statement and Record of Decision for the Ferron Natural Gas Project

SUMMARY: In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, a Final Environmental Impact Statement (EIS) and Record of Decision (ROD) have been prepared by the Bureau of Land Management, Price Field Office. The EIS was prepared to analyze impacts of alternatives for a coal bed methane—natural gas development project proposed by Anadarko Petroleum Corporation (Anadarko), Chandler and Associates, LLC (Chandler), Texaco Exploration and Production, Inc (Texaco), and Questar Pipeline Company (Questar). The ROD documents the Bureau of Land Management decision approving development of the Ferron Natural Gas Project located in Carbon and Emery Counties, Utah. The Final EIS and ROD are being released concurrently for review as allowed by 40 CFR 1506.10(b)(2) for agencies that have a formally established appeal process.

DATES: The Final EIS and ROD will be distributed and made available to the public on July 16, 1999. Copies of the Final and ROD will be mailed to individuals, agencies or companies who previously requested copies by responding to an inquiry by the Bureau of Land Management. Parties adversely affected by the Record of Decision have until August 16, 1999, to file a Notice of Appeal in the office issuing this decision (43 CFR 4.411). The decision to allow Anadarko, Chandler, Texaco and Questar to develop oil and gas leases and other related facilities as specified in the ROD will be in full force and effect on August 16, 1999 unless a stay is granted. A petition for a stay of the decision must be filed as specified in 43 CFR 3165.4 and/or 43 CFR 2804.1.

ADDRESSES: Copies of the Final EIS and ROD can be obtained from the Bureau of Land Management Price Field Office, 125 South 600 West, Price, Utah, the

Bureau of Land Management, Utah State Office, 324 South State Street, Salt Lake City, Utah or by calling (435) 636–3600 and requesting a copy. The Final EIS and ROD will be available for inspection at the Bureau of Land Management Price Field Office and Utah State Office. Any notice of appeal or petition for stay should be addressed to Sally Wisely, Utah State Director, Bureau of Land Management, P.O. Box 45155, Salt Lake City, UT, 84145–0155.

FOR FURTHER INFORMATION CONTACT: George Diwachak, EIS Team Leader, (801) 539–4043.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes direct, indirect and cumulative impacts from a proposal to develop natural gas from coal seams in the Castle Valley area of Carbon and Emery Counties, Utah. Environmental impacts from the proposed project and alternatives were considered and analyzed in a Draft EIS prepared and released for public review in October 1998. Based on comments received on the DEIS, modifications and revisions were made.

The approved project (Alternative 2, Proposed Action with Environmental Protection Measures) would involve the construction, drilling, completion, and stimulation of approximately 335 natural gas wells drilled into coal beds of the Ferron Formation. Associated access roads, gas and water pipelines, electrical distribution lines, compressor stations, disposal wells and related facilities would also be constructed. A 27 mile long, 20-inch gas transmission line would be constructed to transport produced gas.

The Department of Agriculture, U.S. Forest Service, Manti-La Sal National Forest, participated in the preparation of the EIS as a cooperating agency, as there are FS lands included in the Project Area. The FS is responsible for making a decision on individual drilling and special use permit applications on National Forest lands. The FS will consider a separate Record of Decision for the portions of the Ferron Natural Gas Project within the Manti-La Sal National Forest.

The State of Utah, Division of Oil, Gas, and Mining participated as a cooperating agency to provide technical support during preparation of the EIS.

Dated: July 8, 1999.

Linda Colville,

Acting State Director.

[FR Doc. 99–17902 Filed 7–13–99; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–160–1220–00]

Recreation Supplementary Regulations in Effect on Public Land Adjacent to the North Fork of the Kaweah River

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rule making.

SUMMARY: The Bureau of Land Management (BLM), Bakersfield (California) Field Office has established the supplementary rules listed below to protect natural resources, prevent wildfires, maintain public health and sanitation, and address occupancy and recreational use of BLM land along the North Fork of the Kaweah River. BLM will also post each supplementary rule near and/or within the lands, sites, or facilities affected.

SUPPLEMENTARY RULES: Pursuant to 43 CFR 8364.1 and 8365.1–6 (Supplementary Rules) the following supplementary rules are in effect on BLM land within Township 16 South, Range 28 East, Sections 13, 23, 24, 26 and 34, Mount Diablo Base and Meridian, under the management of the BLM, Bakersfield Field Office.

A. Camping, parking of vehicles, occupancy or placing private property on BLM land within 500 feet of the North Fork of the Kaweah River or within 200 feet of the North Fork Drive is prohibited between the hours of 9:00 PM to 5:00 AM. However, the Authorized Officer and authorized representatives of the BLM may grant organized groups use of the area consistent with the supplementary regulations listed below.

B. Only portable stoves using gas, jellied petroleum or pressurized liquid fuel or charcoal grills may be used for cooking. Used charcoal may not be dumped or discarded onto the ground or into the river. Campfires, warming or cooking fires using wood, vegetation or any other substance, except as described above, are prohibited. Building, maintaining, attending or using any fire other than the above described stove or grill is prohibited. Fire permits are required at all times. Any emergency fire restriction established by the authorized officer or any government agency of proper jurisdiction will supersede the above upon appropriate signature or required publication.

C. All papers, plastic and paper bags or wrappers must be controlled to prevent their being blown away from the immediate control of their owner. All garbage or food residue such as egg shells, peelings, pits or other waste must be placed in an appropriate container pending proper disposal. Picnic sites must be kept free of refuse. All refuse must be placed into an appropriate container or litter bag pending proper disposal. Refuse means trash, garbage, rubbish, waste papers, empty bottles or cans, debris, litter, oil, solvents, liquid waste, diapers or other items of personal hygiene, or any other discarded materials.

D. The spilling, placing, pumping or other discharge of contaminants, pollutants or other wastes, including human waste, on the ground or into the Kaweah River is prohibited. Used diapers must be placed into an appropriate receptacle as soon as practical and may not be stored or placed within 40 feet of the North Fork of the Kaweah River.

E. The consumption or possession of alcoholic beverages is prohibited on the above defined BLM land. This does not apply to unopened containers in vehicles traveling through BLM land on roads maintained by Tulare County or the State of California.

F. Except for the lawful taking of game, any discharge of firearms is prohibited on the above defined public land. For the purpose of this supplementary rule, a firearm is defined as under Title 18, U.S.C., chapter 44, section 921(a)(3). Federal, State and local law enforcement officers are exempt from this order in the course of their official duties.

G. If you knowingly and willfully violate this supplementary rule, you may be subject to arrest and a fine of not more than $1,000 or imprisonment of not more than 12 months as provided by 43 CFR 8360.0–7.

DATES: The above supplementary rules have been revised following a review of public comment. They will take effect July 14, 1999. These supplementary rules will remain in effect until replaced by a comprehensive Recreation Management Plan for the area.

ADDRESSES: Mail or hand deliver comments to Bureau of Land Management, Bakersfield Office, 3801 Pegasus Drive, Bakersfield, CA 93308; telephone (661) 391–6120.

FOR FURTHER INFORMATION CONTACT: John Hervey at (805) 391–6121 or at the BLM, Bakersfield field Office, 3801 Pegasus Drive, Bakersfield, CA 93308.

SUPPLEMENTARY INFORMATION: These supplementary regulations have been effected to curtail the considerable accumulation of refuse and waste on public land adjacent to the North Fork of the Kaweah River. The area receives

considerable recreational use in limited accessible locations. Public health and safety, sanitation and the pollution of water resources are also of concern.

Public comments following initial publication of these supplementary rules strongly recommended the addition of supplementary rules prohibiting the discharge of firearms for purposes other than the lawful taking of game on the above defined public land. Equestrians, bicycle riders, persons involved in recreational fishing and hiking, and adjacent property owners all requested this change.

Nothing herein is intended to in any way restrict or prevent access to or use of private property within the designated area. Public officers or employees in the performance of their official duties are exempt from these supplementary regulations. These supplementary regulations are not intended to and will not be enforced to hinder or curtail any valid existing right, permit, or authorization. Access and use by owners or legitimate occupants or adjacent private property is permitted at all times. With the exception of supplementary rule E in the above list, these supplementary rules do not apply to individuals involved in the lawful taking of game. These supplementary rules are in conformance with the May 1997 Caliente Resource Management Plan.

Dated: June 15, 1999.

Al Wright,

Acting State Director.

[FR Doc. 99–16295 Filed 7–13–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–09–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert H. Thompson, Acting Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 702–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on April 22, 1999:

The supplemental plat, showing new lottings in the SE¼SW¼, the SW¼SE¼, and the SE¼SE¼ of sec. 8, Township 33 North, Range 70 East, Mount Diablo Meridian, Nevada, was accepted April 19, 1999.

This plat was prepared to meet certain administrative needs of Big Springs Associates and the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on May 20, 1999:

The plat, representing the dependent resurvey of portions of the north and west boundaries and a portion of the subdivisional lines, the subdivision of sections 6 and 7, and a metes-and-bounds survey in section 6, Township 6 South, Range 61 East, Mount Diablo Meridian, Nevada, under Group No. 776, was accepted May 18, 1999.

This survey was executed to meet certain administrative needs of James H. Christianson, Grace K. Christianson, and the Bureau of Land Management.

3. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on June 10, 1999:

The supplemental plat, showing amended lottings in sec. 4, Township 20 North, Range 25 East, Mount Diablo Meridian, Nevada, was accepted June 8, 1999.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on June 24, 1999:

The plat, representing the dependent resurvey of a portion of the subdivisional lines, and a metes-and-bounds survey in section 32, Township 20 South, Range 54 East, Mount Diablo Meridian, Nevada, under Group No. 779, was accepted June 22, 1999.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. The above-listed surveys are now the basic records for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: June 30, 1999.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 99–17876 Filed 7–13–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Change in Noise Evaluation Methodology for Air Tour Operations Over Grand Canyon National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of Disposition of Public Comments and Adoption of Final Noise.

Evaluation Methodology for Air Tour Operations Over Grand Canyon National Park

SUMMARY: On January 26, 1999, the National Park Service (NPS) published a Public Notice of agency policy in the **Federal Register** with the above title (64 FR 3969–3972), requesting comments on refinements to NPS' noise evaluation (i.e., impact assessment) methodology for air tour operations over Grand Canyon National Park (GCNP). Specifically, the refinements contemplated a two-zone system for assessing impacts related to substantial restoration of natural quiet at GCNP. In Zone One, which would encompass about one-third of the Park's area, the threshold of noticeability previously used in noise modeling for environmental analyses related to GCNP air tours would continue to be used (i.e., the average A-weighted natural ambient level plus 3 decibels). In Zone Two, which would encompass about two-thirds of the Park's area, the threshold for the onset of impact would be audibility (i.e., the level at which aircraft can begin to be heard by people with normal hearing, determined to be 8 decibels below the average A-weighted natural ambient level at GCNP).

The NPS received 19 comments in response to the Public Notice. Comments were received from industry associations (e.g., United States Air Tour Association, Helicopter Association International, National Air Transportation Association); environmental groups (e.g., Sierra Club, Grand Canyon Trust, Friends of Grand Canyon); air tour operators; representatives of tribal concerns; and the general public. The NPS considered all substantive comments.

DATES: The noise impact assessment methodology presented herein is effective immediately.

FOR FURTHER INFORMATION CONTACT: Tom Hale, National Park Service, Grand Canyon National Park Science Center, 2255 North Gemini Drive, Bldg. 3, Flagstaff, AZ 86001, Telephone (520) 556–7219.

Background

In response to the comments received pursuant to the publication of the NPS Public Notice in the January 26, 1999 **Federal Register** (64 FR 3969–3972), the NPS has attempted to clarify the reasons for and the expected effects of the proposed refinement in the methodology used to assess noise impacts below and in the *Discussion of Comments* to follow.

Reasons for the Proposed Change

This Notice is one of several steps being taken by the Secretary of the Interior, through the NPS, and the Federal Aviation Administration (FAA) to fulfill the mandate established by Congress in Public Law 100–91, the National Parks Overflights Act, to provide for the substantial restoration of natural quiet in the Grand Canyon National Park. Section 3 of the Overflights Act mandated the Secretary of the Interior to submit to the Administrator of the FAA recommendations ''regarding actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights.'' The express statutory goal for these recommendations is the ''substantial restoration of natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight.'' The Overflights Act requires the Administrator to adopt the recommendations of the Secretary of the Interior ''without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety.''

Congress did not define natural quiet or substantial restoration of natural quiet in the Overflights Act and, instead, delegated the interpretation of the statute to the Secretary. Under well established rules of statutory construction, the agency's interpretation is given deference so long as it is based on a reasonable construction of the statute. The D.C. Circuit Court of Appeals found that the NPS had reasonable justification for its interpretations of natural quiet and substantial restoration of natural quiet, as set forth in the 1995 Report to Congress and the 1996 FAA Grand Canyon Special Flight Rules Area Final Rule. The court also deferred to the agencies' use of the 3 decibels above natural ambient threshold to assess audibility as consistent with the Act. (See *Grand Canyon Air Tour Coalition* v. *FAA*, 154 F.3d 455 (D.C. Cir. 1998)).

In its Report to Congress on ''Effects of Aircraft Overflights on the National Park System'' that stemmed from this public law (published in 1995), the NPS stated:

> Before overflights began, natural quiet existed over most of the park, virtually all of the time. Aircraft sound intrusions are a significant source of mechanical noise that eliminate natural quiet. Since the legislative history of Public Law 100–91 indicates that flight-free zones are to be large areas where visitors can experience the park essentially free from aircraft sound intrusions, and where the sound from aircraft traveling adjacent to the flight-free zone is not *detectable* from most locations within the zone, the primary measure of restoration is the percentage of time that aircraft are *audible*. Based on this definition from the legislative history, the policy decision of Grand Canyon National Park (GCNP) is that a substantial restoration requires that 50% or more of the park achieve ''natural quiet (i.e., *no aircraft audible*) for 75–100 percent of the day.'' (page 182—emphasis added) [1]

From the outset, the consistent policy of the NPS has been that audibility is the basis for assessing progress toward the legislatively mandated goal of substantially restoring natural quiet to the Grand Canyon, and that the time period of interest is the day (i.e., the average 12 daylight hours).

However, in preparation for the 1995 Report and modeling noise impacts, the NPS recognized that aircraft noise management in park environments was an emerging science. The NPS contracted with BBN Systems and Technologies to develop a model which could generate audibility-based metrics. That model became the National Park Service Overflights Decision Support System (NODSS).

Another concern at the time was the reliability of information about the numbers of air tour operations over GCNP (there were no requirements to report such data until 1996). Given the limitations of the data, the NPS and its contractors made a decision to take a very conservative approach to ensure that noise impacts were not overestimated. For that reason, the NPS opted to model noise impacts using ''noticeability'' as the threshold of impact (for additional information see NPS Responses to Comment # 8, *Audibility and Noticeability* and Comment # 17, *Proposal Conflicts with Definition of Substantial Restoration).* However, the results of this modeling were interpreted with full knowledge that the definition of substantial restoration was based on audibility. Even using the less stringent standard of noticeability, the NPS determined in its 1995 Report that natural quiet had not been substantially restored to GCNP.

The FAA continued this approach when it modified its own INM model for use in the 1996 Environmental Assessment supporting the rules developed for GCNP Special Flight Rules Area (SFRA). Because INM uses only A-weighted sound levels and has no frequency based calculation ability, the threshold used by the NPS and determined from actual Grand Canyon data was translated to an ambient plus 3 decibels threshold for use by the FAA. Again, using a conservative approach, the FAA found that the new rules did not result in the substantial restoration of natural quiet (61 FR 69302–69333).

Since 1996 the agencies have continued to gather additional information and conduct additional research. The NPS and FAA have significantly improved their knowledge and understanding of air tour operations over GCNP as a direct result of the reporting requirements implemented by the 1996 FAA airspace regulation. The NPS has greatly improved its understanding of the natural ambient sound conditions across the Park. Through research, a greater number of ambient sound areas have been identified and the ambient sound levels in each area have been adjusted upwards between 3 and 16 decibels. In addition, NPS acoustic experts have concluded that the most accurate measurements of audibility for models based on A-weighted sound levels is 8 decibels below the average natural ambient. Consequently, the FAA and NPS have been better able to accurately assess the extent of aircraft noise in the park. Based on the more comprehensive data base and understanding of noise impacts on the park, the NPS has appropriately modified and improved its noise impact assessment methodology in GCNP.

Effects of the Proposed Change

The NPS definitions of natural quiet and substantial restoration of natural quiet remain the same. Natural quiet is defined as the natural ambient sound conditions found in the Park. Substantial restoration of natural quiet at GCNP is defined as 50% or more of the Park achieving ''natural quiet'' (i.e., no aircraft audible) for 75–100 percent of the day. The Notice only has the effect of changing the threshold for measuring the onset of noise impact for certain areas of the Park for noise modeling purposes.

In Zone One, which includes developed areas of the park, the

threshold for measuring noise will continue to be based on noticeability, 3 decibels above the average natural ambient. NPS believes that using the noticeability threshold in Zone One is appropriate for the activities that occur and characteristics in this area of the park. In Zone Two, the threshold for measuring will be based on audibility, when people can hear aircraft in these areas. Again, because the FAA INM model uses only A-weighted sound levels and has no frequency based calculation, the threshold developed by NPS from actual GCNP data translates to approximately 8 decibels below the average natural ambient. In developing the audibility threshold, the Secretary has exercised his discretion to use the most appropriate measuring methodology which takes into account the resource characteristics in this zone. The thresholds for both Zones One and Two are affected by use of the recently updated average natural ambient sound levels in the respective zones.

These measurements will collectively be used to assess whether natural quiet has been substantially restored to GCNP. NPS's interpretation of modeling results from both zones will take into account that the overall definition of substantial restoration of natural quiet is based on audibility.

The measurements are not ''standards'' which would prohibit aircraft that generate noise louder than 8 decibels below the average natural ambient from conducting air tours. Neither ''audibility'' nor ''noticeability'' are standards for aircraft to meet. They are thresholds for measuring the onset of noise impact.

Discussion of Comments

About one-third of the commenters generally supported the noise impact assessment methodology. Other commenters expressed reservations regarding its validity, applicability, or workability. Still other commenters expressed some level of support for the concept, but rejected the specific threshold levels. Many commenters were critical of the NPS for not providing sufficient discussion of scientific methodology and technical information used in refining the impact assessment methodology. The NPS has provided additional technical information in response to the substantive issues raised by commenters below.

1. Approach and Resolution of Issue

A few comments focused on using a conflict resolution approach to find an acceptable compromise. One commenter indicated that a more productive process would encourage open public deliberation to resolve the conflicting interests at stake. Another commenter urged NPS and FAA to stop the haphazard regulatory approach and seek closure through negotiated settlement.

NPS Response: The FAA and NPS are committed to finding more effective approaches to problem solving in the Grand Canyon. As the NPS and FAA begin to develop a comprehensive noise management plan for GCNP, a forum will be re-established to facilitate discussion among all stakeholders to continue efforts toward consensus-building.

The current action simply takes advantage of better data and experience to update noise impact assessment methodology, allowing more accurate assessment of the onset of impact as previously defined at GCNP. The effects of this action will be apparent in the Draft Supplemental Environmental Assessment for rulemaking actions at Grand Canyon available for public review soon. The FAA rulemaking actions are part of a phased approach to achieve the mandated goal of substantial restoration of natural quiet at GCNP by 2008. The NPS and the FAA welcome suggestions for improvements in ways to achieve that goal. While impact assessment methodology is not normally opened for public review as this action is, the NPS is taking that extra step in this case to ensure open public deliberation in the hope of resolving conflicting interests.

2. Concurrence With Two-Zone System

Several commenters commended the new two-zone geographic system as an improvement over the current system. One commenter wrote that the two-zone geographic system with different noise thresholds appeared to be a long awaited answer to restoring a substantial amount of natural quiet in the Park. Another commenter applauded the NPS for recognizing that its current standard was inconsistent with the Overflights Act, 1994 Report to Congress, and visitor experience. One commenter called the change a welcome, significant, and valuable improvement. Another commenter welcomed NPS' new flexible approach to analyzing noise impacts and agreed that the methodology should take into account the characteristics of specific areas of GCNP. Another also commended the NPS for recognizing that different areas and land uses required distinct standards for measuring noise intrusions and impacts.

NPS Response: The NPS appreciates the positive acknowledgement. Although the NPS believes the proposed change in methodology is a much more realistic and flexible approach to assessing the onset of impacts to natural quiet at GCNP, there is in fact little new in the ''new'' approach. Audibility (i.e., can aircraft be heard by people with normal hearing) has always been the basis for the definition of substantial restoration of natural quiet and determining whether it has been achieved. Noticeability was used in previous noise modeling for GCNP due to limitations in operations data, ambient sound level data, and the ability of software to manage different impact thresholds. Since that time, software has been improved to address these issues. Results of previous modeling were interpreted with full knowledge that the definition of substantial restoration was based on audibility and that noise modeling used noticeability for impact assessment. Now, with better data available for natural ambient levels as well as when aircraft become audible at GCNP, it is possible to be more accurate and to incorporate the use of audibility for impact assessment. Acknowledging that impact assessment can and should vary across different parts of the Park better aligns park planning in the Grand Canyon with FAA regulatory and noise modeling approaches. In proposing these changes to the noise impact assessment methodology, the NPS attempted to integrate the best acoustic data available with park management policy and FAA noise modeling technology in light of the mandated goal of substantial restoration of natural quiet.

3. Disagreement With Two-Zone System

Commenters claimed that noticeability and audibility could not simultaneously represent the concept of natural quiet and that NPS provided no reason why ''natural quiet'' should mean different things in different parts of the Park. One of the commenters asserted that NPS reasoning was inconsistent with the ''substantial restoration'' definition and claimed that the threshold in Zone Two would be exceptionally difficult to attain. The commenter further stated that much of the substantial restoration would likely be achieved in Zone One (noticeability threshold)—a backward result based on NPS' reasoning. The commenter proposed to abandon the two-zone approach and suggested that if there were some parts of the Park that were more noise sensitive (e.g., backcountry), it made sense to identify those critical areas and set standards for them, thereby allowing regulations to directly meet apparent need.

NPS Response: The definitions of ''natural quiet'' and ''substantial restoration of natural quiet'' remain unaffected by this action. They remain the same as previously defined, with no differences in any part of the Park.

The concept being proposed simply indicates that the threshold for measuring the onset of impact will vary across the Park for the two zones as described. NPS has made a management decision to use the audibility threshold for measuring in Zone Two. This approach does not set standards for different parts of the Park that industry will be required to meet. For example, aircraft will not be required to meet a ''standard'' of 8 decibels below the average natural ambient level in Zone 1.

Following the 1996 and 1997 FAA rulemaking actions and environmental assessment, the NPS determined that using a threshold of 3 decibels above the average A-weighted natural ambient level could result in a situation where aircraft could be heard below that threshold as much as 100% of the time, but the noise modeling would show no impact. This result would be possible because the data showed that aircraft can be heard an average of 8 decibels below natural ambient A-weighted sound levels at GCNP. Clearly, this problem was an artifact of the noise modeling threshold and other tools, and the use of single A-weighted decibel values for ambient and aircraft sound levels. This action corrects that potential problem, proposing a more flexible and realistic approach to impact assessment using available modeling tools for the Park as a whole.

As indicated in the Public Notice, it is common to zone areas of National Parks differently for management purposes based on differences in natural and cultural resources, resource protection goals, visitor use, visitor experience goals and opportunities, etc. Because of the varying circumstances affecting these zones, they are managed differently, but for the same ultimate goal. In the context of new ambient sound levels used in modeling and a variety of management actions being proposed, the NPS believes that there will be progress toward the restoration of natural quiet in both zones.

The NPS does not expect to achieve substantial restoration of natural quiet in Zone One, except where Zone One occurs within flight-free zones. Flight-free zones remain the areas where substantial restoration is expected to be achieved. However, by definition, achievement of substantial restoration of natural quiet is calculated on a park-wide basis, not by zones.

4. Noise Threshold for Zone One

Several commenters contended that the Sanup Plateau and Marble Canyon should not be included in Zone One. One commenter submitted that Zone One included many areas that were qualitatively different from one another and did not merit the same treatment. The commenter stated that the areas of the Sanup Plateau, Marble Canyon, Bright Angel Point, and stretches of the South Rim should not use the same noise threshold as the developed South Rim Area and that the NPS should apply the audibility threshold to 99% of the Park, instead of only 67%. In agreement with this point, another commenter asserted that there should be a distinct difference in noise thresholds for developed areas and backcountry/wilderness areas. Another commenter further stated that one-third of the Park (Zone One) should not receive a weaker standard, noting that the Sanup Plateau, Marble Canyon, and North Rim backcountry were all part of NPS' wilderness recommendation because of their wild and pristine qualities. The commenter contended that those areas should receive the highest level of protection. One commenter strongly objected to exempting one-third of the Park from the objective standard of audibility. The commenter claimed there was no scientific justification for this, because Marble Canyon and the Sanup Plateau are among the least developed areas of the Park and are therefore the most noise sensitive. This commenter asserted that use of the noticeability standard was inconsistent with the ''wild'' and ''primitive'' designations these areas have in the Backcountry Management Plan. Another commenter wrote that he was disappointed that the NPS was leaving one-third of the Park in a noise sacrifice zone and that inclusion of the Sanup Plateau and Marble Canyon in that zone rested on failures to properly correct existing air tour noise, not on their lack of natural character or pristine quality.

NPS Response: Again, these are not standards to be achieved, but simply points from which the onset of impact will be modeled. They result partially from the need to use single A-weighted decibel values in the noise modeling for GCNP. They are not meant to directly reflect physical properties of the Park's natural environment or of the aircraft flying over the Park.

In the Notice, the NPS stated that there are multiple reasons for including diverse areas within Zone One, and the NPS believes that these remain valid. The Sanup Plateau and Marble Canyon were included in Zone One after consultations with FAA regarding safety considerations. FAA has the sole authority to make safety determinations. The safety measures employed in these areas create the potential for greater noise and NPS has made a management decision to include the Sanup Plateau and Marble Canyon in Zone One. In the event FAA modifies any safety measures in these areas, NPS will revisit their inclusion in Zone One.

Zones do not set standards, zones are in fact described in terms of indicators and standards. A difference in the threshold of impact does not turn Zone One into a noise sacrifice zone. The NPS definition of ''substantial restoration of natural quiet'' allows for some level of impact in all parts of the Park, and the two-zone impact assessment proposal does not change that. As with most complex management issues, it is easy to generalize the apparent outcome of a given action. Ultimately, the end result relies on the interplay of many variable elements (e.g., impact assessment thresholds, location of air tour routes, natural ambient levels, air tour operation levels). Different combinations of these elements may or may not result in increased noise levels in particular portions of the Park. Substantial restoration is calculated on a park-wide basis, not by zone. Adjusting the thresholds for impact assessment in the two zones is appropriate and consistent with NPS management philosophy.

Respondents will better understand the effect of the thresholds and zones when they see the Supplemental Environmental Assessment for FAA rulemaking actions to be published soon. The NPS and FAA are committed to an adaptive management approach and new comments or criticisms are welcomed at any point.

5. Noise Threshold for Zone Two

One commenter disagreed that a lower threshold (audibility) should be used over areas where the numbers of visitors were very few. Instead, noise should be regulated to benefit the visitor experience. For this reason, the commenter claimed the threshold for Zone Two was illogical.

NPS Response: The NPS does not and cannot regulate national parks solely on the basis of visitor attitudes, annoyance, or experience. The NPS is required by law to preserve park resources in an unimpaired condition for the benefit of present as well as future generations. Where and how to protect park resources and provide various visitor experience opportunities are addressed in park legislation and planning documents that address resource

protection and visitor services. In this context, the NPS manages park resources to minimize impacts and to ensure that future generations have similar or better opportunities to experience these national treasures. The proposal in this notice is consistent with Park legislation and management plans for the GCNP. The threshold for Zone Two is based upon the NPS definition of substantial restoration of natural quiet, which is based upon audibility (i.e., can a person with normal hearing hear aircraft).

6. Tribal Trust Resources

Regarding the Sanup Plateau, one commenter questioned the Park Service's acceptance of noise generated by tour flights over the Sanup Plateau as inevitable and charged that the FAA and NPS were shirking their responsibility to consider all alternatives to restore natural quiet to the Park, the Grand Canyon, and to protect tribal trust resources.

Related to the issue of zonation and appropriate threshold levels for modeling, the commenter requested standards that accurately reflected uses of tribal lands, similar to the zones and thresholds developed for the GCNP. The commenter asserted that the residential noise threshold of 65 dB(A) was not appropriate for most tribal land uses and that some areas of the Hualapai reservation deserved the stricter standard of 8–12 dB below ambient.

NPS Response: The NPS has authority to establish policy regarding noise impact assessment methodology for Grand Canyon National Park under Section 3 of PL 100–91. For purposes of this notice, PL 100–91 limits the application of the methodology to areas within the boundaries of Grand Canyon National Park. NPS may not exceed its delegated authority and establish similar thresholds for areas of the Hualapai Reservation or other neighboring lands. Regarding the inclusion of the Sanup Plateau in Zone One, please refer back to NPS Response to Comment #4, Noise Threshold for Zone One. As to the use of the residential noise standard, refer back to NPS Response to Comment #3, Disagreement with Two-zone System, which explains that this is not a standard, but rather a way of assessing impacts on GCNP.

7. Ambient Sound Levels

One commenter stated that a fundamental component of the establishment of any threshold sound value keyed to ''ambient levels'' must be the completion of a scientifically unbiased and methodologically rigorous ambient sound measurement program within the Park. In addition, some commenters pointed out that current data show some areas of the Grand Canyon (and other parks) have ambient levels that are, at times, below the human threshold of hearing. Some commenters were of the opinion that typical daytime, not overall minimum, sound levels should be used to characterize ambient levels.

Regarding the use of ambient levels, a commenter asserted that it was possible to develop effective regulations concerning aircraft overflights of GCNP without reference to ambient sound levels (e.g., routes should stay in areas that have low visitor usage or where natural sounds mask aircraft noise).

NPS Response: The NPS agrees that the data show Grand Canyon to be a very quiet place, with A-weighted natural ambient levels near the threshold of human hearing in many places. In the presence of such quiet natural ambient levels, it is not surprising that aircraft can be heard at A-weighted decibel levels for the aircraft also near the threshold of human hearing. This occurs because the A-weighted decibel level collapses the frequency spectra into a single number. Aircraft noise levels in part of the frequency spectra may be well above the threshold of hearing (and well above the same part of the natural ambient environment's spectra) and still have an A-weighted decibel value at or near the threshold of human hearing. The NPS agrees to further explore the situation where aircraft are audible close to the threshold of human hearing, to see if any additional refinements to this methodology might be warranted in the future development of the comprehensive noise management plan.

The NPS agrees that the best data available on natural ambient sound levels should be used in impact assessment, since hearing aircraft depends upon both the aircraft and the natural ambient sound levels throughout their entire frequency spectra. The NPS has recently updated natural ambient levels used in the noise modeling based upon a recent analysis of the best available data for GCNP. Natural ambient levels vary both over time and from place to place. Currently, the best available A-weighted data have been used to estimate the natural ambient levels in the Canyon.[1] However, in the interest of improving currently available data, the NPS is developing a rigorous data collection program to refine these levels for future use in a comprehensive noise management plan.

All natural ambient sound level values currently being used by GCNP for noise modeling purposes are derived from daytime acoustic measurements. This is consistent with its definition of the substantial restoration of natural quiet (i.e., aircraft not audible in 50 percent of the Park for 75 percent of the *day*).

The resource of natural quiet is not meant to represent the ''average'' natural ambient sound environment. In the 1994 Report to Congress, the NPS sets forth that ''The quiet to be preserved is the lower end of the ambient sound level range that occurs regularly between wind gusts, animal sounds, etc., not just the average sound level.'' (pg. 83). Further, it states: ''In considering natural quiet as a resource, the ability to hear clearly the delicate and quieter intermittent sounds of nature, the ability to experience interludes of extreme quiet for their own sake, and the opportunity to do so for extended periods of time is what natural quiet is all about.'' (pg. 78, emphasis added).

In terms of protecting park resources, the NPS agrees that it is desirable to place air tour operations over areas with higher natural ambient levels to help minimize impacts of aircraft noise. However, given the NPS' audibility-based definition of the substantial restoration of natural quiet, it is not possible to restore natural quiet without establishing natural ambient levels. Detailed acoustic information on the natural ambient and aircraft noise levels is essential for accurate noise modeling.

8. Audibility and Noticeability

Many commenters expressed opinions about the use of audibility of aircraft as a threshold for evaluating whether natural quiet is substantially restored. While some supported its use as the only ''truly scientific standard,'' others were strongly opposed, stating that the audibility threshold was unreasonably low and that the use of noticeability was a more appropriate threshold. Several commenters preferred the use of noticeability, and one used data from an NPS report.

NPS Response: The NPS has consistently used an audibility-based definition for the ''substantial restoration of natural quiet.'' While it is true that NPS noise modeling in the 1994 Report to Congress used a noticeability threshold (as 10 log d = 17), the modeling results were interpreted with full knowledge that the definition of substantial restoration was based on audibility (see NPS Responses to Comments # 2, Concurrence with Two-zone System and #17, Proposal

Conflicts with Definition of Substantial Restoration). This conservative approach was taken so that noise impacts, based on limited data, were not overestimated. The FAA followed this approach in its 1996 and 1997 GCNP rulemaking. Now, with more accurate data available, including better information on natural ambient sound levels, numbers of air tour operations, etc., it is possible to make the modeling conform better to the NPS definition of substantial restoration of natural quiet by moving to the proposed two zone approach to noise impact assessment.

Because of numerous misperceptions, the following information is provided to clarify the definitions of audibility and noticeability, how they are quantified, and how they relate to the concept of natural quiet. One misperception seems to be that NPS is trying not only to restore natural quiet, but to restore 8 decibels below natural quiet. This is not the case. Natural quiet remains the same as ''no aircraft audible'' in this context. Due to the nature of A-weighted decibel values, the data indicates that aircraft become audible at GCNP on average at 8 decibels below the ambient A-weighted levels, as explained below. In order to adequately model how much of the time aircraft are audible, the modeling must start measuring the impact of aircraft noise on natural quiet when it first becomes audible (i.e., 8 decibels below the ambient A-weighted level, on average) not at the much higher level called for by the use of noticeability.

Audibility and Hearing Aircraft. In common usage, audibility (also called detectability) refers to the ability of a human, free of external distractions, to hear a specific sound in a particular setting.[2] In this context, the question concerning audibility at GCNP is: Can a person with normal hearing hear aircraft in the presence of the natural ambient Park soundscape? Whether one can hear aircraft noise or not depends on the interplay of several variables including natural ambient level, volume of the sound (''loudness''), and frequency distribution of the sound (''pitch''). The importance of frequency is discussed below. Clearly there are degrees of audibility, from a condition where the sound cannot be heard at all, all the way to where the sound is deafening. For the purposes of this discussion, the sound to be heard will be termed the ''target'' sound.

The two most important factors affecting audibility of the target sound are the frequency-based sound levels of both the target sound and the ambient or ''background'' sound. If the two sets of frequencies are similar and completely overlap, the target sound will not be heard. But the less these frequencies overlap, the more audible the target sound will be. With even a few non-overlapping frequencies, the target sound will become audible.

Over the past 30 to 40 years, considerable research has been directed at understanding how humans hear or detect one sound in the presence of another. Listening tests, using a wide variety of specialized sounds have been employed to determine how people process the combined target and background sounds to do the best possible job of hearing and identifying (detecting) the target sound. Three important findings of these tests are: (1) Humans can listen to sound in narrow regions of pitch, called frequency bands, and determine the presence or absence of the target sound separately in each frequency band;[3] (2) there is little variation in detection performance across a population of healthy young adults;[4] and (3) the results of these tests can be reduced to a series of mathematical equations that describe the physiological detection process.[5] Given moderately detailed knowledge of both the target and background sounds, the probability of detecting the target sound can be predicted from these equations.

The ability of humans to listen to sound in frequency bands has significance in many activities. For example, during a concert if we listen for a high note on the piccolo, only the portion of the background sound (e.g., the rest of the orchestra) that is of nearly the same pitch can interfere with our ability to hear the piccolo. The base violins can play as loudly as they like without the piccolo becoming inaudible. On the other hand, loud high notes on the violins could interfere with hearing the piccolo as long as the violins were playing in the same frequency band as the piccolo. Hence, the relative overall ''loudness'' of the background and the target sounds is not the key factor in the detection process. For a target sound to be audible, it must contain more sound energy (be ''louder'' than) background sounds in the same frequency band.

The equations that predict when a target sound is audible calculate a metric called ''acoustic detectability,'' abbreviated d (pronounced ''dee-prime''). The d calculation is performed in each narrow frequency band (one-third Octave Bands), using both the target and background sounds. The d calculation yields a result in each band; the results from each band are then summed and averaged to yield a composite total.[6] The band or bands with the highest d values are the ones that most influence the result and that are most likely to be audible. In the laboratory setting, a target sound is likely to become audible to trained listeners when the acoustical detectability, in decibels (computed as 10 log d) lies between 3 dB and 5dB.

In the fall of 1989 and spring of 1990, tape recordings were made at 13 different sites in the Grand Canyon. During each recording session, an observer identified air tour aircraft and pressed a button whenever the aircraft could be heard. By using the tape recorded natural ambient sound level information just before each aircraft was audible, and the total level at the onset and offset of observed audibility, the acoustic detectability level (10 log d) was computed for 163 air tour aircraft overflights at 11 of the measurement sites. These computations yielded an average value of 7.3 dB. ''The grand average of 10 log d of 7.3 (rounded to 7) can therefore be taken as a typical 10 log d value for a vigilant observer, and thus provides a useable working definition of audibility under field conditions.'' [7]

From this research and field work, aircraft overflights of the Grand Canyon are judged to be audible when, compared with the local ambient level, the detectability level equals 7 dB or greater. It is important to keep in mind that any determination of audibility depends upon the levels and frequency content of both the aircraft and ambient sounds present at the location under consideration. Hence, to fully determine audibility, both the sound levels of the target sound and of the ambient or background sound must be known as a function of frequency.

Audibility and A-Weighted Sound Levels. In examining the effects of tour operations on 'natural quiet' across a large area, computer modeling is necessary to judge how natural quiet might be substantially restored through changes in airspace use, increased use of quieter aircraft, etc. The most widely used program for analysis of the noise effects of changes in airspace or aircraft operations is the Integrated Noise Model (INM) developed and supported by the FAA. The INM currently uses only ''A-weighted'' sound levels to compute sound levels and display results.

The A-weighted level of a sound is a single number determined by combining the sound levels in all frequencies. This combining de-emphasizes the low and high frequencies in a manner similar to the sensitivities of human hearing. The A-weighted level is widely accepted as one of the best over-all sound level metrics for analysis of transportation noise. It has been shown to correlate

well with human assessment of the loudness or noisiness of a sound. It has not, however, been used as a measure for evaluating audibility.

Because it uses only A-weighted sound levels, the INM does not currently compute audibility directly because it contains no frequency based calculation ability. It can, however, compute the time that aircraft sound levels exceed a specific A-weighted threshold. If the threshold can be chosen to be approximately equal to the level at which an aircraft becomes audible, then it can compute, to a reasonable approximation, the time that aircraft sound is predicted to be audible.

This threshold of audibility depends not only upon the sound level of the aircraft, but on the level of the natural ambient as well, so adequate A-weighted approximations of aircraft and natural ambient sound levels must also be provided. Hence, each natural ambient level in the Park requires identification of a different A-weighted audibility threshold. The method used to determine these thresholds is through determining the typical difference between the natural ambient level and the aircraft level at the onset of aircraft audibility.

Five different national park natural ambient spectra and eight different aircraft spectra were examined to determine the differences in the natural ambient and the aircraft A-weighted sound levels when the aircraft spectra were adjusted so that the acoustic detectability (10 log d′) equaled 7.[8] Average A-weighted differences between seven non-jet, tour type aircraft and three Grand Canyon ambient environments were computed from these data. (The 117.4 mile camp ambient was omitted because it included higher frequency noise, such as water noise, which affects the ambient A-weighted level, but does not affect aircraft audibility.) From these data, helicopter sound levels were computed to become audible (10 log d′ = 7) on average when their A-weighted level was 7.2 dB below the ambient; propeller aircraft become audible when their A-weighted level was 9.5 dB below the ambient, on average. For the noise impact assessment method presented in the **Federal Register** notice, the average of these two of 8.4 dB (or 8 dB) was used as the typical difference between natural ambient and aircraft at onset of audibility.

Noticeability. Several research efforts have addressed the premise that people who are engaged in some activity other than listening may not be aware that a new or intruding sound is present, though it is audible. Three different studies have examined the acoustic detectability of sounds when subjects engaged in a specific task first ''notice'' the presence of a specific sound.[9] Different types of background sounds were played, and different types of activities were used, such as reading, playing video games, or maintaining a specific speed in an automobile set up to run in place. In general, the target sound needed to be about 10 decibel units above the threshold of audibility for the people in these experiments to take a positive action (such as pushing a button) indicating they had heard the sound.

As noted above, several commenters preferred the use of noticeability, and one used data from an NPS report[10] to determine a noticeability threshold. This method used A-weighted sound level data measured at 13 different sites, and applied what is generally a technically reasonable method to derive a noticeability threshold. Two aspects of this method, however, are inapplicable to this situation and inconsistent with NPS policy. First, audibility (rather than noticeability) is the criterion upon which the definition of substantial restoration of natural quiet at GCNP is based: ''substantial restoration requires that 50 percent or more of the Park achieve 'natural quiet' (i.e. no aircraft audible) for 75–100 percent of the day.'' Second, the resulting threshold from the suggested method is an absolute level (i.e., 30 dB(A)), dependent upon the ambient levels at just the 13 sites, which are not necessarily representative of all ambient environments in the Canyon (see also the NPS Response to Comment #10 below). The NPS approach overcomes these issues by: (1) Using natural ambient levels characteristic of various areas of the Park; and (2) determining the difference between aircraft and ambient A-weighted levels at the onset of audibility.

9. Hearing Aircraft Below Ambient Levels

Some commenters said that hearing an aircraft when its sound level is below the average A-weighted ambient level was not intuitive and made no sense to the lay person.

NPS Response: Although perhaps not intuitive to the lay person, aircraft can be heard when their average A-weighted noise level is below average A-weighted values for the natural ambient. This is because one or more specific aircraft tones are, in fact, louder than ambient tones in the same frequency. This phenomenon is more easily understood using the piccolo example offered previously (see NPS Response to Comment #8, Audibility and Noticeability). This comment may arise from trying to understand audibility strictly through the use of average A-weighted sound levels for the comparison of aircraft and natural ambient sound levels. Since A-weighted levels are computed from all the individual levels at specific frequencies, important information concerning differences in the individual frequency bands is lost.

For example, at the onset of audibility (detectability level = 7 dB), the A-weighted level of a propeller plane measured at Point Imperial (Prop 1[11]) is about 11 dB lower than the Point Imperial ambient A-weighted level. However, in the 125 Hz one-third Octave Band, the sound level of the propeller plane is about 4 dB louder than the ambient level in the band; hence the aircraft is clearly audible to visitors at Point Imperial even though the A-weighted levels would suggest that the aircraft noise is not audible.

In general, for the target sound to be audible in the presence of background sound, the target will either exceed the background level in at least one one-third Octave Band, or be within one or two decibels of the background sound levels in several one-third Octave Bands.[12]

10. Threshold of Impact is 30 dB(A)

Some commenters identified 30 dB(A) [A-weighted average of 30 decibels] as an appropriate threshold for impacts because this level was the approximate average of the level at onset and offset of audibility, as reported in Report NPOA Report No. 93–1.[13] One commenter proposed a method for deriving the threshold of noticeability from these data.

NPS Response: The NPS-determined threshold for impact assessment is audibility or noticeability, depending upon the zone. Although thirty dB(A) may be noticeability for certain natural ambient sound areas, it is not an appropriate threshold of impact assessment for the whole Park. Nor is any other single value an appropriate acoustic threshold for the entire Park. Natural ambient values have been found to vary by vegetation communities, the presence of water-produced sounds from perpetually running water sources, and size and distance from water falls and rapids. Commenters may also have misinterpreted the data in NPOA Report No. 93–1. Specifically, the A-weighted levels reported in Table E–3 of that report are total sound levels, not those produced by aircraft alone. Because the aircraft are audible when their A-weighted level is below the A-weighted natural ambient levels, the onset and

offset levels reported are primarily a measure of the average ambient A-weighted levels, not the aircraft levels (as verified by the authors of that report).

11. HMMH Memorandum on A-Weighted Level Differences [14]

In response to requests for additional information from several commenters, the NPS provided copies of a memorandum: ''A-weighted Level Differences Compared with Detectability,'' Memorandum to W. R. Henry, HMMH Job No. 294530.22, May 15, 1997. Several commenters saw no relevance in the information presented in this memorandum, stating that it provided no new information and that it gave only calculations using previous data. Some also commented that it identified thresholds of audibility that were below the human threshold of hearing.

NPS Response: The purpose of the memorandum was to provide: (1) A-weighted differences between measured park environment sound levels and measured aircraft overflight sound levels at the onset of audibility; (2) values of the acoustic detectability level for situations where the aircraft A-weighted sound level is 3 dB greater than the A-weighted park background level. This information was computed from available tape recordings of only park environment sounds (natural ambient) and of only aircraft overflight sounds. All recorded samples used were carefully checked for absence of other non-park, non-aircraft sounds, so that the frequency information analyzed was either pure park environment sound or pure overflight sound. Because the purpose was to determine differences only, only the differences in sound level by frequency band were of interest, not the absolute level of the sounds. Hence, the data of this memorandum should be used only for analysis of differences between sounds, not for determining absolute levels of either the background or of the aircraft.

Because the INM uses A-weighted levels and cannot reproduce the standard calculations to determine onset of audibility, a method was needed to accommodate this limitation. The INM does calculate the time a specific threshold (as an A-weighted level) is exceeded by aircraft sound. The method chosen was to use existing data to compute a typical difference between representative A-weighted national park ambient sound environments and A-weighted aircraft sound levels at the onset of audibility (detectability level = 7 dB) and to compute detectability levels when aircraft A-weighted levels equal ambient A-weighted levels plus 3 dB.

This memorandum used frequency band levels and A-weighted levels tape recorded for five national park environments and eight different aircraft overflights. It computed and provided first the A-weighted differences for all 40 combinations of background and aircraft levels by adjusting the aircraft spectra to yield the onset of audibility (detectability level = 7 dB). At onset of audibility, aircraft A-weighted levels ranged from about 4dB below the ambient to about 22 dB below the ambient. Using just the three most relevant Grand Canyon ambients and the tour type aircraft, the aircraft A-weighted noise level averaged 8 dB below the average A-weighted ambient level (the 117.4 mile camp ambient was omitted because it included higher frequency noises, such as water noise, which affects the ambient A-weighted level, but does not affect aircraft audibility).

Second, the memorandum sought to answer the question: What is the detectability level when aircraft sound is 3dB above the background? This question arose because the FAA's 1996 and 1997 Environmental Assessments used 3 dB above the ambient in the INM modeling as the threshold sound level that indicates when natural quiet is lost. The threshold of audibility occurs at a detectability level (10 log d′) of 7 dB; the memorandum shows that the detectability level, when A-weighted aircraft sound is 3 dB greater than the background, averages about 18 dB or about 10 dB higher than the threshold of audibility. In other words, aircraft sound 3 dB above the ambient is approximately equivalent in detectability level to the detectability level needed for people to notice a target sound in the laboratory tests of noticeability.

Finally, it should be emphasized that the information in the memorandum was derived from tape recordings made separately of ambient and of aircraft sounds. The goal, as stated, was to use ambient-only and aircraft-only spectra to conduct the calculations. Thus, there was no need to derive aircraft spectra from recordings made at the on-set of audibility; rather, the aircraft spectra were derived from portions of the recordings when only the aircraft were the dominant source of sound.

12. Use of Attentive Listeners

Some commenters claimed that the use of technicians actively seeking to hear aircraft noise did not reasonably represent the disruption of natural quiet for park visitors and that listening for aircraft was not the same as enjoying natural quiet. Other commenters objected to the use of attentive listeners to determine at what point aircraft could be heard and said that this method was subjective and not associated with what would be considered credible research.

NPS Response: Park visitors sitting quietly and enjoying the natural sounds of the Park are equivalent to technicians actively seeking to hear aircraft noise. The definition of substantial restoration is very clearly based on audibility, not noticeability (see earlier discussion in NPS Response to Comment #8, Audibility and Hearing Aircraft and Noticeability sections). Audibility is the ability of a human with normal hearing, free of external distractions, to hear a specific sound in a particular setting. Noticeability is much more difficult to measure, and much more variable and difficult to reproduce because of the variability of activities people might be engaged in. One of the activities people engage in at the Grand Canyon is sitting quietly and enjoying the natural ambient sound environment—this represents a more stable and reproducible measuring point because it depends on the ambient. Anyone with normal hearing will begin to hear aircraft at very close to the same audibility point (10 log d = 7) given the same ambient level.

13. Laboratory Tests

One commenter suggested that laboratory tests did not necessarily reflect actual audibility in the Grand Canyon.

NPS Response: As discussed in the NPS Response to Comment #8, Audibility and Noticeability, considerable scientific research has developed equations for predicting when a target sound is audible in the presence of background sounds. These equations that compute the audibility metric have been developed from laboratory tests, and relate to human physiology; that is, to basic properties of human hearing, and these properties vary little across a population of healthy young adults.

These equations were then applied to field data, gathered in the Canyon, of some 163 tour aircraft overflights at onset and offset of audibility. The results yielded an average acoustic detectability level of 7 dB which ''* * * provides a useable working definition of audibility under field conditions.'' Hence, the scientific laboratory work determined the basic ability of human hearing to detect one sound in the presence of a second, and the field data provided the value of the

detectability level that applies to the audibility of tour aircraft at GCNP.

14. NPS Statutory Authority

Some commenters asserted that the NPS' Notice was not authorized by the Overflights Act. One commenter summarized this sentiment as follows: ''Continued regulation is unnecessary and illegal if NPS is citing PL 100–91 as its authority to act.'' The commenter alleged that NPS had discharged its obligation under the act by submission of its original Report to Congress and with the completion of that requirement, NPS' authority under the act was expired.

NPS Response: Section 3 of PL 100–91 authorizes the Secretary to provide continued advice and recommendations to the FAA regarding the interpretation of policy on noise impact assessment. The NPS may issue this guidance to assist the FAA in the development of its regulations. In reviewing the Special Flight Rules in the Vicinity of Grand Canyon National Park, 61 Fed. Reg. 69,302 issued by FAA in December, 1996, the Court of Appeals for the D.C. Circuit upheld NPS's and FAA's pursuit of additional measures to substantially restore natural quiet after NPS submitted its Report to Congress in 1994. (*Grand Canyon Air Tour Coalition* v. *FAA*, 154 F.3d 455 (D.C. Cir. 1998).

15. No Need for Further Action

One commenter stated that NPS surveys showed that relatively small percentages of visitors (about 5% for the Grand Canyon) reported annoyance with aircraft noise. The commenter also stated that in 1995, 30 of 5 million visitors complained of aircraft noise and this was attributable to the notion that the current SFAR 50–2 and noise thresholds were working.

Many commenters expressed the opinion that there was no need for this or any other regulatory action, as the substantial restoration of natural quiet had already been achieved under SFAR 50–2 and that the NPS was addressing a problem that did not exist. One commenter wrote that Flight-free zones had already substantially restored natural quiet to the Park. Another commenter recommended that the Public Notice be retracted and that the air tour route structure in SFAR 50–2 be maintained, as it has already achieved substantial restoration.

NPS Response: The NPS protects resources and provides visitor services on the basis of policy, legislation, and careful public planning. The purpose of SFAR 50–2 was to provide for the substantial restoration of natural quiet to Grand Canyon, not low annoyance levels among ground visitors. The NPS agrees that SFAR 50–2 has subsequently been responsible for some increase in the percent of substantial restoration at GCNP and that SFAR 50–2 has certainly benefited the Park. However, substantial restoration of natural quiet is not based on visitor annoyance. It is based on audibility of aircraft. As the Report to Congress clearly states: ''When visitors can hear the sound of aircraft, they cannot experience natural quiet.''[15] In addition, continuing industry growth results in a perpetual decline in the percent of substantial restoration achieved.

Furthermore, using somewhat different procedures, INM and NODDS each independently indicate that the implementation of SFAR 50–2 has not resulted in substantial restoration of natural quiet (i.e., 50% or more of the Park 75–100% of the day no aircraft audible). Noise measurements confirming that tour aircraft are still clearly audible within the flight-free zones further bear this out. Achieving the mandated goal will require implementation of a variety additional management actions that will contribute to a reduction of air tour-produced noise.

16. Focus on Visitor Experience

One commenter suggested that the NPS had ignored actual visitor experience in developing the new thresholds and indicated that the Overflights Act required that NPS' recommendations to the FAA provide for ''substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse affects associated with aircraft overflights.'' The commenter stated that it did not speak of ''substantial restoration of natural quiet'' in isolation and that the context clearly stated the purpose of substantial restoration was to reduce the effect of aircraft overflights on disturbing visitors' park experience.

NPS Response: The NPS has not ignored visitor experience in developing its proposed policy. Visitor experience is just one of many factors involved in NPS policy and planning. The NPS manages national parks based on the NPS Organic Act, as amended by the Redwoods Act (16 U.S.C. 1 to 1a–1) individual park legislation, and a variety of park management plans that have gone though extensive public review. These address the most salient resource protection and visitor services in the park.

The commenter is correct that the NPS is required to consider both resources and visitor experiences in managing parks. However, the commenter incorrectly asserts that the phrase applies only to visitor experience; as with virtually everything else in parks, it applies both to resources (i.e., natural quiet) and visitor experience.

17. Proposal Conflicts With Definition of Substantial Restoration

A commenter claimed that the two-zone noise threshold system conflicted with the current definition and interpretation of ''substantial restoration.'' The commenter said that the new noise standard arbitrarily departed from its previously settled definition of ''substantial restoration of natural quiet'' and asserted that natural quiet was defined as ''no more than 3 dB above ambient background noise'' in the 1994 Report to Congress.

NPS Response: The two-zone proposal for assessing noise impacts does not conflict with or affect the current definition and interpretation of the ''substantial restoration of natural quiet;'' it still requires that 50% or more of the Park achieve natural quiet (i.e., no aircraft audible) for 75–100% of the day.[16] The definition of substantial restoration has always been based on audibility, and this is not changed.

However, early in the modeling process, the NPS took a fairly conservative approach in setting an impact threshold for noise modeling used in predicting the achievement of substantial restoration in the Park. This stemmed primarily from having coarse natural ambient levels and limited air tour operations data to work with and was also driven by the inability of INM to calculate audibility directly. The NPS used a conservative metric of 10 log d = 17 (approximating the threshold of noticeability) to make certain that even with limited data, it could be certain that noise impacts were not overestimated. This is the threshold that was used for the modeling in the Report to Congress. However, because INM uses only A-weighted sound levels and has no frequency based calculation ability, the 10 log d = 17 metric used by the NPS was roughly translated to an ambient plus 3 dB threshold for use in the FAA's 1996 Environmental Assessment. The rationale given in the FAA document (page 4–4) for use of the ambient plus 3 dB threshold was that ''an aircraft was audible if it increased the ambient noise level by three decibels, the smallest change perceptible to the human ear'' (see NPS Responses to Comment #8, Audibility and Noticeability and Comment #11, HMMH Memorandum on A-Weighted

Level Differences for additional information).

Now that the GCNP is approaching its goal of substantial restoration of natural quiet and with the availability of more accurate natural ambient and air tour operations data, the NPS is proposing the two-zone approach to further refine its impact assessment methodology to more closely coincide with the audibility-based definition of substantial restoration. This will allow the NPS to be more accurate in determining the level of substantial restoration of natural quiet being achieved at GCNP.

18. Premature Release of Notice

One commenter asserted that the proposal was premature with the ongoing efforts of the FAA to develop Special Flight Rules in the vicinity of GCNP. A commenter also stated that because the Notice did not present the scientific methodology used in deciding the new standard, the Notice should be rescinded or the comment period lengthened so the public would have a chance to review the methodology. Another commenter claimed that the NPS did not fulfill its obligation to ensure an adequate factual basis for rulemaking before implementing a new regulation.

NPS Response: This action is not a regulation; it simply announces a change in impact assessment methodology related to noise modeling at GCNP.

The FAA and NPS are committed to an adaptive management approach as they continue to work cooperatively to develop regulations in a phased manner that assist in meeting the mandated goal of substantial restoration of natural quiet at GCNP. At any appropriate point in this process the agencies must make adjustments to approaches and methodologies where new knowledge or better science make the changes warranted. This change in impact assessment methodology recognizes that different areas of the Park need to be treated differently in impact assessment and represents an effort to bring the current methodology more in line with the goal of substantial restoration, which is based on audibility. The new approach starts measuring aircraft noise and counting it against the substantial restoration goal as soon as aircraft are audible, as the definition requires. Using the former single impact assessment threshold, aircraft could theoretically be audible to ground visitors 100% of the time over 100% of the Park without being counted against the goal.

While NPS did not provide all the details of field data collection, data reduction, and analyses used in the study referred to in the Notice, sufficient information was provided in a reasonably understandable format to adequately describe the purpose and justification for the action. In response to this and similar comments, however, the NPS is providing substantial additional technical detail in this disposition of comments to better portray the justification for changes in the noise impact assessment methodology. The NPS also provided copies of technical memoranda to anyone who requested such additional detailed information during the public comment period. See the NPS Response to Comment #8, *Audibility and Hearing Aircraft*, for a more detailed treatment of methods.

FAA's 1996 EA used the best data and analysis approaches available at that time. However, some of the public comments criticized some of the approaches. Therefore, in consideration of the comments and when it became apparent that additional rulemaking actions and NEPA analysis would be needed to meet the mandate to substantially restore natural quiet to GCNP, the NPS cooperated with the FAA and asked HMMH, Inc. to determine if better approaches or data were currently available that should be used in subsequent analyses. The subsequent HMMH analysis found, using actual Grand Canyon data and the findings of the previous BBN work, that aircraft noise could be heard considerably below the A-weighted ambient levels.[17] Based upon this analysis, and the limits of using A-weighted ambient and aircraft values rather than values based upon frequency spectral characteristics, the NPS subsequently recommended to FAA that the best data available in 1998 indicated that the A-weighted ambient level minus 8dB was the best single A-weighted surrogate for 10 log d = 7 (detectability level at which aircraft can begin to be heard by people with normal hearing) in the Park.

19. Model Validation Study

A few commenters asserted that the noise model validation study currently underway should be completed prior to any additional rulemaking. Supporting this, one commenter wrote that the Notice was prematurely issued and should be withdrawn until the model validation study is completed, as the acoustic modeling upon which it is based has been challenged as bad science.

NPS Response: As noted in the NPS Response to Comment #18, *Premature Release of Notice*, the FAA and NPS are committed to an adaptive management approach as they continue to work cooperatively to develop regulations that assist in meeting the mandated goal of a substantial restoration of natural quiet at GCNP. At appropriate points in this process the agencies will make adjustments to approaches and methodologies where new knowledge or better science make the changes warranted. This will also be true if the FAA–NPS noise model validation study points to the need for further adjustments. Calling it a ''validation'' study does *not* imply that the current modeling is somehow ''invalid.'' On the contrary, it is the best science available and seems to produce results quite consistent with available data. In this context, ''validation'' is equivalent to ''improvement.'' As with all scientific modeling, it will improve over time with the addition of new information and research. It is prudent to constantly question methodologies in order to incrementally improve them. It is imprudent, however, to indefinitely delay management efforts with the expectation that methodologies may be perfected.

The Notice proposes one step in the process of assessing the impacts of air tour-produced noise and measuring the relative progress toward the mandated goal of substantial restoration of natural quiet. The step establishes the acoustic thresholds at which air tour-produced noise begins to be counted against the goal using current INM noise modeling technology. These thresholds are critical as inputs used in the noise modeling process. The model validation study may be another important step in strengthening methodologies, to the extent that it may allow the FAA and NPS to more accurately predict noise impacts and monitor the level of substantial restoration in the Grand Canyon. However, since the thresholds proposed are used as inputs for modeling and have no bearing on the internal workings of the models (i.e., the algorithms and assumptions upon which the models are built) that are addressed in the validation study, there is no reasonable basis to postpone implementation of the changes to the assessment process.

20. Rulemaking Process and Public Comment

Some commenters viewed the publication of the Notice as ignoring established rulemaking procedures. One commenter stated that the Notice circumvented any reasonable attempt to

work with the air tour industry and that it was a clear statement of the Park Service's intention to implement the new noise threshold immediately.

Regarding public involvement, one commenter stated that the NPS has an obligation to explain and make available to the public the research behind the decision. The commenter continued to say that at the very least, the Notice itself should have offered to make this information available to commenters that may have wanted to review it. As previously noted, another commenter suggested that the new noise standard departs from the previously settled definition of ''substantial restoration of natural quiet'' and that the Notice amends that key statutory definition without opportunity for notice or comment. Further, the commenter submitted that NPS actions require notice and comment rulemaking and reiterated that NPS' own regulations require that actions of a ''* * * highly controversial nature, shall be published as rulemaking in the **Federal Register**.''

NPS Response: This Notice falls under the interpretive rule and policy statement provisions of the Administrative Procedure Act, 5 U.S.C. 552(a)(D) and is a statement of agency policy. Although not required, the NPS is following the more rigorous notice and comment procedures under 5 U.S.C. 553 to encourage public participation in this Notice. The Notice is an attempt to notify concerned publics that the NPS is refining its methodologies for assessing aircraft noise impacts, an internal policy decision. As explained previously, the Notice does not change the definition of substantial restoration of natural quiet. The NPS has in fact provided notice and the opportunity for public comment, and has considered such comments in this Disposition of Public Comments. As mentioned previously, the effects of these thresholds will be readily apparent in the noise modeling conducted for the supplemental environmental assessment accompanying FAA rulemaking actions that will soon be available for public review. The NPS embraces an adaptive management approach and welcomes any new comments or criticism regarding this methodology.

21. Effect of Proposal on Air Tour Industry

Many commenters from the air tour industry felt that the action was an aggressive move against air tour businesses and that it was not in keeping with the assurances offered by the NPS that it supported the air tour industry at Grand Canyon. One commenter said that implicit in this Notice was that air tours were unwelcome anywhere over the Grand Canyon. Another commented that the Notice was evidence that the public statements made by NPS/DOI in support of the air tour industry were not true. One commenter called the Notice an act of bad faith.

Many commenters were also concerned that the proposed noise thresholds would have substantial impacts on the viability of area air tour businesses. One commenter claimed that if the new noise standard was adopted, commercial air tours in the Grand Canyon would cease. Another commented that imposing these new standards would further restrict already limited aircraft operations and would jeopardize the existence of the areas air tour businesses. Another commenter asserted that this new benchmark would effectively ground every air tour aircraft in service at the Grand Canyon today.

NPS Response: A refinement in the NPS approach to noise impact assessment may have indirect effects on the commercial air tour industry. As was previously mentioned, specific effects rely on the complex interplay of several elements (e.g., impact assessment thresholds, location of air tour routes, sensitive cultural sites, natural ambient levels, air tour operation levels). Different combinations of these elements may make it easier or harder to reach natural quiet in particular areas of the Park. For example, desert scrub areas have been recently reevaluated as having a natural ambient level of 20 dB (an increase of 5 dB, from 15dB). Thus, there would be less noise impacts on desert scrub areas in Zone One (noticeability threshold) than before (i.e., the impact threshold would be 5 dB higher than before). Another simple example: Air tour flights over coniferous forest (with a reassessed natural ambient of 31 dB, from 26 dB) in Zone Two may have a greater impact than before (i.e., the impact threshold would be 6 dB lower than before). However, substantial restoration of natural quiet is calculated for the Park as a whole, not by zones or other discrete areas.

It should be noted that even if increased noise impacts are indicated, the decision regarding what should be done would be addressed through subsequent policymaking. Future effects on the industry is dependent upon other policy decisions that the FAA will make in cooperation with the NPS. The NPS policy that commercial air tours are a part of visitor services at GCNP remains unchanged. The NPS cannot make good management decisions on GCNP noise management and recommend these to the FAA unless it accurately assesses the impact of aircraft noise on GCNP. That is the purpose of the methodological refinements.

The proposal is consistent with recommendations the NPS made in the 1994 Report to Congress and with NPS policies that require the agency to accurately assess impacts in the process of determining management actions. However, there is a difference between accurately assessing impacts and deciding what to do about those impacts. The Public Notice addressed how impacts were to be assessed. It did not set management standards or actions. This change in methodology *does not* require aircraft to be quieter than the noise impact thresholds in order to fly over the Park. It does not restrict air traffic in any way. The thresholds are simply the point at which aircraft noise will begin to be measured against the mandated goal of substantial restoration. This action reflects the obligation NPS has to provide the FAA with the most accurate information possible about impacts on park resources and with recommendations on how to best achieve substantial restoration of natural quiet. Impact assessment is only one of many factors considered in policymaking. The FAA, in cooperation with the NPS, will propose and implement management actions designed to achieve the mandated goal of substantial restoration of natural quiet and allow a safe air tour industry to operate within the context of that legislative mandate. Application of the methodological refinements may, in conjunction with FAA rulemaking, require reductions in operations, changes to routes or other measures to achieve the statutory goal.

22. Need for Economic Analysis

A few commenters pointed out the need for the NPS to consider potential economic impacts on air tour operators as a result of the action. One commenter stated that the NPS is required by the Overflights Act and the Small Business Regulatory Flexibility Act to consider the economic impacts of this action on the small business entities that comprise the air tour industry.

NPS Response: As noted above in the NPS Response to Comment #21, Effect of Proposal on Air Tour Industry, the NPS is providing notice of a policy related to refinements in its noise impact assessment. The Notice, in and of itself, does not prescribe mitigation or management actions that lead to impacts on air tour operators. Neither the Overflights Act, nor the Regulatory Flexibility Act require an economic impact analysis for this Notice.

Economic impacts on the small business entities that comprise the air tour industry will be conducted in any FAA rulemaking actions employing the methodology in this Notice.

23. FAA Authority and Role

Several commenters asserted that through this and other actions the NPS was essentially usurping the FAA's authority to make decisions regarding the use of air space. Commenters contended that by establishing a noise threshold which prohibits aircraft from accessing certain air space the NPS was exercising de facto control over that air space, an authority provided solely to the FAA by Congress. They stated that land management agencies, including the NPS, do not have the jurisdiction, mandate, or expertise needed to safely regulate the use of our nation's air space. Commenters emphasized that the FAA must remain the leader in dealing with all air space issues.

NPS Response: Federal law and Congressional policy mandate that the authority to control the use of our nation's airspace resides solely with the FAA, while the NPS is charged with the management of the natural and cultural resources and values associated with units of the National Park System. Part of the NPS management responsibility is to determine the nature and extent of impacts on parks from all uses of the parks. The noise thresholds proposed in the Public Notice are strictly related to NPS noise impact assessment; they are not directly related to FAA's management authority of the airspace.

The FAA retains its full authority to manage the air space, and in cooperation with the NPS, will continue to consider how to best address these impacts through its rulemaking process. The FAA evaluates all NPS proposals related to GCNP noise management and mitigation, rejecting any that it considers unsafe. The NPS believes that through continued cooperation with the FAA, alternatives that are both safe and sensitive to noise impacts can be developed and implemented.

24. Safety

One commenter was concerned that the action would effectively restrict where operators could fly, resulting in increased congestion and potential adverse impacts on safety. Another commenter expressed that safety should not be forsaken in an effort to reduce sound and that if the NPS changes route structures that result in additional safety risks, they should be prepared to accept responsibility.

NPS Response: Safety issues are of paramount importance to both the FAA and the NPS. The NPS always defers to FAA on all issues associated with aviation safety. Rulemaking for GCNP can only proceed if FAA concludes it to be safe. (See NPS Response to Comment #23, FAA Authority and Role.)

25. Terminology Used in the Notice

Commenters questioned the use of various terms throughout the Public Notice. One commenter suggested that a ''day'' be defined universally as 24 hours. Another commenter requested consistency in the use of terms to avoid confusion, e.g., what was the difference, if any, between the terms ''quiet to be preserved'' (as stated in the 1994 Report to Congress) and ''average natural ambient'' as stated in this Notice. Finally, a few commenters claimed that the action was not a ''refinement'' of the current methodology, but that it was a departure from ''noticeability'' to ''detectability.''

NPS Response: In its definition of substantial restoration, the Report to Congress carefully used the phrase ''of the day'' rather than ''of the time'' (an earlier version) to distinguish that it referred to the daylight hours when air tours were flying. For modeling purposes, this refers to the 12 hour time period from 7 AM to 7 PM. Air tour aircraft do not operate at night, so that is how the definition was framed. To change that to a 24 hour period would require a redefinition of ''substantial restoration of natural quiet.''

In the 1994 Report to Congress ''quiet to be preserved'' refers to the lower end of the ambient sound level range that occurs regularly between wind gusts, animal sounds, etc., not just the average sound level (pg. 83). The ''average natural ambient'' in the Notice refers to the average background sound level for a given location, less any mechanical noise from aircraft or other sources. Again, the definitions are not changed by this action.

As has been mentioned previously, these changes are to bring current impact assessment methods more in line with the goal of substantial restoration, which is based on audibility.

26. Refining the Definition of Substantial Restoration of Natural Quiet

Several commenters suggested that the current definition of substantial restoration of natural quiet was not adequate to protect GCNP resources.

NPS Response: Though appreciated, these comments do not directly apply to the refinement of noise impact assessment methodology presented in the Public Notice. The NPS does not currently have any plans to redefine the substantial restoration of natural quiet.

27. Restrictions at Higher Altitudes

One commenter expressed concern that though the current action is focused on air tour operations, noise thresholds could ultimately lead to restrictions at higher altitudes.

NPS Response: No such restrictions are being contemplated. In any case, the GCNP SFRA has an effective ceiling of 17,999 feet MSL.

28. Proposed Wilderness

One commenter suggested that any future actions should speak to the possible enactment of a wilderness area at the Park.

NPS Response: This point is an important one and will be addressed in the development of the comprehensive noise management plan, in light of the Park's General Management Plan and Wilderness and Colorado River Management Plan.

29. Future Studies

A few commenters indicated that future acoustical studies at the Park should use defensible methods and employ peer review to ensure scientific validity.

NPS Response: The NPS concurs. The generation of solid, reliable scientific data is essential to inform sound resource management decisions.

Summary of the Proposal

In summary, the proposal is to refine the current noise impact assessment methodology to incorporate a two-zone geographic system with different noise thresholds applicable to the circumstances of each of the two zones. Zone One would be composed of (1) the developed areas of GCNP as generally identified in GCNP's 1995 General Management Plan (except Tuweep, Phantom Ranch, and the North Rim paved roads), encompassing, on the South Rim, the area from approximately Desert View to Hermits Rest, and, on the North Rim, the developed area on Bright Angel Point; (2) the area of the Park west of Whitmore Rapids, including the Sanup Flight-free Zone; and (3) the Marble Canyon Sector. Zone One comprises approximately one-third of the area of GCNP.

Zone Two would encompass, in a large contiguous area in the center of GCNP, approximately the remaining two-thirds of the Park's area .

Under this proposal, the noise threshold for Zone One is set at 3 decibels above the average natural ambient A-weighted sound levels found to exist in those areas of the Park as determined by previous scientific acoustic measurement studies. This is the same as the single standard used in

previous assessments (i.e., noticeability). The threshold for Zone Two will be set at 8 decibels below the average natural ambient A-weighted sound levels (i.e., audibility). The noise thresholds will be used in noise modeling for impact assessment to determine the onset of impact to natural quiet at GCNP.

Conclusion

As discussed above, the National Park Service has carefully considered and responded to the comments received on the Public Notice published in the **Federal Register** on January 26, 1999 (64 FR 3969–3972), concerning a change in the noise impact assessment methodology for air tour operations over Grand Canyon National Park. Based on this consideration, and the additional data and experience explained above which led to the Public Notice, the NPS decision is to adopt the proposed noise impact assessment methodology, and to request the FAA to use it for current rulemaking related to GCNP air tour overflight management and mitigation.

Future application of these refinements of the impact assessment methodology in FAA rulemaking measures are likely to make more challenging the agencies' efforts to achieve the substantial restoration of natural quiet. However, the use of the two noise thresholds and two geographic zones will better achieve the preservation of the GCNP resources and visitor experiences the NPS is charged to protect, and be more in line with the definition of substantial restoration of natural quiet.

Robert Stanton,

Director.

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[FR Doc. 99–17907 Filed 7–9–99; 2:30 pm]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Early Release for Removal of Criminal Aliens in State Custody Convicted of Nonviolent Offenses.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from September 13, 1999.

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 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 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:* New information collection.

(2) *Title of the Form/Collection:* Early Release for Removal of Criminal Aliens in State Custody Convicted of Nonviolent Offenses.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* No Agency Form Number (File No. OMB–20). Office of Investigations, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. This information collection is contained in a MOU outlined in proposed rule INS No. 1848–97. The information will be used by the Service to identify those recommended by the state to receive consideration for early release prior to completion of sentence of imprisonment and to determine eligibility in accordance with relevant statute, regulation and policy.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 33,050 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 33,050 annual burden hours.

If you have 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 suggestion 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 Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center Building, 1001 G Street, NW., Washington, DC 20530.

Dated: July 7, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 17888 Filed 7–13–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 21, 1999, U.S. Department of Labor, 2:00 pm–3:30 pm, S–2217, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, D.C. this 8th day of July 1999.

Andrew James Samet,

Deputy Under Secretary International Affairs.

[FR Doc. 99–17896 Filed 7–13–99; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–096)]

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: Monday, July 26, 1999, 8:30 a.m. to 5:00 p.m. and Tuesday, July 27, 1999, 8:00 a.m. to 12:00 p.m.

ADDRESSES: Ames Research Center, Building 200, Committee Room, Moffett Field, CA 94035.

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:

—Pathways to the Future
—Information Technology Presentations
—Technology Implementation at Ames Research Center

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: July 7, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–17968 Filed 7–13–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–095)]

NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; 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 an open meeting of the NAC Task Force on International Space Station Operational Readiness (IOR).

DATES: Wednesday, August 4, 1999, 3:00 p.m.–4:30 p.m. Eastern Standard Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW, Room 7W31, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IH, National

Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Discuss the IOR Task Force—Utkin Advisory Expert Council's Joint Final Report on the ISS Phase 1 program.
—Review the status of the fact-finding meetings conducted by the IOR Task Force and the Utkin Advisory Expert Council held May 24–28, 1999, at the Kennedy Space Center, Florida.

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 visitors register.

Dated: July 8, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–17967 Filed 7–13–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Conference Call

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

INTERNATIONAL WATCH: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's International Committee on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

DATES: September 15, 1999, 12:00 noon–1:00 p.m. edt.

FOR INTERNATIONAL WATCH INFORMATION, CONTACT: Lois T. Keck, Ph.D., Research Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), lkeck@ncd.gov (e-mail).

Agency Mission

The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call

This advisory committee meeting/ conference call of the National Council on Disability will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/ conference calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on July 7, 1999.

Ethel D. Briggs,

Executive Director.

[FR Doc. 99–17951 Filed 7–13–99; 8:45 am]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

FirstEnergy Nuclear Operating Company

[Docket No. 50–346]

Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by FirstEnergy Nuclear Operating Company (the licensee) to withdraw its September 29, 1995, application for an amendment to Facility Operating License No. NPF–3, issued to the licensee for operation of the Davis-Besse, Unit No. 1, located in Ottawa County, Ohio. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on November 27, 1995 (60 FR 58405).

The purpose of the licensee's amendment request was to revise the Technical Specifications to increase the allowable as-found pressure lift setting tolerance of the two Pressurizer Code Safety Valves.

By letter dated June 7, 1999, the licensee informed the staff that it was withdrawing the license amendment application for further evaluation.

For further details with respect to this action, see the application for amendment dated September 29, 1995, and the letter withdrawing the application dated June 7, 1999. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this 8th day of July 1999.

For the Nuclear Regulatory Commission.

Stewart N. Bailey,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management.

[FR Doc. 99–17920 Filed 7–13–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 111th meeting on July 19–21, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Monday, July 19, 1999—8:30 a.m. until 6:00 p.m.
Tuesday, July 20, 1999—8:30 a.m. until 6:00 p.m.
Wednesday, July 21, 1999—8:30 a.m. until 4:00 p.m.

The following topics will be discussed:

A. *ACNW Planning and Procedures*—The Committee will hear a briefing from its staff on issues to be covered during this meeting. The Committee will also consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

B. *Risk Communications*—The Committee will continue to prepare for sessions with the local stakeholders to

be held this fall in the Las Vegas, Nevada, area.

C. *Revised Design for the Proposed Yucca Mountain Repository*—Representatives from the Department of Energy and its contractor will discuss the license application design selection process and describe the current final revised repository design.

D. *Results of the Arthur Andersen Review of the Division of Waste Management Activities*—The Deputy Director, NMSS, will discuss the results of recent strategic planning activities within the Division of Waste Management and potential impacts on ACNW activities.

E. *DOE Presentation on the Draft Environmental Impact Statement (DEIS) for the Proposed Yucca Mountain Repository*—A DOE representative will discuss the scope of the DEIS and the review process, providing additional background information for the Committee's future comments once the document is made public.

F. *Spent Fuel Project Office (SFPO) Briefing*—A representative of the SFPO will present an update and overview of their activities. Also to be discussed is the relationship of current spent fuel transportation study initiatives to sites such as Yucca Mountain and the Private Fuel Storage facility.

G. *Preparation of ACNW Reports*—The Committee will discuss planned reports on the following topics: a White Paper on Repository Design Issues at Yucca Mountain, a White Paper on Near-Field Chemistry issues, a joint ACRS/ACNW letter report on an NMSS approach to risk-informed, performance-based regulation in NMSS and other topics discussed during this and previous meetings as the need arises.

H. *Meeting with the Director, Division of Waste Management*—The Committee will meet with the Director informally to discuss items of mutual interest.

I. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 29, 1998 (63 FR 51967). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Associate Director for Technical Support, ACRS/ACNW, Dr. Richard P. Savio, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Associate Director for Technical Support, ACRS/ACNW, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Savio as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Richard P. Savio, Associate Director for Technical Support, ACRS/ACNW (Telephone 301/415–7363), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: July 7, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–17973 Filed 7–13–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of July 12, 19, 26, and August 2, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 12

Tuesday, July 13

9:30 a.m. Briefing on Treatment of Existing Programs for License Renewal (Public Meeting) (Contact Sam Lee, 301–415–3109)

Thursday, July 15

10:00 a.m. Briefing on Existing Event Response Procedures (Including Federal Response Plan and Coordination of Federal Agencies in Response to Terrorist Activities) (Public Meeting) (Contact Charlie Miller, 301–415–7482)

11:30 a.m. Affirmation Session (Public Meeting) (If needed)

Week of July 19—Tentative

There are no meetings scheduled for the Week of July 19.

Week of July 26—Tentative

Thursday, July 29

2:00 p.m. Briefing on Implementation of the License Termination Rule and Program on Complex Decommissioning Cases (Public Meeting) (Contact: Larry Camper, 301–415–7234)

Friday, July 30

9:30 a.m. Briefing on Performance Assessment Progress in LLW, HLW, and SDMP (Public Meeting) (Contact: Norman Eisenberg, 301–415–7285)

Week of August 2—Tentative

Thursday, August 5

10:00 a.m. Briefing on EEO Program (Public Meeting)

3:30 p.m. Affirmation Session (Public Meeting) (If needed)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 4–0 on July 7, the Commission determined

pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''International Uranium (USA) Corporation Envirocare's Appeals of LBP–99–11 and LBP–99–20 (Environcare's Dismissal for Lack of Standing)'' (PUBLIC MEETING) be held on July 7, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: July 9, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–18052 Filed 7–12–99; 1:08 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from June 19, 1999, through July 2, 1999. The last biweekly notice was published on June 30, 1999 (64 FR 35199).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 13, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is 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 for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: June 15, 1999.

Description of amendment request: The proposed amendment would revise the Technical Specifications to incorporate the performance-based 10 CFR 50 Appendix J, Option B for Type A tests (containment integrated leakage rate tests). Option B will be implemented for Type A testing in accordance with NRC Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program,'' dated September 1995, and Nuclear Energy Institute (NEI) Guideline 94–01, Revision 0, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J,'' dated July 26, 1995. Type B and C testing (containment penetration leakage tests) will continue to be performed in accordance with 10 CFR 50 Appendix J, Option A.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Harris Nuclear Plant (HNP) Type A testing history provides justification for the proposed test schedule change to one test in a 10 year period. With the successful Type A tests of September 1992 and May 1997, and a greater than 24 month elapsed time between the two tests, CP&L considers the requirement of two consecutive Type A tests to have been met. This testing has affirmed the acceptable reliability of the containment structure to minimize leakage as designed, and provides assurance that its performance to continuously function as designed is not challenged due to this test schedule extension to once in 10 years.

This proposed change to revise the test schedule frequency does not impact or alter the design of any system, structure or component. The limit on allowable leakage is not increased. Type A testing provides periodic verification of the leak tight integrity of the containment and the components that penetrate the containment structure. NUREG–1493, Section 10.1.2, ''Leakage-Testing Intervals,'' states that reducing the frequency of Type A tests from the current three per 10 years to one per 20 years was found to lead to an imperceptible increase in risk.

Therefore, based on these considerations, and the previous plant-specific Type A test results, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes only incorporate the performance-based testing approach authorized in 10 CFR 50 Appendix J, Option B, and are justified based on previous plant-specific Type A test results. Plant structures, systems, and components will not be operated in a different manner as a result of these proposed changes and no physical modifications to equipment are involved. The interval extensions allowed by Option B of 10 CFR 50 Appendix J do not have the potential for creating the possibility of a new or different type of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes do not change the allowable leak rate from the containment; they only allow an extension of the interval between the performance of Type A leak rate testing. NUREG–1493 provides the technical basis for the NRC's rulemaking to revise containment leakage testing requirements for nuclear power reactors in 10 CFR 50 Appendix J. NUREG–1493, Section 10.1.2, ''Leakage-Testing Intervals,'' states that increasing the interval between integrated leakage-rate tests is possible with minimal impact on public risk.

Based on these considerations and the previous plant-specific Type A test results, the proposed changes do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Sheri R. Peterson.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: June 15, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification 4.7.D.6 by replacing the leakage limit of 11.5 standard cubic feet per hour (scfh) for each main steam isolation valve (MSIV) with a limit of 46 scfh on the total combined leakage from all four main steam lines.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the Technical Specifications, Appendix A, modifies the allowed MSIV leakage limit to an aggregate value with no change to the total allowed leakage rate. This change does not affect either the automatic or manual features that would close the MSIVs. Performance of the leakage tests do not adversely affect any accident previously evaluated. Consequently, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The safety function of the MSIVs is to provide a timely steam line isolation to mitigate the release of radioactive steam and limit reactor inventory loss under certain accident and transient conditions. The MSIVs are designed to automatically close whenever plant conditions warrant main steam line isolation. Changing the leakage limits to include an aggregate value does not affect the isolation function. No new equipment will be installed or utilized, and no new operating conditions will be initiated as a result of this change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The total allowed leakage rate for all MSIVs remains unchanged at 46 scfh. Therefore, there will be no change in the types or significant increase in the amounts of any effluents released offsite, and, thus, the radiological analyses remain unchanged and within the guidelines of 10 CFR 100 and General Design Criteria 19. Therefore, these changes do not involve a significant reduction in the margin of safety.

Therefore, based upon the above evaluation, ComEd has concluded that these changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: May 19, 1999.

Description of amendment request: The proposed amendments would relocate Technical Specification Section ¾.4.4, ''Chemistry'' from the TS to the Updated Final Safety Analysis Report and Administrative Technical Requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes simplify the TS, meet regulatory requirements for relocated TS, and implement the recommendations of the NRC's Final Policy Statement on TS improvements. The Chemistry requirements will be relocated to the Updated Final Safety Analysis Report (UFSAR) and Administrative Technical Requirement that has been incorporated into the UFSAR by reference. Future changes to these requirements will be controlled by 10 CFR 50.59. The proposed changes are administrative in nature and do not involve any modification to any plant equipment or affect plant operation. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any previously evaluated accident.

Consequently, this proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature, do not involve any physical alterations to any plant equipment, and cause no change in the method by which any safety related system performs its function. Therefore, this proposed TS amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed amendment represents the relocation of current requirements that are based on generic guidance or previously approved provisions for other stations. The proposed changes are administrative in nature and do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. The proposed changes have been evaluated and found to be acceptable for use at Duane Arnold Energy Center and Quad Cities Nuclear Power Station. Since the proposed changes are administrative in nature, and are based on NRC accepted provisions which have been adopted at other nuclear facilities, and maintain the necessary levels of system reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: June 3, 1999.

Description of amendment request: The proposed amendment would delete sections of the Technical Specifications that no longer apply to the Haddam

Neck Plant's permanently shutdown and defueled condition; increase the weight of loads allowed over the spent fuel pool; relocate certain definitions and requirements from the Technical Specifications to the Technical Requirements Manual (TRM), Connecticut Yankee Quality Assurance Program (CYQAP), or the Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM); and correct typographical errors, renumber sections, and repaginate the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee's summary of its analysis is presented below:

The proposed changes do not involve an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

In the present plant configuration, the reactor-related accidents previously evaluated (i.e., LOCA [loss-of-coolant accident], MSLB [main steamline break], etc.) are no longer possible. The accidents previously evaluated that are still applicable to the plant are fuel handling accidents and gaseous and liquid radioactive releases. The following events are presently considered as bounding of all other events:

—Fuel handling and cask drop accidents in the spent fuel building,
—Criticality in the spent fuel pool,
—Loss of spent fuel cooling,
—Resin fire (gaseous release), and
—Rupture of a tank containing radioactive liquid.

There is no significant increase in the probability of a fuel handling accident since refueling operations have ceased, with a corresponding decrease in the frequency of fuel movement. The radiological consequences of a fuel handling accident, should one occur, decrease the longer the spent fuel is allowed to decay. As discussed previously, the spent fuel inventory of radioactive iodine and noble gases [, with the exception of Kr–85,] have decayed more than 20 half-lives since shutdown and are no longer a release concern. With this reduced source the results of the fuel handling accident show that the filters of Specification 3.9.12 are no longer necessary. The allowed weight over the spent fuel pool is still less than that previously [evaluated]. Therefore, there has been no increase in the probability or consequences of a fuel handling or cask drop accident.

Criticality controls are imposed by specifications ¾.9.13 and ¾.9.14 * * * [The requirements of these specifications have not been changed.] Therefore, there has been no increase in the probability or consequences of a criticality event.

Spent fuel cooling is maintained by keeping the pool temperature below 150°F. Should normal cooling be lost, the availability of an abundant supply of water ensures that sufficient time is available prior to boiling to restore cooling. This is controlled by specifications ¾.9.11 and ¾.9.16 * * * [The requirements of these specifications have not been changed. Technical specification ¾.9.15 does not apply to the permanently defueled condition of the plant. Therefore, there has been no increase in the probability or consequences of a loss of cooling event.]

The probability of a gaseous or liquid radioactive release is not changed by the proposed revisions. As the plant undergoes decommissioning, the previous limiting events [such as a loss-of-coolant-accident] are no longer applicable, and previous non-limiting events [such as a resin fire] now become limiting. These * * * events have not changed from how they might have occurred in the past. The radiological consequences of a gaseous or liquid radioactive release are bounded by the fuel handling accident during defueled operation and a spent resin fire during processing of resin from the reactor coolant system decontamination. The rupture of a tank containing radioactive liquid was assessed and found to be bounded by these events. With the plant defueled and permanently shutdown, the demands on the radwaste systems are lessened since no new radioisotopes are being generated by irradiation or fission. Therefore, there is no increase in the probability or consequences of a gaseous or liquid radioactive release.

* * * * *

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are generally of an administrative nature and do not have an effect on the physical plant. The events considered bound other potential events and are considered the limiting cases for potential gaseous or liquid releases to the environment.

With the plant undergoing decommissioning, the types of accidents one might be concerned with involve criticality of the spent fuel, or draining of the spent fuel pool. None of the proposed changes affect the possibility of such an event. Also, none of the proposed changes could lead to a radiological release of a greater magnitude than for the events considered, such as might occur with the accumulation of a greater quantity of radioactive material in one location, or with damage to a greater number of fuel assemblies than considered in the fuel handling accident.

The proposed changes restrict the operations that can be conducted at the plant, and do not permit any new type of activity from what had previously been authorized. The effect on systems, structures and components affected by the proposed changes have no adverse impact on the storage of fuel nor on the processing of radioactive wastes presently at the site. The present set of limiting events are a subset of events previously considered. Therefore these changes do not create the possibility of a new or different kind of accident from any accident previously considered.

* * * * *

3. Involve a significant reduction in a margin of safety.

The proposed changes have no impact on the analyses of postulated design basis events remaining applicable to the Haddam Neck Plant. Analysis of the limiting events show that their consequences to the public are within the limits of 10 CFR [Part] 20 and the EPA PAGs [Environmental Protection Agency Protective Action Guides]. The consequences to members of the operating staff are within the limits of 10 CFR [Part] 50, Appendix A, General Design Criterion 19, ''Control Room Habitability''. Therefore there is no reduction in a margin of safety.

* * * * *

Based on the above, the proposed changes to the operating license and technical specifications do not involve a reduction in the margin of safety due to the reduced decay heat load, the decay of radionuclides since shutdown, and by maintaining the heavy load restriction.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut, 06457.

Attorney for licensee: Mr. J. A. Ritsher, Ropes & Gray, One International Place, Boston, Massachusetts 02110–2624.

NRC Section Chief: Michael T. Masnik.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: June 10, 1999.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to adopt a Ventilation Filter Testing Program in TS Section 6.0, ''Administrative Controls,'' and remove the specific ventilation filter surveillance requirements from TS 3/4.6.4.4, ''Hydrogen Purge System,'' TS 3/4.6.5.1, ''Shield Building Emergency Ventilation System,'' and TS 3/4.7.6.1, ''Control Room Emergency Ventilation System.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards

consideration, which is presented below:

The Davis-Besse Nuclear Power Station has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station (DBNPS), Unit Number 1, in accordance with this change would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no change is being made to any accident initiator. The replacement of the specific Technical Specification (TS) ventilation filter testing Surveillance Requirements for the Containment Hydrogen Purge System 3/4.6.4.4), Shield Building Emergency Ventilation System (3/4.6.5.1), and the Control Room Emergency Ventilation System (3/4.7.6.1), with a reference to the newly created Ventilation Filter Testing Program contained in TS Administrative Controls Section 6.8.4.f, Ventilation Filter Testing Program, is a removal and relocation of certain TS details. The proposed TS 6.8.4.f will, however, add controls to maintain similar operation, maintenance, testing and system operability for these three ventilation systems. The TS Bases changes reflect the use of the Ventilation Filter Testing Program. Therefore, it can be concluded that the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not affect accident conditions or assumptions used in evaluating the radiological consequences of an accident. No physical alterations of the DBNPS are involved, nor are plant operating methods being changed. The proposed changes do not alter the source term, containment isolation or allowable radiological releases.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not change the way the plant is operated. No new or different types of failures or accident initiators are being introduced by the proposed changes.

3. Not involve a significant reduction in a margin of safety because no inputs into the calculation of any Technical Specification Safety Limit, Limiting Safety System Settings, Technical Specification Limiting Condition for Operation, or other previously defined margins for any structure, system, or component important to safety are being affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Anthony J. Mendiola.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: May 10, 1999.

Description of amendment request: The proposed amendment would correct the regulation referenced in Section 5.8, ''High Radiation Area,'' of the Crystal River Unit 3 (CR–3) Improved Technical Specifications (ITS). The ITS currently references 10 CFR 20, Paragraph 20.1601(2) and (3), whereas the correct reference is 10 CFR 20.1601(c).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to the Crystal River Unit 3 (CR–3) Improved Technical Specifications (ITS) is editorial in nature. The change involves revising the incorrect reference in ITS Section 5.8.1 to the correct Code of Federal Regulations reference that pertains to controlling access to high radiation areas. The proposed ITS change does not involve any change to plant design, operation, maintenance, or procedures. As a result, no changes to the plant are being made which would impact either the contributors to an accident or to the consequences of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed editorial change to the ITS does not involve any changes to any plant structure, system, or component (SSC) or to its operation or maintenance. There is no impact on any equipment that would be considered as contributors to either new or different accidents. Thus, the change to the ITS does not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety?

The proposed change to the ITS involves a reference change and does not involve the design or operation of any plant SSC. No changes to the methods for controlling access to high radiation areas are proposed. No changes to the methods for controlling personnel and/or activities in high radiation areas are proposed. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC–A 5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Sheri R. Peterson.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: May 17, 1999.

Description of amendment request: The proposed amendment would revise a note in Surveillance Requirement (SR) 3.3.8.1 in the Crystal River Unit 3 Improved Technical Specifications (ITS). The note currently states that, when Emergency Diesel Generator (EDG) Loss Of Power Start instrumentation is placed in an inoperable status solely for performance of this surveillance, entry into associated Conditions and Required Actions may be delayed for up to four hours provided the two channels monitoring the Function for the bus are OPERABLE or tripped. The proposed revision to the note states that entry into the Conditions and Required Actions of ITS Section 3.3.8 is not required provided the applicable Conditions and Required Actions of ITS Section 3.8.1, ''Electrical Power Systems, AC Sources—Operating,'' are entered for the EDG being made inoperable. The proposed amendment would also delete a superceded 60-day surveillance frequency and the associated note which indicated that the frequency was not effective after November 23, 1997.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

Proposed Improved Technical Specifications (ITS) Change A—Revision of Surveillance Note

The note in Surveillance Requirement (SR) 3.3.8.1 involves the timing for placing Crystal River Unit 3 (CR–3) into the applicable Conditions and Required Actions when

performing the surveillance. The proposed revision will make the note consistent with the actual method of performing the surveillance at CR–3. The design and testing configuration does not allow CR–3 to use the relief provided by the note. As a result, the Conditions and Required Actions of ITS Section 3.3.8 are entered at the start of the surveillance performance. The design and testing configuration requires entry into ITS Section 3.8.1 Conditions prior to performing SR 3.3.8.1. The revised note would require entering the applicable Conditions and Required Actions of ITS Section 3.8.1 for one Emergency Diesel Generator (EDG) being inoperable. This approach and the proposed note are conservative relative to the current note. The proposed note results in no changes to the method or to the timing of performing SR 3.3.8.1. Direct entry into ITS Section 3.8.1 Conditions will achieve the same final ITS condition as if Section 3.3.8 Conditions and Required Actions were entered. Therefore, the probability of occurrence and the consequences of any accident previously evaluated are unaffected by this change.

Proposed ITS Change B—Deletion of Frequency Note

The note under Frequency in SR 3.3.8.1 involves the period of time that the 60 day surveillance frequency would be in effect. The 60 day frequency was a temporary extension that was needed to implement modifications to the EDG during the 1997 CR–3 design outage. This was a one-time extension of the frequency. The note indicates this temporary nature of the 60 day frequency. Deleting the note is an editorial change since the surveillance has reverted back to its 31 day frequency and the note is no longer effective. Because the proposed deletion of the note is an editorial change, and no change is proposed to the current 31 day frequency, the probability of occurrence and the consequences of any accident previously evaluated are unaffected by this change.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

Proposed ITS Change A—Revision of Surveillance Note

The proposed revision of the note in SR 3.3.8.1 involves only the timing of entry into associated ITS Conditions and Required Actions. No changes are proposed to the existing ITS Conditions and Required Actions. The proposed change is conservative since it will require entering the appropriate Conditions and Required Actions immediately upon starting SR 3.3.8.1. Changing the timing for entry into ITS Conditions and Required Actions does not create the possibility of a new or different kind of accident from those evaluated previously.

Proposed ITS Change B—Deletion of Frequency Note

Deletion of the note under SR 3.3.8.1 Frequency is an editorial change since the note is no longer effective. The current frequency for performing SR 3.3.8.1 is 31 days. This is the same frequency that was in effect prior to the one-time, temporary change of the frequency to 60 days. The editorial change of deleting the note that is no longer effective does not create the possibility of a new or different kind of accident from those evaluated previously.

3. Involve a significant reduction in a margin of safety?

Proposed ITS Change A—Revision of Surveillance Note

One manner in which a margin of safety related to a Surveillance Requirement might be affected would be if entry into a Limiting Condition for Operation (LCO) were delayed. The result of a delay in entering an LCO would be an increase in the time before a Required Action was taken, such as commencing a plant shutdown. Generally, such allowed times reflected in ITS Required Actions are based on some margin. Increasing the time allowed before starting a certain Required Action might result in a reduction of a margin of safety. However, the proposed ITS change allows entry into Section 3.8.1 Conditions immediately rather than after a delay. The proposed ITS change does not change the final plant condition required by the ITS. Therefore, the proposed ITS change does not result in a reduction in a margin of safety.

Proposed ITS Change B—Deletion of Frequency Note

Another manner in which a margin of safety related to a surveillance requirement might be affected would be if the frequency of performance were changed. Generally, margin might be reduced if the frequency were reduced (i.e., the interval between performing surveillances were increased). This proposed editorial change to delete the note in SR 3.3.8.1 Frequency does not result in a change to the surveillance frequency. Thus, the proposed deletion of the note does not affect the existing margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Sheri R. Peterson.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 11, 1999.

Description of amendment request: The proposed amendment makes various plant organization title changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. None of the proposed changes involve a physical modification to the plant, a new mode of operation or a change to the UFSAR [Updated Final Safety Analysis Report] transient analyses. No Technical Specification Limiting Condition for Operation, Action statement or Surveillance Requirement is affected by any of the proposed changes. These proposed changes do not reduce the level of qualification, authority or accountability associated with the affected Technical Specification responsibilities. Further, the proposed changes do not alter the design, function, or operation of any plant component. Therefore, the proposed amendment does not affect the probability of occurrence or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. The proposed changes are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or modes of plant operation defined in the plant operating license, or Technical Specifications that preserve safety analysis assumptions. The proposed changes do not introduce a new mode of plant operation or surveillance requirement, nor involve a physical modification to the plant. The proposed changes do not alter the design, function, or operation of any plant components. Therefore, the proposed amendment does not affect the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a reduction in a margin of safety. The proposed changes are administrative in nature. There is no reduction in the organization position qualifications, authority and accountability associated with the affected Technical Specification responsibilities. None of the proposed changes involve a physical modification to the plant, a new mode of operation or a change to the UFSAR transient analyses. No Technical Specification Limiting Condition for Operation, Action statement, or Surveillance Requirement is affected. Therefore, the proposed amendment does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: S. Singh Bajwa.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: April 12, 1999.

Description of amendment request: The proposed amendment would revise Duane Arnold Energy Center (DAEC) Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.3.7 to allow a representative sample of reactor instrumentation line excess flow control valves (EFCV) to be tested every 24 months, instead of testing each EFCV every 24 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current SR frequency requires each reactor instrumentation line EFCV to be tested every 24 months. The EFCVs at DAEC are designed so that they will not close accidentally during normal operation, will close if a rupture of the instrument line is indicated downstream of the valve, can be reopened when appropriate, and have their status indicated in the control room (reference DAEC UFSAR [updated final safety analysis report] 1.8.11). This proposed change allows a reduced number of EFCVs to be tested every 24 months. There are no physical plant modifications associated with this change. Industry operating experience demonstrates a high reliability of these valves. Neither EFCVs nor their failures are capable of initiating previously evaluated accidents; therefore there can be no increase in the probability of occurrence of an accident regarding this proposed change.

Instrument lines connecting to the Reactor Coolant Pressure Boundary (RCPB) with EFCVs installed also have a flow-restricting orifice upstream of the EFCV. The consequences of an unisolable rupture of such an instrument line [have] been previously evaluated in response to Regulatory Guide (RG) 1.11 (DAEC UFSAR 1.8.1.1). That evaluation assumed a continuous discharge of reactor water for the duration of the detection and cooldown sequence (3.5 hours). Therefore, although not expected to occur as a result of this change, the postulated failure of an EFCV to isolate as a result of reduced testing is bounded by this previous evaluation. Therefore, there is no increase in the previously evaluated consequences of the rupture of an instrument line and there is no potential increase in the consequences of an accident previously evaluated as a result of this change.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change allows a reduced number of EFCVs to be tested each operating cycle. No other changes in requirements are being proposed. Industry operating experience demonstrates the high reliability of these valves. The potential failure of an EFCV to isolate by the proposed reduction in test frequency is bounded by the previous evaluation of an instrument line rupture. This change will not physically alter the plant (no new or different type of equipment will be installed). This change will not alter the operation of process variables, structures, systems, or components as described in the safety analysis. Thus, a new or different kind of accident will not be created.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The consequences of an unisolable rupture of an instrument line [have] been previously evaluated in response to RG 1.11 (reference DAEC UFSAR 1.8.1.1). That evaluation assumed a continuous discharge of reactor water for the duration of the detection and cooldown sequence (3.5 hours). The only margin of safety applicable to this proposed change is considered to be that implied by this evaluation. Since a continuous discharge was assumed in this evaluation, any potential failure of an EFCV to isolate postulated by this reduced testing frequency is bounded and does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869

NRC Section Chief: Claudia M. Craig

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: April 30, 1999.

Description of amendment request: The proposed amendment would revise Duane Arnold Energy Center (DAEC) Technical Specification (TS) Surveillance Requirement (SR) 3.4.3.1 to revise the safety function lift setpoint tolerance limits for the main safety valves (SVs) and the safety/relief valves (SRVs). The current tolerance bands for the SVs and SRVs would be revised from −3% to +1% to a new band of plus or minus 3%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change allows an increase in the as-found SV and SRVs safety mode setpoint tolerance, determined by test after the valves have been removed from service, from +1%/−3% to plus or minus 3%.

The proposed change does not alter the TS requirements on the nominal SV or SRV safety mode lift setpoints, the SRV relief mode setpoints, the required frequency for the SV or SRV lift setpoint tests, or the number of SVs and SRVs required to be operable.

Consistent with current requirements, this change continues to require that these valves be adjusted to within plus or minus 1% of their nominal lift setpoints following testing. This change does not change the behavior and operation of any SV or SRV and therefore has no significant impact on reactor operation. It also has no significant impact on response to any perturbation of reactor operation including transients and accidents previously analyzed in the Updated Final Safety Analysis Report (UFSAR).

This change does not involve physical changes to the valves, nor does it change the operating characteristics or safety function of the valves. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components. Therefore these changes will not increase the probability of an accident previously evaluated.

Generic considerations related to the change in setpoint tolerance were addressed in NEDC–31753P, ''BWROG In-Service Pressure Relief Technical Specification Revision Licensing Topical Report,'' and were reviewed and approved by the NRC in a Safety Evaluation (SE) dated March 8, 1993. The plant specific evaluations, required by the NRC's SE and performed to support this proposed change, show that there is adequate

margin to the design core thermal limits and to the reactor vessel pressure limits using a plus or minus 3% setpoint tolerance. They also show that operation of the high pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) systems will not be adversely affected and the containment response from a loss of coolant accident will be acceptable. The plant systems associated with these proposed changes will still be capable of meeting all applicable design basis requirements and retain the capability to mitigate the consequences of accidents described in the UFSAR. Therefore, these changes will not involve a significant increase in the consequences of any accident previously evaluated.

Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

These proposed changes were developed in accordance with the provisions contained in the NRC SE, dated March 8, 1993, for the ''BWR Owners Group Inservice Pressure Relief Technical Specification Revision Licensing Topical Report,'' NEDC–31753P. The revised SV and SRV setpoint tolerance limit will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve no significant hardware changes, no significant changes to the operation of any systems or components, and no changes to existing structures, systems, or components, there can be no impact on the occurrence of any accident.

The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to allow an increase in the SV and SRV safety mode setpoint tolerance from +1%/−3% to plus or minus 3% does not alter the nominal SV or SRV lift setpoints or the number of SVs or SRVs required to be operable. This change does not involve physical changes to the valves, nor does it change the operating characteristics or the safety function of the valves. The proposed change does not involve a physical alteration of the plant. No new or different equipment is being installed. There is no alteration to the parameters within which the plant is normally operated. As a result no new failure modes are being introduced. There are no changes in the methods governing normal plant operation, nor are the methods utilized to respond to plant transients altered.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The proposed change does not involve a significant reduction in a margin of safety. Establishment of the plus or minus 3% SV and SRV setpoint tolerance limit will not adversely impact the operation of any safety related component or equipment. Engineering evaluations concluded that there are no significant impacts on fuel thermal limits, safety related systems, structures or components, and no significant impact on the accident analyses associated with the proposed changes.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not significantly impact any safety analysis assumptions or results.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Claudia M. Craig.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: May 10, 1999.

Description of amendment request: The proposed amendment would revise Duane Arnold Energy Center (DAEC) Technical Specification (TS) Section 2.1.1.2, to revise the Safety Limit Minimum Critical Power Ratio (SLMCPR) to support operation with GE–12 fuel with a 10x10 pin array.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

There is no change to any plant equipment other than the fuel. The SLMCPR protects the fuel in accordance with the design bases. The SLMCPR calculations limit the bundle power to ensure the critical power ratio remains unchanged. Therefore, there is not an increase in the probability of transition boiling. The basis of the SLMCPR calculation remains the same, ensuring that greater than 99.9% of all fuel rods in the core avoid transition boiling if the limit is not violated. Therefore, there is no increase in the probability of occurrence of a previously evaluated accident.

The fundamental sequences of accidents have not been altered. The Minimum Critical Power Ratio (MCPR) Operating Limits are selected such that potentially limiting accidents do not cause the MCPR to decrease below the SLMCPR anytime during the accident. Therefore, there is no impact on any of the limiting accidents. Therefore there is no increase in the consequences of any accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SLMCPR values are designed to ensure that fuel damage from transition boiling does not occur in at least 99.9% of the fuel rods as a result of the limiting postulated accident. The values are calculated in accordance with NRC-approved General Electric methods. The approved General Electric methods are comprehensive for ensuring that fuel designs will perform within acceptable bounds. The SLMCPR ensures that the fuel is protected in accordance with the design basis. The function, location, operation, and handling of the fuel remain unchanged. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The SLMCPR values do not alter the design or function of any plant system. The new values were calculated using NRC-approved methods to maintain the same margin of safety as presently exists for the prevention of transition boiling. At least 99.9% of the fuel rods will avoid transition boiling if the SLMCPR is not violated. Therefore, a significant reduction in a margin of safety is not involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Claudia M. Craig.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: May 10, 1999.

Description of amendment request: The proposed amendment would revise Duane Arnold Energy Center (DAEC) Technical Specification (TS) to: (1)

insert NOTE for Limiting Condition for Operation (LCO) 3.7.4 that would allow intermittent opening of the control building boundary under administrative control; (2) add a CONDITION, REQUIRED ACTION and COMPLETION TIME to LCO 3.7.4 for when both standby filter unit (SFU) subsystems are inoperable due to inoperable control building boundary in MODES 1, 2, and 3; (3) re-letter items in LCO 3.7.4 for consistency; and (4) revise LCO 3.7.4 CONDITION D (new CONDITION E) to add ''for reasons other than CONDITION B.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Requiring the plant to enter LCO 3.0.3 when the control building pressure envelope is not intact is excessively restrictive. This change provides less restrictive requirements for operation of the facility. These less restrictive requirements do not result in operation that will increase the probability of initiating an analyzed event. The proposed change is acceptable because of the low probability (less than 3.04×10^{-8}) of a DBA [design basis accident] occurring during the 24 hour Completion Time, and the availability the SFU system to provide a filtered environment (albeit with potential control room in-leakage).

Intermittent opening of the control building boundary requires controls which consist of stationing a dedicated individual at the opening who is in continuous communication with the control room. This individual will have a method to rapidly close the opening when a need for control room isolation is indicated. For entry and exit through doors the administrative control is performed by the person entering or exiting the area. As a result, the consequences of any accident previously evaluated are not significantly increased.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. This change does not involve new or different equipment being installed at the facility. The proposed change is acceptable because of the low probability (less than 3.04×10^{-8}) of a DBA occurring during the 24 hour Completion Time, and the availability of the SFU system to provide a filtered environment (albeit with potential control room in-leakage).

Intermittent opening of the control building boundary requires controls which consist of stationing a dedicated individual at the opening who is in continuous communication with the control room. This individual will have a method to rapidly close the opening when a need for control building isolation is indicated. For entry and exit through doors the administrative control is performed by the person entering or exiting the area.

3. The proposed amendment will not involve a significant reduction in a margin of safety. Requiring the plant to enter LCO 3.0.3 when the control room ventilation envelope is not intact is excessively restrictive. The proposed change is acceptable because of the low probability (less than $3.04\times I0^{-8}$) of a DBA occurring during the 24 hour Completion Time.

Intermittent opening of the control room boundary requires controls which consist of stationing a dedicated individual at the opening who is in continuous communication with the control room. This individual will have a method to rapidly close the opening when a need for control building isolation is indicated. For entry and exit through doors the administrative control is performed by the person entering or exiting the area.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Claudia M. Craig.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 8, 1999.

Description of amendment request: The proposed change corrects the described method by which the Standby Gas Treatment system heaters are to be tested. This change is necessary because the reference provided in Technical Specification Section 5.5.7e is in error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The correction of an error and clarification of a testing method does not alter any of the precursors assumed in the CNS [Cooper Nuclear Station] accident analysis. The proposed wording for testing SGT [Standby Gas Treatment] heaters is in accordance with ASME N510–1989, Section 14.5.1, ''Testing of Nuclear Air Treatment Systems.'' Since the proposed change does not affect this portion of plant design and operation, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will not create the possibility of a new or different kind of accident than evaluated in the Updated Safety Analysis Report (USAR). The proposed change does not result in any physical change to CNS structures, systems, or components, nor does it change the fit, form, or function of any equipment or components taken credit for in the accident analyses described in the USAR. Therefore, correction of a test reference and specific description of the testing method for the SGT heaters does not create the possibility of a new or different kind of accident.

The proposed change will not create a significant reduction in the margin of safety. The proposed change does not alter the design or administrative controls necessary to ensure the required performance of the physical barriers during acticipated operational occurrences and postulated accidents. This conclusion is based on the fact that the proposed change corrects an erroneous reference, conforms to industry standards, and is consistent with past and current operating practice at CNS; therefore, the proposed change does not create a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 15, 1999.

Description of amendment request: The proposed change would allow the use of the service water (SW) system to directly supply cooling water to the reactor equipment cooling (REC) system during a loss-of-coolant accident (LOCA) event. The present maximum allowable REC water leakage rate is based on the requirement that there will be sufficient water in the REC surge tank to allow the REC system to fulfill its safety function for 30 days post-LOCA condition. A proposed Updated Safety Analysis Report (USAR) revision would allow Cooper Nuclear Station (CNS) to

revise the maximum allowable REC system leakage during normal power operation such that the REC system surge tank would assure that the REC would fulfill its safety function for at least the first 7 days following a large break LOCA. The SW system would fulfill the safety functions of the REC system, if required, for the remaining duration of the accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The licensee states that the proposed request:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve a significant increase in the probability of an accident previously evaluated in the USAR since there are no hardware changes associated with this USAR change. Procedure changes associated with this USAR change are limited to direction on which division of SW/REC backup to initiate first, and incorporation of new system leakage limits into surveillance procedures.

The proposed change also does not involve a significant increase in the consequences of an accident previously evaluated in the USAR. This conclusion is based on the safety evaluation (Attachment 2 [of the June 15, 1999, application]) which demonstrates that the SW system will fulfill the safety functions of the REC system in a post LOCA condition and thus the proposed change will not affect the performance and reliability of the REC system. The emergency systems cooled by the REC system, the ECCS [emergency core cooling] systems and their room coolers, will therefore also fulfill their safety function when directly supplied by the SW system.

2. Does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated in the USAR. The proposed license amendment does not introduce any new equipment or hardware changes. It does, however, allow the SW system to perform a different type of function than it is presently licensed to perform in a post LOCA condition. This SW system post LOCA function has been previously demonstrated to fulfill the functions of the REC in a non LOCA emergency shutdown which are the same as the functions required following a LOCA.

3. Does not create a significant reduction in the margin of safety.

The proposed activity does not involve a significant reduction in the margin to safety. The safety evaluation (Attachment 2) demonstrates that the SW system will perform the required REC post LOCA functions. There is an added required operator action which is to align the SW system to directly supply cooling water to the REC critical loops. As discussed in the safety evaluation [of the June 15, 1999, application], this action can be performed from the main control room utilizing one control switch and there is sufficient control room indication for the operator to be alerted to the need for the use of service water backup. There is also sufficient time for the operator to perform the task. Trending (prior to a postulated LOCA) routinely provides the control room operator with REC system leakage information. In a post LOCA situation, this leakage information would assist the operator in taking timely action to initiate the service water back-up before the need is alarmed in the control room.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 15, 1999.

Description of amendment request: The purpose of the requested license amendment is to revise the Updated Safety Analysis Report (USAR) to incorporate the latest analysis to demonstrate adequate net positive suction head (NPSH) for the low pressure emergency core cooling system (ECCS) pumps following a large break loss-of-coolant accident (LOCA). Specifically, the change would allow (1) reliance on a slightly larger amount of containment overpressure for residual heat removal (RHR) and core spray (CS) pump operation during worst-case long-term LOCA conditions (greater than 1000 seconds) while still maintaining original license margins of 3 and 6 pounds per square inch (psi), respectively, for the difference between minimum available containment pressure and the pressure required for minimum pump NPSH, (2) reliance on a small amount of containment overpressure for CS pump runout during worst-case short-term LOCA conditions (less than 10 minutes) while still maintaining an adequate pressure margin of at least 5 psi, and (3) the use of ANS 5.1 decay heat model in the USAR Section 5.2.6 as currently presented based on analysis justifying the use of this model as described in the amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve an increase in the probability of an accident previously evaluated in the USAR. There are no changes being proposed to the maintenance, operation, or design of plant systems or equipment postulated to initiate accidents or transients.

The proposed change does not involve an increase in the consequences of an accident previously evaluated in the USAR. This conclusion is based on the conclusions of the safety evaluation (Attachment 2 [of the June 15, 1999, application]). This safety evaluation demonstrates that the containment overpressure is sufficiently conservative, and that the calculated margins between the available containment overpressure and the overpressure required to assure adequate low pressure ECCS pump NPSH are such that ECCS pump operation, as credited in the CNS [Cooper Nuclear Station] accident analysis, remains unchanged.

2. Does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated in the USAR. The proposed license amendment does not introduce any new equipment or hardware changes. The attached safety evaluation demonstrates that the only equipment affected by this License Amendment are the low pressure ECCS pumps and that these will retain their ability to function following a LOCA.

3. Does not create a significant reduction in the margin of safety.

The proposed activity does not involve a significant reduction in the margin of safety. The safety evaluation (Attachment 2) demonstrates that, although there is an increased reliance on containment overpressure to assure adequate low pressure ECCS pump NPSH, there remains sufficient margin to provide confidence that the ECCS pumps will operate as required. Sufficient margin is demonstrated with the added conservatism of a 2-sigma (2 standard deviation) uncertainty in the decay heat model, increased suction strainer debris loading, increased RHR heat exchanger tube plugging margin, and increases in SW [Service Water] and Suppression Pool temperatures. The minimum margin available between available overpressure and required overpressure is at least 5 psi for CS (just prior to 10 minutes) and at least 3 psi for RHR (well after 10 minutes).

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 23, 1999.

Description of amendment request: The proposed change to the Technical Specifications would increase the allowed outage time for the Control Room Air Conditioning Subsystem from 30 days to 60 days, on a one-time basis only, for each train.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operational requirements for the Control Room Air Conditioning Subsystems (CRACS) are contained in Technical Specification 3.7.6.2 ''Control Room Subsystems Air Conditioning.'' This Limiting Condition for Operation (LCO) requires that two independent Control Room Air Conditioning Subsystems (trains) be operable during all modes of operation. The LCO action statement for operational modes 1, 2, 3 and 4, with one Control Room Air Conditioning Subsystem inoperable, states: ''restore the inoperable system to operable status within 30 days or be in at least Hot Standby [Mode 3] within the next 6 hours and in Cold Shutdown within the following 30 hours.'' The LCO action statement for operational modes 5 and 6 with one Control Room Air Conditioning Subsystem inoperable, states: ''restore the inoperable system to operable within 30 days or initiate and maintain operation of the remaining OPERABLE Control Room Air Conditioning Subsystem or immediately suspend all operations involving CORE ALTERATIONS or positive reactivity changes.''

The proposed change adds the following note: ''* For cycle 7, the allowable outage time may be extended to 60 days, on a one-time basis, for each train, to implement modifications to the control room air conditioning subsystems. The provisions of specifications 3.0.4 and 4.0.4 are not applicable during the implementation of modifications to the air conditioning subsystems.''

This change is a one-time only change to Technical Specification 3.7.6.2 in order to facilitate the installation of a design change to the CRACS during the present operating cycle. This change will not affect the existing 30 [day] AOT period presently in place in Technical Specification 3.7.6.2 which requires specific actions in the event that the CRACS is determined to be inoperable for any other reason. The design basis accidents are not affected as a result of the proposed one-time change to the Technical Specifications. The CRACS are support subsystems which can only contribute to the initiation of an accident if the whole function is lost. The plant would be required to shutdown before this occurred. The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility (other than the CRACS) or the manner in which the plant is operated nor does it adversely affect the response of the plant to a transient or accident. This one-time change is to be utilized only during the present operating cycle (cycle 7) in order to facilitate the implementation of a design change to modify the existing safety-related refrigerant subsystems (one train at a time) and replace them with safety-related chilled water subsystems. This design change is being implemented to improve the overall reliability of the safety-related subsystems.

The consequences of an extended loss of the operating CRACS and the non-safety related chilled water subsystem, during all modes of operation, would result in a slow gradual rise in control room temperature. The temperature of the control room is normally maintained between 70 to 72°F at the discretion of the Unit Shift Supervisor utilizing a non-safety-related train of CRACS. In the event that the control room temperature increased to a temperature greater than 75°F, plant procedures require starting other equipment in the non-safety-related chilled water subsystem or a safety-related train of CRACS to restore control room temperature to its normal operating band. In the unlikely event that the non-safety-related chilled water subsystems and the operable safety-related train of CRACS fail during the proposed 60 day AOT period, Technical Specification 3.7.6.2 would require that actions be commenced to place the plant in a shutdown condition. Additionally, alternative actions to reduce control room temperature could also be initiated as identified in a plant procedure. It has been conservatively determined that safety-related equipment in the control room can be operated continuously up to 90°F in an environment without affecting the capability of the equipment.

The exception to specifications 3.0.4 and 4.0.4 as stated in the proposed one-time change to Technical Specification 3.7.6.2 will not involve an increase in the probability or consequences of an accident. TS 3.0.4 prohibits entry into a mode when the conditions for the LCO are not met and the associated action(s) requires a shutdown if they are not met within a specified time interval. Surveillance Requirement 4.0.4 prohibits entry into a mode unless the associated surveillance requirement(s) has been performed within the stated interval. During the implementation of the modification, when one safety-related train of CRACS is inoperable, it is possible that a plant shutdown could occur due to reasons unrelated to the planned modifications of the CRACS. As stated above, the CRACS are support subsystems which do not contribute to the initiation of any accident previously evaluated. Entry of the plant into an operational mode from a shutdown mode as a result of the proposed modification does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility (other than the CRACS) or the manner in which the plant is operated nor does it adversely affect the response of the plant to a transient or accident. The functions of the CRACS to provide a controlled environment inside of the control room complex to ensure the comfort of the plant operators and to ensure adequate climate conditions for the operability of equipment will not be impaired in any way as a result of a plant mode change. The remaining actions identified in TS 3.7.6.2 are unchanged as a result of the proposed change. The risk significance involved with removing a safety-related train of the CRACS during power operation or during refueling conditions is low based on the short period (60 days per train) and consequences of losing this function. The CRACS is excluded from modeling in the Seabrook Station Probabilistic Risk Assessment (PRA) due to its extremely low risk significance.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated since it is a support system and the loss of function will require a plant shutdown. The proposed change adds the following note which pertains to both affected action statements: ''* For cycle 7, the Allowable Outage Time may be extended to 60 days, on a one-time basis, for each train during the implementation of modifications to the control room air conditioning subsystems. The provisions of specifications 3.0.4 and 4.0.4 are not applicable during the implementation of modifications to the air conditioning subsystems.'' As previously identified, this change is a one-time only change to Technical Specification 3.7.6.2 in order to facilitate the installation of a design change to CRACS during the present operating cycle.

The CRACS are support subsystems which do not contribute to the creation of a new or different kind of accident from any previously evaluated nor is it used to mitigate the consequences of a transient or accident. The functions of the CRACS are to provide a controlled environment inside of

the control room complex to ensure the comfort of the plant operators and to ensure adequate climate conditions for the operability of equipment. The CRACS consists of two independent safety-related air conditioning trains that provide cooling of recirculated control room air. Due to previous reliability problems with the CRACS, an additional non-safety chilled water subsystem has been installed to provide control room cooling on a continuous basis. Baseload operation of the non-safety related chilled water subsystem to provide control room cooling reduces the operational load on the safety-related refrigerant trains.

Implementation of the modification to the CRACS subsystems during the 60 day AOT duration in no way affects the availability of the non-safety-related chilled water subsystem or the operable safety-related train of the CRACS to meet the control room cooling requirements. The proposed modification removes freon from the control room complex and the quantity of chilled water in the closed loop system is too small to become a flood hazard. The consequences of an extended loss of the operating CRACS train and the non-safety related chilled water subsystem would result in a slow gradual rise in control room temperature. In the event that control room temperature increased to a temperature greater than 75°F, plant procedures require starting either the non-safety-related chilled water subsystem or a safety-related train of CRACS to restore control room temperature. Additionally, in the unlikely event of a loss of the non-safety related chilled water subsystem and the operable safety-related train of the CRACS, Technical Specification 3.7.6.2 would require that actions be taken to place the plant in a shutdown condition.

It has been conservatively determined that safety-related equipment in the control room can be operated continuously in an environment up to 90°F without affecting the capability of the equipment. This proposed change will not affect the existing 30 day AOT period presently in place in Technical Specification 3.7.6.2 which requires specific actions in the event that the CRACS is determined to be inoperable for any other reason.

The exception to specifications 3.0.4 and 4.0.4 as stated in the proposed one-time change to Technical Specification 3.7.6.2 will not involve the creation of an accident of any type. During the implementation of the proposed modification, when one safety-related train of CRACS is inoperable, it is possible that a plant shutdown could occur due to reasons unrelated to the planned modifications of the CRACS. Entry of the plant into an operational mode from a shutdown mode as a result of the proposed modification does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility or the manner in which the plant is operated nor the manner that it responds to a transient or accident. The functions of the CRACS to provide a controlled environment inside of the control room complex to ensure the comfort of the plant operators and to ensure adequate climate conditions for the operability of equipment will not be impaired in any way as a result of a plant mode change. The remaining actions identified in TS 3.7.6.2 are unchanged as a result of the proposed change.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed one-time change to Technical Specification 3.7.6.2 will not involve a significant reduction in the margin of safety. The functions of the CRACS are to provide a controlled environment inside of the control room complex to ensure the comfort of the plant operators and to ensure adequate climate conditions for the operability of equipment. The CRACS consists of two independent safety-related air conditioning trains that provide cooling of recirculated control room air. Additionally, the Seabrook Station design incorporates the use of a non-safety chilled water subsystem (which is not within the scope of the Technical Specifications) to provide baseload cooling of the control room on a continuous basis.

Implementation of the modification to the CRACS subsystems during the 60 day AOT duration does not result in a significant reduction in the plant margin of safety. As previously identified, the CRACS is a support subsystem and the existing Technical Specifications will require a plant shutdown on a loss of function. The risk significance involved with removing a safety-related train of the CRACS is extremely low based on the short period (60 days per train) and the consequences of losing this function. The potential that the non-safety-related chilled water subsystem and the operable safety-related train of CRACS simultaneously fail during the proposed 60 day AOT period of each safety-related train (120 days total) is considered unlikely. In the event that control room temperature increased to a temperature greater than 75°F, plant procedures require starting either the non-safety-related chilled water subsystem or a safety-related train of CRACS to restore control room temperature. Additionally, in the unlikely event of a loss of the non-safety related subsystem and the operable safety-related train of the CRACS, Technical Specification 3.7.6.2 would require that actions be taken to place the plant in a shutdown condition. Alternative actions to reduce control room temperature could also be initiated as identified in a plant procedure. It has been conservatively determined that safety-related equipment in the control room can be operated continuously in an environment up to 90°F without affecting the capability of the equipment.

The exception to specifications 3.0.4 and 4.0.4 as stated in the proposed one-time change to Technical Specification 3.7.6.2 will not reduce the margin of safety. During the implementation of the proposed modification, when one safety-related train of CRACS is inoperable, it is possible that a plant shutdown could occur due to reasons unrelated to the planned modifications of the CRACS. Entry of the plant into an operational mode from a shutdown mode as a result of the proposed modification does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility or the manner in which the plant is operated. The functions of the CRACS to provide a controlled environment inside of the control room complex to ensure the comfort of the plant operators and to ensure adequate climate conditions for the operability of equipment will not be impaired in any way as a result of a plant mode change. The remaining actions identified in TS 3.7.6.2 are unchanged as a result of the proposed change.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: May 17, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) section 4.4.6.2.2.e to replace the reference to American Society of Mechanical Engineers (ASME) Code paragraph IWV–3472(b) which pertains to the frequency of leakage rate testing for 6-inch, nominal pipe size valves and larger with the requirement that the surveillance interval and frequency of surveillance leakage rate testing for these valves be performed pursuant to the requirements of TS 4.0.5, ''Operations and Surveillance Requirements.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the NRC its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Eliminating the reference to ASME Code paragraph IWV–3427(b) and

performing pressure isolation valve (PIV) testing pursuant to TS 4.0.5 does not change the test conditions for PIV leakage testing and is consistent with the currently analyzed configurations. This change eliminates an unnecessary test requirement and incorporates Westinghouse Owner's Group (WOG) Standard Technical Specifications (STS) frequency requirements that are deemed to substantially reduce the probability of an intersystem loss-of-coolant-accident. This change in testing frequency requirements does not affect the accident mitigation capabilities of the reactor coolant system (RCS) PIVs. This change is bounded by existing accident analyses. Therefore, it is concluded that, with the reduced probability of previously analyzed accidents, and no effect on accident mitigation, the proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Eliminating the IWV–3427(b) trending for 6-inch and larger valves (and the accompanying increased frequency testing requirement) does not significantly change actual testing frequencies since the frequencies continue to be addressed by the remaining TS requirements. This change does not affect the ability of a PIV to perform its required RCS pressure isolation safety function of limiting RCS leakage to prevent overpressure failure of attached low pressure systems. The frequency of testing or the testing itself are not initiating events to postulated accidents. Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in the margin of safety.

There is no impact on the Margin of Safety as defined in the bases of any TS, the Updated Final Safety Analysis Report, or other licensing basis commitments resulting from the elimination of the reference to ASME Code paragraph IWV–3427(b). Periodic surveillances provide continued assurance in the capability of safety related equipment to perform its design safety (accident mitigating) function and are not used to establish the margin of safety for accident mitigation. Therefore, the frequency of surveillance testing of the PIVs has no impact on the margins of safety assumed in analyzed accidents.

In its evaluation, NNECO concluded, based on its evaluation as required by 10 CFR 50.92, that the proposed revision does not involve a SHC.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment requests: May 13, 1999.

Description of amendment requests: The proposed amendments would modify Technical Specification (TS) 6.2.A.2, ''Onsite and Offsite Organizations,'' to reflect a change in the organizational structure implemented on March 1, 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is administrative in nature and does not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. Neither does the change significantly affect any system that is used to mitigate any previously evaluated accidents. Therefore, the proposed change does not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed change is administrative in nature and does not alter the design, function, or operation of any plant component nor does the proposed change install any new or different equipment, therefore the possibility of a new or different kind of accident from those previously analyzed has not been created.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

The proposed change is administrative in nature and does not involve a significant reduction in the margin of safety associated with the safety limits inherent in either the fuel cladding, RCS [reactor coolant system] boundary, reactor containment, or other structures, systems, or components (SSCs).

NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Claudia M. Craig.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: June 7, 1999.

Description of amendment request: The proposed amendments, if approved, would revise Technical Specifications (TS) Section 3/4.4.3 and its associated TS Bases to reflect changes to refine and clarify the action statement concerning inoperable reactor coolant leakage detection systems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes directly establish the minimum acceptable level of Reactor Coolant System (RCS) leakage detection instrumentation required to support plant power operations. The level of RCS leakage detection capability inherent with the proposed TS change will continue to provide acceptable early warning detection of potential RCS pressure boundary degradation as required under 10 CFR 50.36 (c)(2)(ii) (A) Criterion 1.

Therefore, the proposed TS changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes only affect systems associated with the detection of accidents involving degradation of the RCS

pressure boundary. The proposed TS changes do not involve any physical changes to plant structures, systems, or components. The RCS Leakage Detection Systems will continue to function as designed in all modes of operation. No new accident type is created as a result of the proposed changes. No new failure mode for any equipment is created. The changes are consistent with the guidance provided in [Standard Technical Specifications General Electric Plants BWR/4 dated April 1995] NUREG–1433, Revision 1, pertaining to RCS Leakage Detection.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in the margin of safety.

The TS Limiting Conditions for Operation (LCO) specify for systems and equipment important to safety, the minimum level of operability required to permit continued power operation. The proposed TS changes revise this minimum level of operability by permitting long term plant operation with the removal of the Drywell Unit Coolers Condensate Flow Rate Monitoring System from service. Currently, this condition would permit the plant to continue to operate for up to 30 days. This change is not a reduction in the margin of safety since:

The proposed Technical Specification LCO change for RCS Leakage Detection Systems maintains four (4) diverse methods of detecting RCS leakage and permits continuous operation with the Drywell Unit Coolers Condensate Flow Rate Monitors out of service provided that more frequent surveillance checks are provided for the containment atmosphere monitoring system. The proposed TS change institutes the additional surveillance requirements.

The LGS reactor coolant pressure boundary was designed to ASME Class 1, Seismic Category I design criteria with no special dispensation which would warrant such additional RCS leakage detection capability or more stringent LCO criteria than those generically approved under the Improved Standard Technical Specifications.

Review of the TS Bases Section and UFSAR identified no discussions regarding margin of safety for the RCS Leakage Detection Systems, which would be reduced by the proposed Technical Specification LCO change. It is further demonstrated that an acceptable margin of safety exists based on the generic regulatory approval of the Improved Standard Technical Specifications which will remain bounded by the proposed LGS TS changes.

Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Attorney for licensee: J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: August 27, 1998.

Description of amendment request: The proposed amendment would revise the Facility Operating (Possession-Only) License and the Permanently Defueled Technical Specifications. Multiple license conditions and technical specification requirements are proposed to be deleted to reflect the transfer of the nuclear spent fuel from the existing 10 CFR Part 50 licensed area to the 10 CFR Part 72 Independent Spent Fuel Storage Installation (ISFSI) area.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed amendment reflects removal of the spent nuclear fuel from the 10 CFR 50 licensed area and transfer of the spent nuclear fuel to the 10 CFR 72 ISFSI licensed area. The probability and consequences of accidents associated with storage of spent nuclear fuel within the TNP [Trojan Nuclear Plant] ISFSI were evaluated as part of PGE's 10 CFR 72 license application. Following completion of the transfer of the spent nuclear fuel to the 10 CFR 72 licensed ISFSI and in light of the revised Appendix A Technical Specification, Section 4.2, that precludes storage of spent nuclear fuel within the 10 CFR 50 licensed area, the potential for accidents associated with the storage and handling of fuel in the 10 CFR 50 licensed area will be eliminated. Therefore, deleting those technical specifications associated with spent nuclear fuel will not result in a significant increase in the probability or consequences of accidents previously analyzed.

The proposed license amendment also relocates administrative requirements from Section 5.0 of the Technical Specifications to topical report PGE–8010, ''TNP Nuclear Quality Assurance Program.'' Relocation of administrative requirements follows the guidance provided in NRC Administrative Letter 95–06. Relocating these administrative requirements will not result in changes in method of operation of any plant equipment, therefore these changes will not result in a significant increase in the probability or consequences of accidents previously evaluated.

The proposed license amendment will delete the on duty shift manning requirements (Technical Specification 5.2.2a). With removal of the spent nuclear fuel from the 10 CFR 50 licensed area, there are no remaining important to safety systems required to be monitored. With removal of the spent nuclear fuel from the 10 CFR 50 licensed area, there are no remaining credible accidents which require the actions of a Shift Manager or non-certified operator to prevent occurrence or mitigate consequences. Therefore, deleting the shift manning requirements will not result in an increase in the probability or consequences of an accident previously analyzed.

Deleting the Independent Review and Audit Committee (IRAC) is also proposed in this license amendment request. The responsibility of IRAC is to review and advise the Plant General Manager on matters relating to the safe storage of irradiated fuel. Since approval of this license amendment request is contingent upon removal of the spent nuclear fuel from the 10 CFR 50 licensed area and a revised Technical Specification Section 4.2 prevents future storage, deleting IRAC will not result in an increase in the probability or consequences of an accident previously evaluated.

This license amendment request proposes to revise and relocate License Condition 2.C.(8), Fire Protection, to the TNP Quality Assurance Program (PGE-8010). The revised text removes requirements associated with making changes that could adversely impact the safe storage of irradiated fuel. Following removal of the spent nuclear fuel from the 10 CFR 50 licensed area and implementation of the proposed revision to Technical Specification Section 4.2, irradiated fuel will not be stored within the 10 CFR 50 licensed area so this change will not result in an increase in the probability of occurrence or consequences of accidents previously analyzed. Relocation of the remaining requirements contained in this license condition to the TNP Quality Assurance Program (PGE–8010) will provide the necessary administrative control to ensure that changes to the fire protection program will not increase the likelihood of an offsite release of radioactive material due to a fire. Therefore, this change will not result in an increase in the probability of occurrence or consequence of accidents previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment reflects the reduced operational risks within the 10 CFR 50 licensed area after the spent nuclear fuel has been transferred to the ISFSI. In addition, administrative controls contained in Section 5.0 of the Technical Specifications will [be] relocated to PGE–8010, TNP Nuclear Quality Assurance Program. These changes have no impact on plant equipment and only an administrative impact on some of the procedures used for operating plant equipment, which may still be needed within the 10 CFR 50 licensed area following the

transfer of the spent nuclear fuel to the 10 CFR 72 ISFSI license area. This proposed amendment does not result in the addition of new equipment or result in the alteration of the operation of existing structures, systems, or components. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed 10 CFR 50 license amendment eliminates those technical specifications and license conditions associated with the storage of spent nuclear fuel. Following transfer of the spent nuclear fuel to the 10 CFR 72 ISFSI, the potential for fuel related accidents will be eliminated from the 10 CFR 50 licensed area. Therefore, removal of those technical specifications and license conditions associated with the safe storage of spent nuclear fuel will not involve a significant reduction in a margin of safety.

Relocating administrative programs in Technical Specification, Section 5.0, ''Administrative Controls,'' follows the guidance of NRC Administrative Letter 95–06. With the exception of deleting those administrative controls associated with storage of spent nuclear fuel, the administrative programs will be relocated to the TNP Quality Assurance Program (PGE–8010). This administrative relocation of requirements does not involve a significant reduction in a margin of safety.

This proposed amendment also requests deleting several license conditions and relocating License Condition 2.C.(8), ''Fire Protection.'' The deleted license conditions were related to either power operations or activities which have been completed and are no longer required. Relocating License Condition 2.C.(8), ''Fire Protection,'' to the TNP Quality Assurance Program (PGE–8010) will continue to maintain the required level of administrative control for the fire protection program since changes to PGE–8010 are controlled in accordance with the requirements of 10 CFR 50.54(a)(3). Deleting these license conditions will, therefore, not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Section Chief: Michael T. Masnik.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 7, 1999, as supplemented by letter dated June 24, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 2.0, Safety Limits and Limiting Safety System Settings, TS 3.2.5, DNB [Departure from Nucleate Boiling] Parameters, and the associated Bases, and Administrative Controls Section 6.9.1.6, Core Operating Limits Report (COLR), by relocating cycle-specific reactor coolant system-related parameter limits from the TSs to the COLR. This would allow for flexibility to enhance plant operating margin and/or core design margins without the need for cycle-specific license amendment requests.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment is a programmatic and administrative change that does not physically alter safety-related systems, nor does it affect the way in which safety-related systems perform their functions. Because the design of the facility and system operating parameters are not being changed, the proposed amendment does not involve an increase in the probability or consequences of any accident previously evaluated.

The cycle-specific limits in the Core Operating Limits Report will continue to be controlled by the STP [South Texas Project] programs and procedures. Each accident analysis addressed in the UFSAR [Updated Final Safety Analysis Report] will be examined with respect to changes in the cycle-dependent parameters, which are obtained from the use of NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be conducted per the requirements of 10CFR50.59, will ensure that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety limits imposed in Technical Specification 2.1.1.1 and 2.1.1.2 are consistent with the values stated in the STP Updated Final Safety Analysis Report. The Reactor Coolant System Flow value in the Technical Specifications will be changed from the Minimum Measured Flow to the Thermal Design System Flow (approved by the Nuclear Regulatory Commission in Amendments 97 and 84 on September 29, 1998) consistent with WCAP–14483–P–A ['Generic Methodology for Expanding Core Operating Limits Reports']. This change does not involve an increase in the probability or consequences of any accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removal of cycle specific variables has no influence or impact on, nor does it contribute in any way to the probability or consequences of an accident. No safety-related equipment, safety function, or plant operation will be altered as a result of this proposed change. The cycle specific variables are calculated using the NRC-approved methods, and submitted to the NRC to allow the staff to continue to trend the values of these limits. The Technical Specifications will continue to require operation within the core operating limits, and appropriate actions will be required if these limits are exceeded. The safety limits imposed in Technical Specification 2.1.1.1 and 2.1.1.2 are consistent with the values stated in the STP Updated Final Safety Analysis Report. The Reactor Coolant System Flow value in the Technical Specifications will be changed from the Minimum Measured Flow to the Thermal Design Flow (approved by the Nuclear Regulatory Commission in Amendments 97 and 84 on September 29, 1998) consistent with WCAP–14483–P–A. This proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is not affected by the removal of cycle specific core operating limits from the Technical Specifications. The margin of safety presently provided by current Technical Specifications remains unchanged. Appropriate measures exist to control the values of these cycle specific limits. The proposed amendment continues to require operation within the core limits as obtained from NRC-approved reload design methodologies, and the actions to be taken if a limit is exceeded remain unchanged.

The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, each future reload will involve a 10CFR50.59 safety review to assure that operation of the unit within cycle-specific limits will not involve a significant reduction in the margin of safety.

The safety limits imposed in Technical Specification 2.1.1.1 and 2.1.1.2 are consistent with the values stated in the STP Updated Final Safety Analysis Report. The Reactor Coolant System Flow value in the Technical Specifications will be changed from the Minimum Measured Flow to the Thermal Design System Flow (approved by the Nuclear Regulatory Commission in Amendments 97 and 84 on September 29, 1998) consistent with WCAP–14483–P–A. This proposed change does not involve a significant reduction in the margin of safety.

The proposed amendment is a programmatic and administrative change that provides assurance that plant operations continue to be conducted in a safe manner. As stated previously, the proposed amendment does not physically alter safety-related systems, nor does it affect the way in which safety-related systems perform their functions. Because the design of the facility and system operating parameters are not being changed, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges, Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of amendment request: June 3, 1999.

Description of amendment request: The proposed amendment would modify the Technical Specifications to reduce the Allowable Value (Av) used for Reactor Vessel Water Level—Low, Level 3 for several instrument functions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Reactor Vessel Water Level—Low, Level 3 functions are in response to water level transients and are not involved in the initiation of accidents or transients. Therefore, reducing the Level 3 Av does not increase the probability of an accident previously evaluated. Additionally, the results of the safety evaluation associated with the lowering of the Level 3 Av concludes that the previously evaluated transient and accident consequences are not significantly affected by the change. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment to lower the BFN Units 2 and 3 Reactor Vessel Water Level—Low, Level 3 Av does not involve a hardware change and the purpose of the Level 3 function is not affected. The Level 3 functions will continue to fulfill their design objective. Therefore, reduction of the Av does not result in the possibility of a new or different kind of accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The results of the safety evaluation associated with the reducing the BFN Units 2 and 3 Reactor Vessel Water Level—Low, Level 3 Av concluded that transient and accident consequences remain within the required acceptance criteria. Therefore, the margin of safety is not reduced for any event evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, 405 E. South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Sheri R. Peterson.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, Somervell County, Texas

Date of amendment request: June 23, 1999.

Brief description of amendments: The proposed license amendments would change the way in which the Emergency Diesel Generator (EDG) automatic trips are tested in Surveillance Requirement (SR) 3.8.1.13. A note would also be added to specify the CPSES, Unit 2, test schedule in SR 3.8.1.13.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The emergency diesel generators are used to support mitigation of the consequences of an accident and are not considered to be initiator of any previously analyzed accident. Revising the surveillance to verify the bypass of non-critical EDG trips on both LOOP [loss of offsite power] and SI [safety injection] separately enhances the ability of the EDG to perform its safety function by ensuring continued operation during DBAs [design-basis accidents].

Therefore, this change will not result in an increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change to the surveillance requirement involves an EDG start circuit modification. The circuit modification has been previously installed on Unit 2 during 2RF04 [CPSES Unit 2, fourth refueling outage] for reasons other than the issue associated with the FWLB [feedwater line break]. As a part of the Unit 2 installation a 50.59 evaluation was performed and it was determined that the modification did not represent an unreviewed safety question. The modification similar to Unit 2 will be implemented on Unit 1 and therefore, as concluded in the safety evaluation for the original modification, no new failure mechanisms will be introduced by the proposed change. The EDGs are designed to provide electrical power to equipment important to safety in the event of a loss of offsite power. The proposed change to the SR enhances the confidence that the EDGs will start and fulfill their safety related function.

Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed change will not alter any accident analysis assumptions, initial conditions, or results. Revising the surveillance requirement to verify the EDG trip bypass for the LOOP and SI separately will enhance the confidence that the EDG starts as assumed in the safety analyses and does not create any new failure scenarios and no margin is reduced.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gram.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: April 16, 1999, as superseded on June 9, 1999.

Description of amendment request: The licensee proposed clarifying the inservice inspection requirements for Vermont Yankee Nuclear Power Station regarding the granting of relief from ASME Code requirements by the NRC. The licensee also proposed changes to reflect the previous NRC approval of the use of ASME Code Case N–560 at Vermont Yankee Nuclear Power Station.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated?

This change is only an administrative change that: (1) clarifies the NRC's authority to grant relief to a specific requirement, and (2) conforms the TS language regarding GL 88–01 to agree with the NRC's acceptance of ASME Code Case N–560 for use at VY. This conclusion is justified in that:

(a) The pursuit of relief from the ASME code and the imposition of alternative requirements are governed by 10CFR50.55a and require NRC approval. There are several sections in the regulations under which such relief can be granted. The removal of reference to a specific section of CFR that may be used to grant relief has no effect on plant equipment or its operation.

(b) Adding words to clarify the relationship between GL 88–01 and Code Case N–560 eliminates a contradiction in sample selection criteria and does not affect any equipment or its operation.

These changes can be considered administrative in nature and do not change any of the accident analyses for the facility. Thus, there are no changes to the probability or consequences of accidents previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revision of the wording in the TS to generalize the granting of relief to the ASME code does not result in any changes to the plant equipment or its operation. Similarly, adding words to allow use of the NRC-approved alternative to the sample selection guidance provided in GL 88–01 does not impact plant equipment or its operation. These changes are administrative in nature and do not result in the creation of any new or different kinds of accidents.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

This change primarily revises the wording in the TS to clarify the NRC's authority to grant relief to ASME Section XI requirements. The change maintains the requirement for NRC approval to be obtained for such relief. Secondly, this change conforms the TS language regarding GL 98–01 to agree with a previous relevant NRC disposition [Reference (e)]. [The staff notes that reference (e) is an NRC letter dated November 9, 1999, which approved the use of Code Case N–560 at Vermont Yankee Nuclear Power Station.] These administrative changes do not result in a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: June 24, 1999

Description of amendment request: The amendment clarifies the basis for the reactor protection system bypass of the turbine stop valve (TSV) closure and turbine control valve (TCV) fast closure scram signals at low power. The amendment clarifies that the analytical basis for this bypass corresponds to a fraction of reactor rated thermal power and not other measures of power, for instance, turbine power.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change clarifies the basis for the reactor protection system bypass of the turbine stop valve closure and turbine control valve fast closure scram signals. Consideration of the bypass function itself only applies to certain pressurization transients and not accident analyses.

The change properly states the basis for the scram bypass and relates it to reactor thermal power and precludes potential misinterpretation of the basis for the bypass setpoint. Turbine power lags reactor power over the range of concern. Therefore, changing terminology related to ''power'' to mean ''reactor power'' instead of ''turbine power'' is conservative. Accordingly, this change can not be less restrictive.

The low power (TSV closure and TCV fast closure) scram signal bypass does not initiate or mitigate any accident considered in the Updated Final Safety Analysis Report. This function is enabled at higher power to mitigate the effects of the pressurization transient which results from TSV closure or TCV fast closure. This change will not alter assumptions relative to the initiation or mitigation of any accident event.

This change will not involve a significant increase in the probability or consequences of an accident previously evaluated since there is no physical alteration of the plant configuration or relaxation of setpoints or operating parameters.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The reactor protection system bypass of the turbine stop valve closure and turbine control valve fast closure scram signals is not considered an initiator of any accident. This change to clarify the basis for applicability of the bypass does not create any new or different kind of accident since it does not involve any change in the physical configuration of the plant, nor relaxation of setpoints or operating parameters.

VY has determined that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the change merely adds a more restrictive interpretation to current terminology.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The change involves reducing the potential for misinterpreting the basis for the reactor protection system bypass of the turbine stop valve closure and turbine control valve fast closure scram signals and consequent potential for nonconservative operation of the plant. As a result, the potential for operation of the plant in an unsafe condition is reduced, thereby maintaining the margin of safety.

VY has determined that the proposed change does not involve a significant reduction in a margin of safety since operation of the plant consistent with analytical bases of operation is further assured.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and

Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Notice of Issuance of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items 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 rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: March 30, 1999.

Brief description of amendments: The amendments revised license conditions in each of the operating licenses to delete those license conditions that no longer apply, make an editorial change in the Unit 1 license, and provide clarifying information regarding the license condition in each license concerning equalizer valve restrictions.

Date of issuance: June 25, 1999.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 188 & 185.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the licenses.

Date of initial notice in **Federal Register**: May 5, 1999 (64 FR 24195).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: March 30, 1999.

Brief description of amendment: The amendment adds Section 4.0.2 to allow a 24-hour grace period for performing inadvertently missed surveillance.

Date of issuance: June 25, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 202.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 19, 1999 (64 FR 27317).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: March 30, 1999.

Brief description of amendment: The amendment adds Section 4.0.2 to allow a 24-hour grace period for performing inadvertently missed surveillance.

Date of issuance: June 25, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 202.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 19, 1999 (64 FR 27317).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: August 6, 1998, as supplemented by letter dated May 18, 1999.

Brief description of amendment: The amendment approves a change to Technical Specification (TS) 3.1.3.2, ''Position Indicator Channels—Operating,'' which adopts requirements that are consistent with NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants.'' In addition, the amendment approves the relocation of TS Table 3.8–1, ''Containment Penetration Conductor Overcurrent Protective Devices,'' to licensee control procedures in accordance with the guidance provided in Generic Letter 91–08, ''Removal of Component Lists From Technical Specifications.''

Date of issuance: June 29, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 208.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56245).

The May 18, 1999, letter provided clarifying information that did not change the scope of the original application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 17, 1996, as supplemented by letters dated October 22, 1998, and January 12 and February 5, 1999.

Brief description of amendment: The amendment extends the surveillance test interval for the reactor trip circuit breakers from monthly to quarterly and revises the appropriate Bases page.

Date of issuance: June 29, 1999.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 153.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 9, 1998 (63 FR 48261).

The October 22, 1998, and January 12 and February 5, 1999, letters provided additional information that did not extend the scope of the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: October 27, 1998, supplemented March 19, 1999.

Brief description of amendment: This amendment relocates a TS surveillance requirement from TS Section /4.6.5.1, ''Shield Building—Emergency Ventilation System'' to TS Section 3/4.6.5.2, ''Shield Building Integrity.'' Administrative and bases changes have also been made.

Date of issuance: June 22, 1999.

Effective date: June 22, 1999.

Amendment No.: 233.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 64125). The March 19, 1999, supplement to the application did not expand the scope of the original application as noticed, and did not change the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit 3, Citrus County, Florida

Date of application for amendment: August 31, 1998, as revised on March 18, 1999.

Brief description of amendment: The amendment approves changes to the Improved Technical Specifications to allow a repair roll process which would be used to repair steam generator tubes with defects within the upper tubesheet. Changes to inservice inspection and reporting requirements and several format and editorial changes were also included.

Date of issuance: June 28, 1999.

Effective date: As of date of issuance, to be implemented prior to commencing Cycle 12 operation.

Amendment No.: 179.

Facility Operating License No. DPR–72: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56249). The revised submittal dated March 18, 1999, expanded the scope of the amendment request as originally noticed, and the application was renoticed on April 21, 1999 (64 FR 19557).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: February 7, 1997, as supplemented October 24, 1998

Brief description of amendment: The amendment incorporates changes to more accurately reflect current plant design, adopts changes in surveillance requirements consistent with the Standard Technical Specifications, identifies changes to plant systems and revisions to Technical Specifications system descriptions not involving Limiting Conditions for Operations, and makes editorial or typographical corrections.

Date of issuance: June 21, 1999.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 212.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1998 (63 FR 14486) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 21, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: June 11, 1998.

Brief description of amendment: The amendment revises Technical Specification 6.12.1 to allow use of an alternative high radiation area control consistent with Regulatory Guide 8.38.

Date of issuance: July 1, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 213.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1998 (63 FR 43204) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Northeast Nuclear Energy Company, et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of application for amendment: December 22, 1998, as supplemented March 19, 1999.

Brief description of amendment: The amendment replaces specific titles in Section 6.0 of the Technical Specifications of all three Millstone units with generic titles.

Date of issuance: June 3, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 105, 235, and 171.

Facility Operating License Nos. DPR–21, DPR–65, and NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1999 (64 FR 4158). The March 19, 1999, letter provided clarifying information that did not change the scope of the December 22, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: January 4, 1999, as supplemented April 7, 1999.

Brief description of amendment: The amendment changes Technical Specifications 3.5.2, ''Emergency Core Cooling Systems—ECCS Subsystems—Tavg greater than or less than 300 °F;'' 3.6.2.1, ''Containment Systems—Depressurization and Cooling Systems—Containment Spray and Cooling Systems;'' 3.7.1.2, ''Plant Systems—Auxiliary Feedwater Pumps;'' 3.7.3.1, ''Plant Systems—Reactor Building Closed Cooling Water System;'' and 3.7.4.1, ''Plant Systems—Service Water System.'' The changes were made to the system pump flow requirements to incorporate the results of revised hydraulic and accident analyses.

Date of issuance: June 29, 1999.

Effective date: As of the date of issuance and shall implemented within 60 days from the date of issuance.

Amendment No.: 236.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 14, 1999 (64 FR 2523).

The April 7, 1999, supplemental letter did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 9, 1999, as supplemented May 3, 1999

Brief description of amendments: The amendments delete the requirement to have an independent safety engineering group (ISEG) from the Technical Specifications and applies the substantive requirements now applicable to the ISEG to other organizations and relocates those requirements from the Technical Specifications to Chapter 16 of the Operational Quality Assurance Plan (OQAP). In the letter of May 3, 1999, the licensee submitted the changes to Chapter 16 of the OQAP to incorporate the substantive Technical Specification requirements currently applicable to the ISEG into the OQAP in the form of an independent technical review program, and stated that these changes to the OQAP will become effective upon approval of the amendments.

Date of issuance: June 23, 1999. Effective date: June 23, 1999, to be implemented within 30 days. Implementation includes incorporating the OQAP pages into the OQAP.

Amendment Nos.: Unit 1–112 ; Unit 2–99.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 7, 1999 (64 FR 17030) The May 3, 1999, supplement provided additional clarifying information within the scope of the original notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: May 27, 1999, as supplemented May 28, 1999.

Brief description of amendments: The amendments add a footnote to Technical Specfiication 4.8.2.1e, ''D.C. Sources—Operating,'' which would, on a one-time basis for Unit 1 Battery BT1ED2, allow TU Electric to substitute a performance discharge test ''...in lieu of the battery service test required by Specification 4.8.2.1d, twice within a 60 month interval.''

Date of issuance: June 28, 1999.

Effective date: As of the date of issuance.

Amendment Nos.: 65 and 65

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (64 FR 31881 dated June 14, 1999). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided an opportunity to request a hearing by July 14, 1999, but indicated that if the Commission makes a final determination, any such hearing would take place after issuance of the amendments.

The May 28, 1999, letter provided clarifying information that did not change the scope of the original application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and final NSHC determination are contained in Safety Evaluation dated June 28, 1999.

Attorney for Licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC, 20036.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: February 16, 1999.

Brief Description of amendments: These amendments revise TS Section 4.2 for Units 1 and 2. The changes relax the surveillance requirements for reactor coolant pump (RCP) flywheels. The flywheels provide extended reactor coolant flow coastdown capability if electric power for the RCPs is lost. Previously, the flywheel inspections included an ultrasonic examination (UT) of areas of high stress

concentration at the base and keyway every 3 years, and complete UT every 10 years. The changes require only a 10-year UT based upon an analysis presented in a Westinghouse topical report which has been reviewed and accepted by the NRC staff.

Date of issuance: July 1, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 221 and 221.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: May 5, 1999 (64 FR 24204). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items 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 for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By August 13, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the

petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Unit 2, Matagorda County, Texas

Date of amendment request: July 1, 1999.

Brief description of amendment: The amendment provides for a one-time change to Technical Specifications 3.3.2 and 3.7.8 for Unit 2 to allow all fuel handling building exhaust air system components to be inoperable for a period not to exceed 8 hours to facilitate repair of the Train B exhaust booster fan.

Date of issuance: July 2, 1999.

Effective date: From the date of amendment issuance until July 14, 1999.

Amendment No.: Unit 2–100.

Facility Operating License No. NPF–80: The amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 2, 1999.

Local Public Document Room location: Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Dated at Rockville, Maryland, this 7th day of July 1999.

For The Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–17750 Filed 7–13–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–3014 (which should be mentioned in all correspondence concerning this draft guide), is a proposed Revision 1 of Regulatory Guide 3.66, ''Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR Parts 30, 40, 70, and 72.'' This proposed revision is being developed to update the NRC's guidance on how to demonstrate financial assurance for decommissioning. The guide also establishes a standard format for presenting the information to the NRC.

The draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW, Washington, DC. Comments will be most helpful if received by September 30, 1999.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@nrc.gov*. For information about the draft guide and the related documents, contact Mr. L.M. Bykoski, (301) 415–6754; e-mail LMB1@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or

improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301)415–2289, or by e-mail to <DISTRIBUTION@NRC.GOV>. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 24th day of June 1999.

For the Nuclear Regulatory Commission.

Charles E. Ader,

Director, Program Management, Policy Development and Analysis Staff, Office of Nuclear Regulatory Research.

[FR Doc. 99–17919 Filed 7–13–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Karen Jacobs, Acting Director, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on June 22, 1999 (62 FR 33328). Individual authorities established or revoked under Schedules A and B and established under Schedule C between May 1, 1999, and May 31, 1999, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established during June 1999.

The following Schedule A authorities were revoked during June 1999:

Department of Commerce

One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. Effective June 16, 1999.

Department of Defense

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. Effective June 16, 1999.

Federal Emergency Management Agency

One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. Effective June 16, 1999.

Department of Justice

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. Effective June 16, 1999.

Department of Transportation

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. Effective June 16, 1999.

Thrift Depositor Protection Oversight Board

All positions. Effective June 21, 1999.

Schedule B

No Schedule B authorities were established or revoked during June 1999.

Schedule C

The following Schedule C authorities were established during June 1999.

Department of Agriculture

Staff Assistant to the Deputy Chief of Staff. Effective May 5, 1999.

Special Assistant to the Director, Office of Civil Rights. Effective May 5, 1999.

Confidential Assistant to the Administrator, Agricultural Research Center. Effective May 18, 1999.

Department of the Air Force (DOD)

Secretary (Steno/OA) to the General Counsel of the Air Force. Effective May 7, 1999.

Department of Commerce

Director of Public Affairs to the Under Secretary for International Trade Administration. Effective May 6, 1999.

Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective May 10, 1999.

Ombudsman to the Under Secretary for Oceans and Atmosphere. Effective May 10, 1999.

Department of Defense

Defense Fellow to the Special Assistant for White House Liaison. Effective May 6, 1999.

Protocol Specialist to the Director of Protocol. Effective May 11, 1999.

Department of Education

Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Service. Effective May 5, 1999.

Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective May 20, 1999.

Department of Energy

Special Assistant to the Director of Scheduling and Advance. Effective May 6, 1999.

Associate Chief Financial Officer for Budget, Planning and Financial Management to the Chief, Financial Management. Effective May 24, 1999.

Staff Assistant to the Assistant Secretary for Policy and International Affairs. Effective May 27, 1999.

Department of Health and Human Services

Special Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective May 13, 1999.

Special Assistant to the Chief of Staff. Effective May 20, 1999.

Department of the Interior

Special Assistant to the Commissioner, Bureau of Reclamation. Effective May 6, 1999.

Special Assistant to the Director, Office of Congressional and Legislative Affairs. Effective May 20, 1999.

Department of Justice

Staff Assistant to the Attorney General. Effective May 7, 1999.

Department of Labor

Special Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration. Effective May 5, 1999.

Special Assistant to the Administrator, Office of Job Training Programs, Employment and Training Administration. Effective May 6, 1999.

Intergovernmental Officer to the Assistant Secretary for Congressional

and Intergovernmental Affairs. Effective May 14, 1999.

Director, Intergovernmental Affairs to the Assistant Secretary, Congressional and Intergovernmental Affairs. Effective May 27, 1999.

Secretary's Representative to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective May 27, 1999.

Department of the Navy (DOD)

Special Assistant to the Residence Manager/Social Secretary. Effective May 18, 1999.

Staff Assistant to the Assistant Secretary of the Navy for Research, Development and Acquisition. Effective May 19, 1999.

Department of Transportation

Policy Advisor to the Assistant Secretary for Transportation Policy. Effective May 7, 1999.

Deputy Assistant Secretary for Budget and Programs to the Assistant Secretary for Budget and Programs. Effective May 14, 1999.

Special Counsel to the General Counsel. Effective May 18, 1999.

Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective May 21, 1999.

Department of the Treasury

Senior Policy Advisor to the Deputy Assistant Secretary for Policy Enforcement. Effective May 7, 1999.

Environmental Protection Agency

Press Secretary to the Associate Administrator, Office of Communications, Education and Media Relations. Effective May 11, 1999.

Deputy Chief of Staff (Scheduling) to the Chief of Staff. Effective May 13, 1999.

Special Assistant to the Regional Administrator. Effective May 24, 1999.

Federal Emergency Management Agency

Director, Office of Congressional and Legislative Affairs to the Director, Federal Emergency Management Agency. Effective May 6, 1999.

Federal Trade Commission

Congressional Liaison Specialist to the Director of Congressional Relations. Effective May 27, 1999.

Securities and Exchange Commission

Secretary to the Director. Effective May 6, 1999.

United States Tax Court

Secretary (Confidential Assistant) to the Judge. Effective May 18, 1999.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–17822 Filed 7–13–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Regulation 13D and 13G

Schedules 13D and 13G

SEC File No. 270–137

OMB Control No. 3235–0145

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Schedules 13D and 13G are filed pursuant to Section 13(d) and 13(g) of the Securities Exchange Act and Regulation 13D and 13G thereunder to report beneficial ownership of equity securities registered under Section 12 of the Exchange Act. Regulation 13D and 13G is intended to provide investors and subject issuers with information about accumulations of securities that may have potential to change or influence control of the issuer. Schedule 13D and 13G are used by persons including small entities to report their ownership of more than 5% of a class of equity securities registered under Section 12. The information required to be filed with the Commission permits verification of compliance with federal securities laws and assures the public availability and dissemination of such information. The Commission uses very little of the information provided (except in the enforcement of the federal securities laws).

It is estimated that approximately 10,690 respondents file Schedules 13D and 13G for a total burden of 114,718 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: June 30, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17878 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17f–2(e)

SEC File No. 270–37

OMB Control No. 3235–0031

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f–2(e) requires members of national securities exchanges, brokers, dealers, registered transfer agents, and registered clearing agencies claiming exemption from the fingerprinting requirements of Rule 17f–2 to prepare and maintain a statement supporting their claim for exemption. This requirement assists the Commission and other regulatory agencies with ensuring compliance with Rule 17f–2.

Notices prepared pursuant to Rule 17f–2(e) must be maintained for as long as the covered entity claims an exemption from the fingerprinting requirements of Rule 17f–2. The recordkeeping requirement under Rule 17f–2(e) is mandatory to assist the Commission and other regulatory

agencies with ensuring compliance with the Rule 17f–2. This rule does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 2, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17879 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

[Extension: Rule 17Ac3–1(a) and Form TA–W; SEC File No. 270–96; OMB Control No. 3235–0151]

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on the following rule and form: Rule 17Ac3–1(a) and Form TA–W.

Subsection (c)(3)(C) of section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes transfer agents registered with an appropriate regulatory agency (''ARA'') to withdraw from registration by filing with the ARA a written notice of withdrawal and by agreeing to such terms and conditions as the ARA deems necessary or appropriate in the public interest, for the protection of investors, or in the furtherance of the purposes of Section 17A.

In order to implement section 17A(c)(3)(C) of the Exchange Act the Commission, on September 1, 1977, promulgated rule 17Ac3–1(a) and accompanying Form TA–W. Rule 17Ac3–1(a) provides that notice of withdrawal from registration as a transfer agent with the Commission shall be filed on Form TA–W. Form TA–W requires the withdrawing transfer agent to provide the Commission with certain information, including (1) The locations where transfer agent activities are or were performed; (2) the reasons for ceasing the performance of such activities; (3) disclosure of unsatisfied judgments or liens; and (4) information regarding successor transfer agents.

The Commission uses the information disclosed on Form TA–W to determine whether the registered transfer agent applying for withdrawal from registration as a transfer agent should be allowed to deregister, if so, whether the Commission should attach to the granting of the application any terms or conditions necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A of the Exchange Act. Without Rule 17Ac3–1(a) and Form TA–W, transfer agents registered with the Commission would not have a means for voluntary deregistration when necessary or appropriate to do so.

Respondents file approximately thirty Form TA–Ws with the Commission annually. The filing of a Form TA–W occurs only once, when a transfer agent is seeking deregistration. In view of the ready availability of the information requested by Form TA–W, its short and simple presentation, and the Commission's experience with the Form, we estimate that approximately one half hour is required to complete Form TA–W, including clerical time. Thus, the total burden of fifteen hours of preparation for all transfer agents seeking deregistration in any one year is negligible.

The Commission estimates a cost of approximately $35 for each half hour required to complete a Form TA–W. Therefore, based upon a total of fifteen hours, transfer agents spend approximately $1,050 each year to complete thirty Form TA–Ws.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 7, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17931 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Bowne & Co., Inc., Common Stock, Par Value $.01 per Share, and Associated Preferred Stock Purchase Rights) File No. 1–5842

July 7, 1999.

Bowne & Co., Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above (''Securities'') from listing and regulation on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Securities have been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A filed with the Commission which became effective on May 27, 1999, as amended thereafter on the New York Exchange, Inc. (''NYSE''). Trading in the Securities on the NYSE commenced at the opening of business on July 1, 1999.

The Company has complied with the rules of the Amex by fling with the Exchange a certified copy of the resolution adopted by the Company's Board or Directors authorizing the withdrawal of its Securities from listing on the Exchange and by setting forth in detail to the Amex the reasons for such proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it would not interpose any objection to the withdrawal of the Company's Securities from listing on the Exchange.

In making the decision to withdraw its Securities from listing on the Amex and to list them instead on the NYSE, the Company has considered, among other factors, its visibility in the investment community and the opportunities that may be available to it as a company listed on the NYSE to make investors more aware of its efforts at diversification of its business.

The Company's application relates solely to the withdrawal of the Securities from listing on the Amex and shall have no effect upon the continued listing of the Securities on the NYSE.

Moreover, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission and the NSYE under Section 13 and other applicable sections of the Act.

Any interested person may, on or before July 28, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609 facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–17887 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23892; 813–166]

CIBC World Markets Corp., Notice of Application

July 7, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act, except section 9, certain provisions of sections 17 and 30, sections 36 through 53, and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicant, CIBC World Markets Corp. (''CIBC WN''), requests an order to exempt certain entities formed for the benefit of key employees of CIBC WM and its affiliates from certain provisions of the Act, and to permit the funds to engage in certain joint transactions. Each entity will be an ''employees' securities company'' as defined in section 2(a)(13) of the Act.

FILING DATES: The application was filed on March 11, 1997 and amended on February 27, 1998, and August 7, 1998. Applicant has agreed to file an additional amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 2, 1999, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the requests, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicant, One World Financial Center, 200 Liberty Street, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant, a Delaware corporation and subsidiary of The Canadian Imperial Bank of Commerce, is a brokerage and investment banking firm.[1] Applicant is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). Applicant and its affiliates, as defined in rule 12b-2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), are referred to in this notice collectively as the ''CIBC WM Group.''

2. Applicant proposes to organize one or more limited partnerships, limited liability companies, or other entities under the laws of the state of Delaware or another state (each, a ''Partnership,'' and collectively, the ''Partnerships'') for the benefit of certain key employees. Each Partnership will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end management investment company. The goal of the Partnerships is to create investment opportunities that are competitive with those at other brokerage and investment banking firms for employees and to facilitate the recruitment of high caliber employees. Participation in a Partnership will be voluntary.

3. It is currently anticipated that the initial Partnership will be a limited liability company and that an independent board of managers (''Independent Board'') will have overall responsibility for its operations. All of the members of the Independent Board will be individuals who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) of CIBC WM or any other entity in the CIBC WM Group (collectively, a ''CIBC WM Company''). Applicant proposes to use the independent board of managers structure so that the Partnerships will not be considered ''subsidiaries'' of a CIBC WM Company for bank regulatory purposes. Applicant states that the independent board of managers structure will not undermine the community of interest between the Partnerships and the CIBC WM Group. In the case of any General Partner that is an Independent Board, the Board members will not be eligible to purchase Interests (as defined below) in a Partnership. Subsequently established Partnerships will be structured in the same manner or, alternatively, a CIBC WM Company may act as general partner (or functional equivalent with respect to any Partnership organized as a limited liability company, business trust or other entity) of those Partnerships. As used in this notice, the term ''General Partner'' refers to the Independent Board or a CIBC WM Company which acts as general partner of a Partnership (or functional equivalent). The General Partner will be responsible for the overall management of each Partnership and will have the authority to make all decisions regarding the acquisition, management and disposition of Partnership investments, except that the General Partner may delegate certain of its responsibilities regarding the acquisition, management and disposition of Partnership investments to an Investment Adviser (as defined below); provided, further, that if the General Partner is an Independent Board, such Board will delegate all decisions regarding the acquisition, management and disposition of

[1] Applicant was known as Oppenheimer & Co., Inc. until November 4, 1997, when the stock of its parent, Oppenheimer Holdings, was acquired by CIBC Wood Gundy Securities Corp., which was then merged into Oppenheimer & Co., Inc.

Partnership investments to an Investment Adviser. The General Partner also may delegate administrative responsibilities to a CIBC WM Company or to an unaffiliated third party administrator.

4. A. CIBC WM Company will serve as investment adviser to the Partnerships. The investment adviser will either be: (a) Registered as an investment adviser under the Advisers Act; (b) exempt from the registration requirements of the Advisers Act by virtue of section 203(b)(3) of the Advisers Act; or (c) excluded from the definition of investment adviser under the Advisers Act because it is a bank or a bank holding company. The term ''Investment Adviser'' as used in this notice refers to a CIBC WM Company which acts as investment adviser to a Partnership. With respect to some or all Partnerships, the Investment Adviser may delegate certain of its responsibilities to one or more subadvisers, each of which will be a CIBC WM Company and registered under the Advisers Act is required under applicable law; provided, however, that if the Investment Adviser elects to enter into any side-by-side investment with an unaffiliated entity, the Investment Adviser will be permitted to engage as sub-investment adviser the entity responsible for the management of such side-by-side investment.

5. In the case of certain Partnerships, the General Partner will have the authority to terminate the agreement with the Investment Adviser on 120 days' prior written notice to the Investment Adviser. In the event that the General Partner terminates an agreement with an Investment Adviser, the General Partner will: (a) cause the Partnership to cease making new investment commitments; (b) cause the Partnership to dissolve; or (c) appoint a replacement investment adviser with the concurrent affirmative vote of at least a majority in interest of the Limited Partners (or functional equivalent with respect to any Partnership organized as a limited liability company, business trust or other entity). If the replacement investment adviser is not a CIBC WM Company, the Partnership will cease to rely upon the order granting the requested relief and the General Partner will cause the Partnership to register under the Act, unless it obtains such exemptive relief from the Act as may be necessary. Each limited partnership agreement or other organizational document of the Partnership (the ''Partnership Agreement'') will provide that, in the event the General Partner gives notice of termination to the Investment Adviser, the affirmative vote of at least a majority in interest of the Limited Partners will be effective to retain the Partnership's agreement with the Investment Adviser in full force and effect. Each Partnership Agreement also will provide that the Limited Partners may direct the Partnership to cease making new investment commitments upon the affirmative vote of a majority in interest of the Limited Partners.[2]

6. Interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act'') or Regulation D under the Securities Act, and will be sold without a sales load or similar fee. Interests will be sold only to ''Limited Partners,'' which will be: (a) current or former key employees, officers, directors, partners and persons on retainer of the CIBC WM Group (''Eligible Employees''); (b) spouses, parents, children, spouses of children, brothers, sisters and grandchildren of Eligible Employees (''Qualified Family Members''); or (c) trusts or other investment vehicles established for the benefit of Eligible Employees or Qualified Family members (''Qualified Investment Vehicles'' and, collectively with Qualified Family Members, ''Qualified Participants''). Interests will not be transferable except with the express consent of the General Partner and then only to Eligible Employees or Qualified Participants.

7. Prior to offering Interests to an Eligible Employee or Qualified Family Member, a CIBC WM Company must reasonably believe that the Eligible Employee or Qualified Family Member will be capable of understanding and evaluating the merits and risks of participation in the Partnership. Eligible Employees will be professionals engaged in various aspects of the investment banking or financial services business, or in related administrative, financial, accounting, legal or operational activities.

8. Eligible Employees and Qualified Family Members must be ''accredited investors'' meeting the income requirements set forth in rule 501(a)(6) of Regulation D under the Securities Act, except that a maximum of 35 Eligible Employees who are sophisticated investors but who do not meet the definition of an accredited investor may become Limited Partners of a Partnership if each such Eligible Employee falls into one of the following categories: (a) Eligible Employees who (i) have a graduate degree in business, law or accounting, (ii) have a minimum of five years of consulting, investment banking or similar business experience, and (iii) will have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding the Eligible Employee's admission as a Limited Partner in excess of $120,000 and will have a reasonable expectation of reportable income of at least $150,000 in the years in which the Eligible Employee invests in a Partnership. In addition, an Eligible Employee in this category (a) will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in the Partnership and in all other Partnerships in which he has previously invested; or (b) Eligible Employees who have primary responsibility for operating the Partnership. These responsibilities include identifying, investigating, structuring, negotiating, and monitoring investments for the Partnership, communicating with the Limited Partners, maintaining the books and records of the partnership, and making recommendations with respect to investment decisions by the Investment Adviser. Each Eligible Employee in this category (b) will: (i) be closely involved with and knowledgeable with respect to the Partnership's affairs, (ii) be an officer or employee of a CIBC WM Company, and (iii) have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding the Eligible Employee's admission as a Limited Partner in excess of $120,000 and will have a reasonable expectation of reportable income of at least $150,000 in the years in which the Eligible Employee invests in the Partnership. Qualified Investment Vehicles must meet the standards for an ''accredited investor'' under rule 501(a) of Regulation D.

9. The terms of each Partnership will be disclosed to the Eligible Employees

[2] The duration of a particular Partnership will be set forth in its Partnership Agreement. Each Partnership may be dissolved prior to its expiration upon the occurrence of the following events: (i) the resignation, withdrawal, dissolution or bankruptcy of the General Partner (or, where applicable, the resignation of the members of the Independent Board), (ii) the insolvency or bankruptcy of the Partnership, (iii) the sale of all or substantially all of the Partnership's assets, (iv) the conversion of the Partnership to corporate form pursuant to the terms of the applicable Partnership Agreement, (v) a determination by the General Partner that it is in the best interests of the Limited Partners to dissolve the Partnership, or (vi) any other event requiring dissolution of the Partnership under applicable law. Upon dissolution of a Partnership, the Partnership's assets will be distributed in accordance with the applicable Partnership Agreement.

at the time they are offered the right to subscribe for Interests in the Partnerships, at which time the Eligible Employees will be furnished with a copy of the Partnership Agreement. The Partnership Agreement will set forth in full the terms applicable to a Limited Partner's investment in the Partnership.

10. A CIBC WM Company may purchase Interests, which it may offer to new Eligible Employees joining the CIBC WM Group after the closing of the Partnership or which it may award to Eligible Employees as a bonus or similar compensation. A CIBC WM Company will acquire these Interests in the same manner of payment, at the same time, and at the same price as Interests purchased by the Limited Partners. A CIBC WM Company may sell the Interests it has so acquired to any Eligible Employee or Qualified Participant at any time during the life of the Partnership at a price no greater than the net asset value of the Interests on the previous appraisal date as defined in the Partnership Agreement after the date of sale.

11. If a Limited Partner terminates employment with a CIBC WM Company or is in bankruptcy, the Interests may be acquired by a CIBC WM Company, or by any Eligible Employee or Qualified Participant designated by a CIBC WM Company. If a CIBC WM Company does not exercise the right to acquire the Interest, it will continue to be held by the Limited Partner. In addition, in the event of a Limited Partner's death, total disability or adjudication of incompetence, the Limited Partner or a representative of the Limited Partner may have the right, during an established time period following the occurrence of any of those events, to tender the Limited Partner's Interest to a CIBC WM Company or any Eligible Employee or Qualified Participant designated by a CIBC WM Company for mandatory purchase (subject to applicable banking regulations) by a CIBC WM Company or any Eligible Employee or Qualified Participant designated by a CIBC WM Company.

12. If an investment program provides for vesting, an Eligible Employee's Interest at the beginning of the program will be treated as ''unvested,'' and ''vesting'' will occur either: (a) through the passage of time; or (b) upon the occurrence of a specified event. The termination of an Eligible Employee's employment will not affect the Eligible Employee's rights with respect to the vested portion of the Interest, unless certain specified events disclosed in the relevant Partnership Agreement occur, including the termination of employment for cause. The portion of an Eligible Employee's Interest that is ''unvested'' at the time of the Eligible Employee's termination of employment, and the portion that is vested in the event the specified events disclosed in the relevant Partnership Agreement occur, may be subject to repurchase by a CIBC WM Company or reallocation to other Limited Partners in the relevant Partnership.

13. Upon repurchase or reallocation of a former Eligible Employee's unvested or vested Interest, a CIBC WM Company will, at a minimum, pay the Eligible Employee the lesser of: (a) the amount actually paid by the Eligible Employee; or (b) the fair market value of the Interest, as determined in good faith by a CIBC WM Company. The terms of any repurchase or cancellation will apply equally to any Qualified Participant of an Eligible Employee.

14. An Investment Adviser may be paid an advisory fee for its services to a particular Partnership, which may be determined as a percentage of assets under management or aggregate commitments. In addition, an Investment Adviser may be entitled to a performance-based fee based on the Partnership's net gains (''carried interest'').[3] In the case of a Partnership in which the General Partner is an Independent Board, the Board members may receive compensation for their services from either the Partnership or a CIBC WM Company.

15. It is anticipated that a CIBC WM Company may contribute capital to each Partnership in an amount equal to at least 1% of the aggregate amount of capital contributed by the Limited Partners. A CIBC WM Company also may undertake to contribute additional capital to a Partnership, which may be in an amount representing some multiple of the aggregate amount of capital contributed by the Limited Partners. With respect to a specified portion of the capital contribution of a CIBC WM Company (''Non-Allocable Portion''), a CIBC WM Company may receive, instead of a pro rata allocation of profits and losses, a cumulative return. The cumulative return may be equal to its Applicable Rate (as defined below) with respect to, and expenses incurred in connection with, the Non-Allocable Portion (the ''Return''), or some other reasonable return which may be less than its pro rata allocation of profits. The Return generally will be allocable annually out of Partnership profits and will be payable to a CIBC WM Company when profits are realized by the Partnership, or to the extent not previously paid, upon the liquidation of the Partnership.

16. A CIBC WM Company may lend money to a Partnership at an interest rate that is the lowest rate that applicant determines is permissible under applicable banking regulations (the ''Applicable Rate''), provided that the Applicable Rate will be no less favorable than the rate obtainable on an arm's length basis. A CIBC WM Company may, in its sole discretion, adopt the method for determining the calculation of the Applicable Rate. Any indebtedness of the Partnership will be the debt of the Partnership and without recourse to the Limited Partners. Applicant states that the Partnership will retain the right to require the payment of any unfunded capital contributions from the Limited Partners for any appropriate Partnership purpose, including the payment of Partnership indebtedness, and will be permitted to assign this right to any lender to the Partnership.

17. Partnerships may co-invest with or through investment vehicles sponsored and/or managed by a CIBC WM Company or by unaffiliated entities.

18. A Partnership will not purchase or otherwise acquire any security issued by a registered investment company if, immediately after the purchase or acquisition, the Partnership will own in the aggregate more than 3% of the total outstanding voting stock of the registered investment company.

19. As soon as practicable after the end of the fiscal year of each Partnership, each Partnership will send audited annual financial statements to its Limited Partners. In addition, each Partnership will send a report to its Limited Partners setting forth tax information necessary for the preparation of tax returns.

Applicant's Legal Analysis

1. Section 6(b) of the Act provides that the SEC will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) further provides that the SEC will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section

[3] Any ''carried interest'' charged by a registered investment adviser will be structured to comply with section 205 of the Advisers Act.

2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned by (i) current or former employees, or persons on retainer, of one or more affiliated employers, (ii) immediate family members of those persons or employers, or (iii) the employer or employers together with any of the persons in (i) or (ii).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the SEC, will be applicable to the company and other persons dealing with the company as though that company was registered under the Act.

3. Applicant requests an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act, except section 9, certain provisions of sections 17 and 30, sections 36 through 53, and the rules and regulations under those sections.

4. Section 17(a) of the Act generally prohibits any affiliated person of a registered investment company, or any affiliated person of that person, acting as prinicpal, from knowingly selling to or purchasing any security or other property from that company. Applicant requests an exemption from section 17(a) to permit each Partnership to: (a) purchase portfolio investments from or sell portfolio securities to CIBC WM, or any other affiliated person of a Partnership, or an affiliated person of that person (''collectively, Affiliated Entities''), on a principal basis; (b) purchase interests or property in a company or other investment vehicle in which CIBC WM, or an Affiliated Entity, already owns securities, or, where such company or other investment vehicle is otherwise affiliated with CIBC WM or a Partnership; (c) sell, put or tender, or grant options in securities or interests in a company or other investment vehicle back to that entity, where that entity is affiliated with CIBC WM or an Affiliated Entity; (d) participate as a selling security holder in a public offering that is underwritten by CIBC WM or an Affiliated Entity or in which CIBC WM or an Affiliated Entity acts as a member of the underwriting or selling group; (e) invest in companies, partnerships or other investment vehicles offered, sponsored or managed by CIBC WM or an Affiliated Entity (collectively, ''CIBC WM Sponsored Vehicles''), or to purchase securities from CIBC WM Sponsored Vehicles; (f) invest in securities of, or lend money to, entities with which CIBC WM or an Affiliated Entity has performed investment banking or other services and from which they may have received fees; and (g) purchase securities that are underwritten by CIBC WM or an Affiliated Entity (including a member of a selling group) on terms at least as favorable to the Partnership as those offered to investors other than affiliated persons of CIBC WM.

5. Applicant submits that an exemption from section 17(a) is consistent with the protection of investors. Applicant states that the Limited Partners will have been fully informed of the possible extent of the Partnership's investment with affiliated persons and will be able to evaluate the attendant risks. Applicant asserts that the community of interest among the Limited Partners and the CIBC WM Group will provide the best protection against any risk of abuse.

6. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of that person or underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the SEC. Rule 17d–1 under the Act permits the SEC to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the SEC is to consider whether participation of the investment company in the arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

7. Applicant requests relief to permit affiliated persons of each Partnership or affiliated persons of any of those persons, to participate in any joint arrangement in which the Partnership is a participant. Applicant submits that the flexibility to structure co-investments and joint investments in the manner described in the application will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicant further states that the concern that permitting joint investments with CIBC WM or another CIBC WM affiliated person on the one hand, and a Partnership on the other, might lead to disadvantageous treatment of the Partnership will be mitigated by the fact that CIBC WM is acutely concerned with its relationship with the key employees who invest in the Partnerships. Applicant also asserts that, in light of CIBC WM's purpose of establishing the Partnerships to reward Eligible Employees and to attract highly qualified personnel to CIBC WM, it is unlikely that an affiliated co-investor will enter into a transaction with a Partnership with the intent of disadvantaging the Partnership. Applicant also states that any investment by a Partnership made concurrently with an affiliated co-investor will on the same terms as the investment by the affiliated co-investor.

8. Section 17(f) of the Act designates the entities that may act as custodians of investment company assets. Rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicant requests an exemption from section 17(f) and rule 17f–1 to the extent necessary to permit a CIBC WM Company to act as custodian of Partnership assets without a written contract, as would be required by rule 17f–1(a). Applicant also requests an exemption from the requirement in rule 17f–1(b)(4) that an independent account periodically verify the assets held by the custodian. Applicant states that, because of the community of interest between the Partnerships and the CIBC WM Group and the existing requirement for an independent annual audit, compliance with these requirements would be unnecessarily burdensome and expensive. The Partnerships will comply with all other requirements of rule 17f–1.

9. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. In the case of any Partnership for which a CIBC WM Company is the General Partner, applicant requests exemptive relief to permit the General Partner, applicant requests exemptive relief to permit the General Partner's board of directors or similar body (the ''Board''), who may be deemed interested persons, to take actions and make determinations set forth in the rule. Applicant states that, because all of the members of the Board will be interested persons, applicant could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the directors of the Board take actions and make determinations as are set forth in rule 17g–1. Applicant states that each Partnership will comply

with all other requirements of rule 17g–1.

10. Section 17(j) of the Act and paragraph (a) of rule 17j–1 under the Act prohibit certain enumerated persons from engaging in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicant requests an exemption from these provisions of rule 17j–1 because they are unnecessarily burdensome as applied to the Partnerships. Applicant will remain subject to rule 17j–1(a).

11. Applicant requests an exemption from the requirements of sections 30(a), 30(b), and 30(e) of the Act, and the rules under those sections. These provisions require registered investment companies to prepare and file with the SEC and mail to their shareholders certain periodic reports and financial statements. Applicant contends that the forms prescribed by the SEC for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Limited Partners. Applicant requests exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners. Applicant also requests an exemption from section 30(h) of the Act to the extent necessary to exempt the General Partner (including any of its members) of each Partnership from filing Forms 3, 4 and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicant asserts that, because there will be no trading market for the Interests and the transfer of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 (the ''Section 17 Transactions'') will be effected only if the Investment Adviser determines that: (a) the terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents, and the Partnership's reports to its Limited Partners. In addition, the Investment Adviser will record and preserve a description of the Section 17 Transactions, the Investment Adviser's findings, the information or materials upon which the Investment Adviser's findings are based, and the basis for those findings. These records will be maintained for the life of the Partnership and at least two years thereafter, and will be subject to examination by the SEC and its staff.[4]

2. In connection with the Section 17 Transactions, the Investment Adviser will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of the transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnerships, or any affiliated person of that person, promoter, or principal underwriter.

3. The Investment Adviser will not invest the funds of any Partnerships in any investment in which an ''Affiliated Co-Investor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and an Affiliated Co-Investor are participants, unless the Affiliated Co-Investor, prior to disposing of all or part of its investment: (a) gives the Investment Adviser sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to, or concurrently with, on the same terms as, and pro rata with, the Affiliated Co-Investor. The term ''Affiliated Co-Investor'' means any person who is: (i) an ''affiliated person'' (as that term is defined in the Act) of the Partnership; (ii) CIBC WM or a CIBC WM Company; (iii) an officer or director of CIBC WM or CIBC WM Company; (iv) a company, partnership, or other investment vehicle offered, sponsored, or managed by CIBC WM or a CIBC WM Company; (v) any entity with respect to which CIBC WM or a CIBC WM Company provides management, investment management or similar services as manager, investment manager, or general partner or in a similar capacity, for which it may receive compensation, including without limitation, management fees, performance fees, carried interests entitling it to share disproportionately in income and capital gains or similar compensation; or (vi) a company in which an officer, director, or member of the General Partner acts as an officer, director, or General Partner, or has a similar capacity to control the sale or other disposition of the company's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor: (i) To its direct or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which the Affiliated Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (ii) to Qualified Family Members of the Affiliated Co-Investor or a trust established for any Affiliated Co-Investor or any such family member; (iii) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (iv) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 under that Act; (v) when the securities are government securities as defined in section 2(a)(16) of the Act; (vi) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which the foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities, or (vii) when any entity with respect to which CIBC WM or a CIBC WM Company provides management, investment management, or similar services as manager, investment manager, or general partner or in a similar capacity, if CIBC WM or such entity does not have the actual investment discretion over the sale or disposition of the entity's securities.

4. Each Partnership and its General Partner and Investment Adviser will maintain and preserve, for the life of the Partnership and at least two years thereafter, the accounts, books, and

[4] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

other documents that constitute the record forming the basis for the audited financial statements that are to be provided to the Limited Partners, and each annual report of the Partnership required by the terms of the applicable Partnership Agreement to be sent to the Limited Partners, and agree that these records will be subject to examination by the SEC and its staff.[5]

5. The General Partner will send or cause to be sent to each Limited Partner who had an interest in the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year,the General Partner will make or cause to be made a valuation made of all of the assets of the Partnership as of the fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of each Partnership, the General Partner will send or cause to be sent a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth the tax information necessary for the preparation by the Limited Partners of their federal and state income tax returns, and a report of the investment activities of the Partnership during that year.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with the Partnership by reason of a 5% or more investment in the entity by a CIBC WM Group director, officer, or employee, that individual will not participate in the Investment Adviser's determination of whether or not to effect the purchase or sale.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17882 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[5] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Hasbro, Inc., Common Stock, Par Value $.50 per Share, and Related Preference Share Purchase Rights), File No. 1–6682

July 7, 1999.

Hasbro, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above (''Securities'') from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Securities have been listed for trading on the Amex and, pursuant to Registration Statements on Form 8–A filed with the Commission which became effective on June 9, 1999, on the New York Stock Exchange, Inc. (''NYSE''). Trading in the Securities on the NYSE commenced at the opening of business on June 23, 1999.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Exchange and by setting forth in detail to the Amex the reasons for such proposed withdrawal, and the facts in support thereof. The Amex has in turn informed the Company that it would not interpose any objection to the withdrawal of the Company's Securities from listing on the Exchange.

In making the decision to withdraw its Securities from listing on the Amex, the Company considered it expedient to avoid the direct and indirect costs and the division of the market which might result from listing the Securities simultaneously on the Amex and the NYSE.

The Company's application relates solely to the withdrawal of the Securities from listing on the Amex and shall have no effect upon the continued listing of the Securities on the NYSE. Moreover, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before July 28, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–17880 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23899; 812–11266]

The Short Term Bond Portfolio, et al.; Notice of Application

July 8, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered open-end management investment companies to invest uninvested cash in affiliated money market funds.

APPLICANTS: The Short Term Bond Portfolio, The U.S. Fixed Income Portfolio, The Tax Exempt Bond Portfolio, The New Tax Exempt Bond Portfolio, The U.S. Equity Portfolio, The U.S. Small Company Portfolio, The International Equity Portfolio, The Emerging Markets Equity Portfolio, The Diversified Portfolio, The Series Portfolio, Series Portfolio II (collectively, the ''Investing Master Funds''); The Prime Money Market Portfolio, The Federal Money Market Portfolio, The Tax Exempt Money Market Portfolio, and The Treasury Money Market Portfolio, a subtrust of Series Portfolio II (collectively, the ''Underlying Master Funds''); J.P. Morgan Series Trust (''Series Trust''), J.P. Morgan Institutional Funds

(''Institutional Funds''), J.P. Morgan Funds (''Morgan Funds''), Morgan Guaranty Trust Company of New York (''MGT''), J.P. Morgan Investment Management Inc. (''JPMIM,'' together with MGT, the ''Advisers'').[1]

FILING DATES: The application was filed on August 21, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 2, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o John E. Baumgardner, Jr., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20459–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Investing Master Funds and the Series Trust are registered under the Act as open-end management investment companies. The Investing Master Funds and the Series Trust are advised by JPMIM. The Advisers are wholly-owned subsidiaries of J.P. Morgan & Co., Inc., a bank holding company. JPMIM is an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act'').

2. The Institutional Funds and the Morgan Funds are registered under the Act as open-end management investment companies. The Institutional Funds and the Morgan Funds (collectively, the ''Underlying Feeder Funds'') invest all of their assets, in reliance on section 12(d)(1)(E) of the Act, in securities of the Underlying Master Funds, which are corresponding open-end management investment companies registered under the Act. The Underlying Master Funds are advised by JPMIM. The Underlying Feeder Funds together with the Underlying Master Funds are collectively referred to as the ''Money Market Funds.'' Each of the Money Market Funds is subject to the requirements of rule 2a–7 under the Act.

3. The Investing Master Funds and the Series Trust (''Investing Funds'') have, or may be expected to have, uninvested cash (''Uninvested Cash'') held by their custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions, dividend payments, or new monies received from investors. Currently, the Investing Funds can invest uninvested cash directly in money market instruments.

4. Applicants request relief to permit the Investing Funds to invest their Uninvested Cash in the Money Market Funds. Any investment of Uninvested Cash in shares of the Money Market Funds will be in accordance with each Investing Fund's investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information (or registration statement with respect to the Investing Master Funds). Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns on Uninvested Cash, and diversify holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's outstanding total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) to permit the Investing Funds to use uninvested Cash to acquire shares of the Money Market Funds in excess of the percentage limitations in section 12(d)(1)(A), provided however, that in all cases the Investing Fund's aggregate investment of Uninvested Cash in shares of the Money Market Funds will not exceed 25% of the Investing Fund's total assets at any time. Applicants also request relief to permit a Money Market Fund to sell its securities to an Investing Fund in excess of the percentage limitations in section 12(d)(1)(B). Applicants represent that Money Market Funds that are the Underlying Master Funds will not acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act; and Money Market Funds that are Underlying Feeder Funds will invest only in Underlying Master Funds in compliance with section 12(d)(1)(E) of the Act.

3. Applicants believe that the proposed arrangement does not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Monday Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee or service fee. If the Money Market Fund shares are subject to a sales load, redemption fee, asset-based distribution fee or service fee, applicants state that the Advisers will waive their investment advisory fees in an amount that offsets these charges or, if necessary, reimburse any such Investing Fund out of the Adviser' own resources. In addition, the Advisers will waive their investment

[1] Applicants also request relief for any other registered open-end management investment company that is advised by the Advisers or an entity controlling, controlled by, or under common control with the Advisers. All investment companies that currently intend to rely on the requested order are named as applicants. Any other existing or future open-end management investment company that may rely on the order in the future will do so only in accordance with the terms and conditions of the application.

advisory fees for each Investing Fund in an amount that offsets the amount of the advisory fees of Money Market Funds incurred by the Investing Fund either directly if the investment is in shares of an Underlying Master Fund or indirectly if the investment is in shares of an Underlying Feeder Fund. The Advisers have voluntarily agreed to waive their advisory fees for each Investing Fund and/or reimburse any such Investing Fund, in an amount that offsets the amount of administrative services fees of the Money Market Fund incurred by the Investing Fund and payable to MGT, the administrator of the Money Market Funds.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include any investment adviser to the investment company and any person directly or indirectly controlling, controlled by, or under common control with the investment adviser. The Investing Funds and the Money Market Funds are advised by the Advisers and have identical boards of trustees and thus may be deemed to be under common control. In addition, if an Investing Fund were to acquire 5% or more of a Money Market Fund, applicants state that an Investing fund could become an affiliate of a Money Market Fund. Accordingly, applicants state that section 17(a) would prohibit the sale of the shares of Money Market Funds to the Investing Funds, and the redemption of the shares by the Money Market Funds.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions, or classes of persons or transactions, from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief satisfies the standards in sections 17(b) and 6(c) of the Act. Applicants state that the Investing Funds will retain their ability to invest Uninvested Cash directly in money market instruments as authorized by their respective investment objectives and policies, if they believe they can obtain a higher rate of return, or for any other reason. Similarly, the Money Market Funds have the right to discontinue selling shares to any of the Investing Funds if the Money Market Fund's board of trustees determines that such sales would adversely affect its portfolio management and operations. Applicants also state that shares of the Money Market Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants believe that the Investing Funds and the Money Market Funds, by participating in the proposed transactions, and the Advisers, by managing the assets of the Investing Funds and the Money Market Funds, could be deemed to be participating in a joint arrangement within the meaning of section 17(d) and rule 17d–1 under the Act.

8. In considering whether to approve a transaction under rule 17d–1, the Commission considers whether the investment company's participation in such joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the Funds will participate in the proposed transactions on a basis not different from or less advantageous than that of any other participant and that the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealer's Conduct Rules), or if such shares are subject to any such sales load, redemption fee, distribution fee or service fee, each Adviser will waive its advisory fee for each Investing Fund, and/or reimburse any such Investing Fund out of the Adviser's own resources, in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Each Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of the advisory fee of the Money Market Funds incurred by the Investing Fund either directly or indirectly if the investment is in shares of an Underlying Feeder Fund.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment in the Money Market Funds does not exceed 25% of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment of Uninvested Cash in shares of the Money Market Funds will be in accordance with each Investing Fund's investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectuses and statements of additional information (or registration statement with respect to an Investing Master Fund).

5. Each Investing Fund, each Money Market Fund, and any future registered open-end management investment company that may rely on the order will be advised by the Advisers or an entity controlling, controlled by, or under common control with the Advisers.

6. No Money Market Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by Section 12(d)(1)(E) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Depty Secretary.

[FR Doc. 99–17881 Filed 7–13–99; 8:45 am]

BILLING CODE 8020–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23900; 812–11646]

The Wachovia Funds, et al., Notice of Application

July 9, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of Application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain common trust funds to transfer their assets to certain series of registered open-end management companies in exchange for shares of the series.

APPLICANTS: The Wachovia Funds (''Trust''); Wachovia Bank, N.A. (''Wachovia''), Wachovia Corporation, Wachovia Capital Management Special Values Fund (''Special Values Fund''), and Wachovia Stock Fund (''Stock Fund'').

FILING DATES: The application was filed on June 9, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 29, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o William Stoyko, Esq., Wachovia Bank, N.A., 1021 East Cary Street, P.O. Box 27602 Richmond, VA 23261.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisory at (202) 942–0569, or Michael W. Mundt, Branch Chief at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company which offers fourteen series, including the Wachovia Special Values Fund and Wachovia Quantitative Equity Fund (''Mutual Funds''). Wachovia Asset Management, a business unit of Wachovia, acts as investment adviser to each Mutual Fund. As a ''bank'' within the meaning of section 202(a)(2) of the Investment Advisers Act of 1940 (the ''Advisers Act''), Wachovia is exempt from registration under the Advisers Act.

2. Wachovia, a national bank, is a wholly-owned subsidiary of Wachovia Corporation, a bank holding company. Special Values Fund and Stock Fund are maintained by Wachovia as trustee and are ''common trust funds'' as defined in section 584(a) of the Internal Revenue Code of 1986, as amended ('CTFs''). Participants in the CTFs are persons or entities for which Wachovia acts as trustee, executor, administrator, guardian, or custodian) (''Participants''). Wachovia is trustee for the Wachovia Pension Plan (''WPP''), an employee benefit plan maintained for employees of Wachovia Corporation and its subsidiaries. WPP holds more than 5% of the outstanding voting shares of each of the Mutual Funds.

3. Applicants propose to transfer in-kind the assets of Special Values Fund to Wachovia Special Values Fund and of Stock Fund to Wachovia Quantitative Equity Fund in exchange for Mutual Fund shares having an aggregate net asset value equal to the market value of the transferred securities (the ''Conversions''). The CTF assets to be transferred to the Mutual Funds will be valued in accordance with the provisions of rule 17a–7(b) under the Act. The Mutual Fund shares received in the Conversions will not be subject to a sales charge, redemption fee or rule 12b–1 distribution fee. The Mutual Fund shares received by the CTFs will be credited to the account of each Participant, pro rata, according to the Participant's interest in the relevant CTF immediately prior to the Conversions. Following the Conversions, the CTFs will be terminated and the Mutual Fund shares will be held by Wachovia directly for the benefit of the Participants. Wachovia will pay all expenses incurred in connection with the Conversions.

4. Applicants request relief to effect the Conversions, which are expected to occur on August 1, 1999. Applicants also request relief for similar future transactions in which assets of a CTF maintained by Wachovia as trustee are exchanged for shares of a registered open-end management investment company advised by Wachovia or any entity controlling, controlled by, or under common control with Wachovia, and in which, at that time, WPP or other employee benefit plans maintained for the benefit of Wachovia or its affiliates own 5% or more of the shares (''Future Transactions''). Applicants state that they will rely on the requested relief for Future Transactions only in accordance with the terms and conditions contained in the application.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such investment company any security or other property. Section 2(a)(3) of the Act, in relevant part, defines ''affiliated person'' to include: (a) Any person directly or indirectly owning, controlling, or holding with the power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (c) if such other person is an investment company, any investment adviser of the investment company. Applicants state that, because the CTFs may be viewed as acting as principals in the Conversions and because the CTFs and the Mutual Funds may be viewed as being under the common control of Wachovia within the meaning of section 2(a)(3)(C) of the Act, the Conversions may be subject to the prohibitions contained in section 17(a).

2. Rule 17a–7 under the Act exempts certain purchase and sale transactions otherwise prohibited by section 17(a) if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the transaction involves a cash payment against prompt delivery of the security. Applicants state that rule 17a–7 is not available for the Conversions because WPP currently owns more than 5% of the outstanding voting securities of the Mutual Funds and Wachovia may be deemed to have an indirect pecuniary interest in the performance of the assets held by WPP. As a result, the affiliation between the

CTFs and the Mutual Funds may not be solely by reason of having a common investment adviser, common directors, and/or common officers. In addition, the Conversions will be effected as in-kind transfers, rather than in cash.

3. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of assets of registered investment companies from the provisions of section 17(a) of the Act if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the board of directors of each investment company makes certain determinations. Applicants state that rule 17a–8 is not available for the Conversions because the CTFs are not registered investment companies and because the CTFs and the Mutual Funds have affiliations other than those covered by the rule.

4. Section 17(b) of the Act provides that the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Section 6(c) provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants seek an order under sections 6(c) and 17(b) of the Act to permit the Conversions and Future Transactions. Applicants submit that the proposed transactions satisfy the standards for relief under sections 6(c) and 17(b). Applicants assert that the terms of the Conversions are reasonable and fair and do not involve overreaching on the part of any person; the investment objectives and policies of the CTFs are compatible with and similar to the applicable Mutual Fund's investment objectives and policies; and the Conversions and the requested exemption are in the public interest, consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

7. Applicants state that the Conversions will meet all of the conditions of rules 17a–7 and 17a–8, except as noted above. Applicants state that the Conversions are in accordance with procedures previously adopted by the Mutual Funds' board of trustees (the ''Board'') pursuant to rule 17a–7(e), and the provisions of rule 17a–7(b), (c), (d), and (f) will be satisfied. The Conversions will take place as in-kind transfers from the CTFs to the Mutual Funds, rather than cash transactions as required by rule 17a–7(a). Applicants assert that if the Conversions were effected in cash, the CTFs and the Mutual Funds would have to bear unnecessary expense and inconvenience in transferring assets to the Mutual Funds. In addition, applicants state that the Board, including a majority of the disinterested members, has determined that the participation of each Mutual Fund in the Conversions is in the best interests of that Mutual Fund and that the interests of existing shareholders of the Mutual Fund will not be diluted as a result of a Conversion. Such findings and the basis on which they were made will be fully recorded in the minute books of the Mutual Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Conversions will comply with the terms of Rule 17a–7(b) through (f).

2. The Conversions will not occur unless and until the Board (including a majority of the disinterested members) finds that participation by the Mutual Funds in the Conversions is in the best interests of each Mutual Fund and that the interests of the existing shareholders of the Mutual Funds will not be diluted as a result of the Conversions. These findings, and the basis upon which they are made, will be recorded fully in the minute books of the Trust.

3. The Conversions will not occur unless and until Wachovia, as trustee and fiduciary of each CTF and the Participants therein, has determined in accordance with its fiduciary duties that the Conversions are in the best interests of Participants in the CTFs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–17970 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23898; 812–11482]

Wayne Hummer Investment Trust, et al.; Notice of Application

July 8, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to use uninvested cash to purchase shares of affiliated money market funds.

APPLICANTS: Wayne Hummer Investment Trust (''Trust''), all existing and future series thereof, and any other registered open-end management investment company and its series that are currently or in the future advised by Wayne Hummer Management Company (the ''Adviser'') or any entity controlling, controlled by, or under common control with the Adviser (collectively, the ''Funds''), the Adviser, and Wayne Hummer Investments L.L.C. (''WHILLC'').

FILING DATES: The application was filed on January 27, 1999, and amended on May 18, 1999. Applicants have agreed to file another amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 29, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–

0609. Applicants, 300 South Wacker Drive, Suite 1500, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Susan K. Pascocello, Senior Counsel, at (202) 942–0674, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Trust is organized as a Massachusetts business trust and is an open-end management investment company registered under the Act. The Wayne Hummer Investment Trust currently consists of two series, a growth fund and an income fund (together with any future Funds that are not money market funds, the ''Non-Money Market Funds'') and as of July 31, 1999 will add two more series, one of which will be a money market fund (together with any future Funds that are money market funds, the ''Money Market Funds'').[1] The Adviser, an Illinois corporation, serves as investment adviser to each Fund and is registered as an investment adviser under the Investment Advisers Act of 1940. WHILLC, a Delaware limited liability company, acts as the distributor for each of the existing Funds.

2. Each Non-Money Market Fund has, or may be expected to have, uninvested cash (''Uninvested Cash'') held by its custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received from portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from the liquidation of investment securities, and new investor capital.

3. Applicants request an order to permit a Non-Money Market Fund to use its Uninvested Cash to purchase shares of a Money Market Fund, and the Money Market Fund to sell shares to and redeem from the Non-Money Market Fund, provided that the Non-Money Market Fund's aggregate investment in Money Market Funds does not exceed 25% of the Non-Money Market Fund's total assets at any time. Applicants believe that the ability to invest Uninvested Cash in Money Market Funds will benefit the Non-Money Market Funds by providing high rates of return, ready liquidity, and increased diversification.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt any persons or transactions from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) to permit the Non-Money Market Funds to use Uninvested Cash to purchase shares of the Money Market Funds and the Money Market Funds to sell the shares in excess of the limitations in sections 12(d)(1) (A) and (B), provided that no Non-Money Market Fund will invest more than an aggregate of 25% of its total assets in all Money Market Funds at any time.

3. Applicants submit that the proposed transactions do not implicate the abuses that sections 12(d)(1) (A) and (B) were intended to prevent, which include the exercise of undue influence by an acquiring fund over an acquired fund and layering of fees. Applicants state that each of the Money Market Funds will be managed specifically to maintain a highly liquid portfolio and will not be susceptible to undue control due to the threat of large-scale redemptions. Applicants also submit that there will be no layering of fees because no sales load, redemption fee, asset-based distribution fee or service fee will be charged in connection with the purchase and sale of shares of the Money Market Funds. Applicants state that the Adviser currently intends to credit to the Non-Money Market Fund, or waive, the investment advisory fees that it earns as a result of the investment in the Money Market Funds.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser of the investment company and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that because the Funds are advised by the Adviser and share a common board of trustees, the Funds may be deemed to be under common control and affiliated persons of one another. As a result, section 17(a) would prohibit the sale of shares of a Money Market Fund to a Non-Money Market Fund and the redemption of the shares by the Non-Money Market Fund.

5. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

6. Section 6(c) of the Act permits the SEC to exempt any person, security, or transaction from any provision of the Act if, and to the extent that, the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicants submit that the request for relief satisfies the standards of sections 17(b) and 6(c). Applicants state that the proposed transactions are reasonable and fair and would not involve overreaching because shares of the Money Market Fund will be purchased and redeemed by the Non-Money Market Funds at net asset value. Applicants also note that Non-Money Market Funds will retain their ability to invest their Uninvested Cash directly in money market instruments in accordance with their investment objectives and policies if a higher return can be obtained or for any other reason. Applicants assert that each Money Market Fund may discontinue selling its shares to any of the Non-Money Market Funds if the board of trustees of the Money Market Fund determines that the sale would adversely affect the Money Market Fund's portfolio management and operations.

[1] All existing investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future registered management investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in any joint arrangement with the investment company. Applicants assert that the Non-Money Market Funds, by purchasing shares of the Money Market Funds, the Money Market Funds, by selling shares to Non-Money Market Funds, and the Adviser, by managing the proposed transactions, could be deemed to be participants in a joint arrangement.

9. Rule 17d–1 under the Act permits the SEC to approve a joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the SEC considers whether the investment company's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from, or less advantageous than, that of other participants. Applicants assert that the Funds will participate in the proposed transactions on a basis not different from or less advantageous than that of other participants and that the transactions will be consistent with the purposes of the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed from the Non-Money Market Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Rules of Conduct).

2. If the Adviser collects a fee from a Money Market Fund for acting as its investment adviser with respect to assets invested by a Non-Money Market Fund, before the next meeting of the board of trustees of a Non-Money Market Fund that invests in the Money Market Funds (''Board'') is held for the purpose of voting on an advisory contract for the Non-Money Market Fund under section 15 of the Act, the Adviser will provide the Board with specific information regarding the approximate cost to the Adviser for, or portion of the advisory fee under the existing advisory contract attributable to, managing the assets of the Non-Money Market Fund that can be expected to be invested in such Money Market Funds. Before approving any advisory contract under section 15, the Board, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, shall consider to what extent, if any, the advisory fees charged to the Non-Money Market Fund by the Adviser should be reduced to account for the fee indirectly paid by the Non-Money Market Fund because of the advisory fee paid by the Money Market Fund to the Adviser. The minute books of the Non-Money Market Fund will record fully the Board's considerations in approving the advisory contract, including the considerations relating to fees referred to above.

3. Each of the Non-Money Market Funds will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Non-Money Market Fund's aggregate investment in the Money Market Funds does not exceed 25% of the Non-Money Market Fund's total assets. For purposes of this limitation, each Non-Money Market Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Money Market Funds will be in accordance with each Non-Money Market Fund's respective investment restrictions and policies set forth in its prospectus and statement of additional information.

5. No Money Market Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

6. Each Non-Money Market Fund, Money Market Fund, and any future Fund that may rely on the requested order will be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17932 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41599; File No. SR–CBOE–99–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Exchange's Rapid Opening System

July 6, 1999.

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 May 21, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Rule 6.2A, *Rapid Opening System*, which governs the operation of the Exchange's Rapid Opening System, to allow for two Floor Officials to adjust effected trades in cases where an underlying stock has been opened at an erroneous price and later corrected on the underlying market. The text of the proposed rule change is available at the Office of the Secretary, CBOE 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 CBOE 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 CBOE 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

The Exchange proposes to add sub-paragraph (a)(iii) to CBOE Rule 6.2A to provide that two Floor Officials may adjust trades executed through the Exchange's Rapid Opening System (''ROS'') when the primary market for the underlying has opened a security at an erroneous price and then later corrects that opening price.

In the period of time since CBOE Rule 6.2A was approved by the Commission on a pilot basis,[3] the Exchange has had a very positive experience with ROS. ROS has enabled the Exchange to open classes of options within seconds of the opening of the underlying security thus,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41033 (February 9, 1999) 64 FR 8156 (February 18, 1999).

enabling firms and customers to enter orders in open trading almost immediately after the opening bell. In those classes where it has been employed, ROS additionally has prevented backlogs of orders from developing during the opening. During the time ROS has been employed on the floor, there have been a very few instances. however, where ROS has opened the option class at a price based upon an erroneous opening price of the underlying security disseminated by the primary market which is later corrected by the primary market only after ROS had opened the option class.[4]

In those instances where ROS has opened on an erroneous print, staff of the Exchange has had to expend a substantial amount of time working with the participants in the trades to get their agreement to adjust the trades and to determine which customer orders should have been filled on the opening. The staff has had to work to get the parties to the trade to agree before the trades have been adjusted. The market-makers in the particular class where ROS is employed have suffered significant deleterious financial consequences from these openings on an erroneous print because, under the current circumstances, only those market-maker trades the occurred at a price that disfavored a customer will be adjusted while the market-makers will retain those trades done at a price that favored a customer. As a result, the Exchange believes market-makers may become discouraged from participating in ROS because, even though the expected incidences where an erroneous print occur are rare, the financial consequences to a particular market-maker can be substantial.

It should also be noted that when ROS is opened based upon an incorrect price of the underlying there are customer orders that are not being filled that might otherwise have been filled had ROS opened at the correct price. Also, there are customer to customer trades that will be executed at a price based upon an incorrect underlying price. Floor Officials would have the authority to assign trades for these customers to market-makers in the crowd as well and to adjust the execution price of the customer to customer trades. Floor Officials would use their judgment to adjust trades as necessary to maintain a fair and orderly market.

After these problems first occurred, Exchange staff has educated trading crowds about methods that they may employ to help prevent these problems from occurring in the future. For example, the trading crowds may wait to send their AutoQuote values until after the initial bid/ask quotes on the underlying are disseminated to ensure that the initial disseminated opening price for the underlying security is in line with the bid/ask quotes. Also, a system enhancement has been put in place that will provide an indication to crowds when ROS is being opened at a price that appears erroneous. There is no guarantee that these methods can prevent every occurrence where a class is opened on ROS at an erroneous price. The Exchange believes therefore, it is necessary to grant Floor Officials the authority to adjust opening trades in the event that the class is opened at an erroneous price. This authority is similar to the authority Floor Officials currently have with respect to RAES trades.[5] The Exchange believes this change will prevent market-makers from becoming discouraged from participating on ROS and will save time spent by Exchange staff negotiating with participants on trades that occur on erroneous prints. At the same time the rule change will give Floor Officials the authority to determine which trades should be adjusted so that a fair and equitable result is achieved for all market participants, including those customers that might not have been filled on the opening but who might have been had the class been opened at the correct price.

The proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of Act in that it is designed to remove impediments to a free and open market and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. 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 CBOE. All submissions should refer to File No. SR–CBOE–99–20 and should be submitted by August 4, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17884 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[4] Because ROS employs the Exchange's AutoQuote system and the Exchange's AutoQuote system relies on feed of the underlying to determine the option's price, an inaccurate underlying price can lead to an inaccurate ROS opening price.

[5] CBOE Rule 6.8(a)(ii) states in part: ''A trade executed on RAES at an erroneous quote should be treated as a trade reported at an erroneous price and adjusted to reflect the accurate market after receiving a Floor Official's approval.''

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41605; File No. SR–CHX–99–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments No. 1 by the Chicago Stock Exchange, Inc. Relating to the Minimum for Nasdaq-100 Shares and Disclaimer of Liability With Respect to the Nasdaq-100 Index

July 7, 1999.

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 June 21, 1999, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'' or the ''SEC'') the proposed rule change, as described in Items I, and II below, which Items have been prepared by the self-regulatory organization. The filing was subsequently amended on July 1, 1999.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously approving the filing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Rule 22 of Article XX, to amend interpretation and policy .05 thereunder, to permit dealings in Nasdaq-100 Shares of the Nasdaq 100 Trust (''Nasdaq-100 Shares'') in increments smaller than the minimum variation, and to amend CHX Rule 25 of Article XXVIII relating to disclaimer of liability with respect to the Nasdaq-100 Index.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend CHX Rule 22 of Article XX, to amend interpretation and policy .05 thereunder, to permit dealings in Nasdaq-100 Shares in increments of 1/64 of $1.00. The Nasdaq 100 Trust is a unit investment trust sponsored by Nasdaq-Amex Investment Product Services, Inc. with a portfolio based on the component stocks of the Nasdaq-100 Index. The Exchange intends to trade the Nasdaq-100 Shares pursuant to unlisted trading privileges (''UTP'') under the Exchange's Investment Company Unit rules.[5] These securities are currently traded on the American Stock Exchange (''Amex'') in increments of 1/64 of $1.00 and, thus, the Exchange believes it is appropriate to trade these securities on the Exchange with the same minimum increment of 1/64 of $1.00 as well.[6]

In connection with the Exchange's license agreement with the Nasdaq Stock Market (''Nasdaq'') relating to, among other things, the use of the name ''Nasdaq-100 Shares,'' and the disclaimers of liability relating to the Nasdaq-100 Index, the Exchange is proposing to amend CHX Rule 25 of Article XXVIII to add a new subsection (h) to codify a rule governing disclaimers of liability relating to the Nasdaq-100 Index.[7] The proposed CHX Rule 25 of Article XXVIII will reflect the disclaimers of liability language adopted by the Amex in its Rule 1006.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5)[10] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons regulating securities transactions, to remove impediments and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, 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 20549–0609. 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 CHX. All submissions should refer to File No. SR–CHX–99–06 and should be submitted by August 4, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the CHX's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act[12] because it will facilitate transactions in securities by permitting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange moved a new section proposed under CHX Rule 24 of Article XXVIII, Investment Company Units, to CHX Rule 25 of Article XXVIII, Portfolio Depository Receipts; as well as made a typographic correction to the proposed rule change. *See* Letter from Kirsten M. Carlson, Foley & Lardner, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated June 30, 1999 (''Amendment No. 1'').

[4] *See* Amendment No. 1, *supra* note 3.

[5] *See* CHX Rule 24 of Article XXVIII.

[6] *See* Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR–Amex–98–34).

[7] *See* Amendment No. 1, *supra* note 3.

[8] *Id.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

the CHX: (1) To trade Nasdaq-100 Shares, on a UTP basis, in increments of 1/64th of $1.00, and (2) to adopt a disclaimer of liability rule relating to the Nasdaq-100 Index, consistent with the license agreement between Nasdaq and the Exchange.

The Exchange has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the thirtieth day after the publication of the proposal in the **Federal Register**. The Commission believes that such action is appropriate, in that the proposed rule change establishes the same minimum trading variation as the Amex has adopted for Nasdaq-100 Shares. Further, the proposed rule relating to the disclaimer of liability with respect to the Nasdaq-100 Index is also identical to the disclaimer of liability adopted by the Amex.[13] For the reasons set forth above, the Commission does not believe that this proposal raises any new regulatory issues. Accordingly, the Commission finds that there is good cause for approving the proposed rule change prior to the thirtieth day after the publication of the proposal in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17934 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[13] The Amex Disclaimer of liability provision was approved in Securities Exchange Act Release Nos. 41119 (February 26, 1999), and 41562 (June 25, 1999). It was subject to the full notice and comment process in Securities Exchange Act Release No. 41119 and no comments were received with respect to the disclaimer.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41604; File No. SR–MSRB–99–6]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board To Revise the Test Specifications and Study Outline for the Board's Municipal Securities Representative Qualification Examination (Test Series 52)

July 7, 1999.

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 June 23, 1999,[3] the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') 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 prepare by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing the proposed rule change to revise the test specifications and study outline for the Board's Municipal Securities Representative Qualification Examination (Test Series 52). The Board requests that the Commission delay the effectiveness of the revised study outline until August 1, 1999, in order to provide time to modify the examination to reflect the changes to the test specifications in the study outline and to circulate to the industry information concerning the revisions.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Series 52 examination qualifies a candidate as a municipal securities representative.[4] A candidate may also qualify as a municipal securities representative by taking the General Securities Representative Examination (Test Series 7), which borrows questions from the Series 52 examination. Specific subjects and questions have been updated from time to time in the Series 52 examination to reflect changes in Board rules or applicable federal regulations. An ad hoc committee from the Board's Professional Qualifications Advisory Committee (''PQAC'')[5] determined that coverage of certain subject areas in the study outline should either be expanded to provide greater detail to candidates studying for the Series 52 examination or de-emphasized to reflect changed practices and products within the municipal securities industry. Topics that are no longer relevant were deleted and other topics were added or revised to reflect additions to or changes in practices,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Board filed the proposed rule change to replace the File No. SR–MSRB–99–05, which it withdrew on June 23, 1999. The proposed rule change has been filed by the Board as a non-controversial rule change under Rule 19b–4(f)(6) under the Act. On May 20, 1999, the Board provided the Commission with written notice of its intent to file the proposed rule change, which was at least five days prior to the filing date, as required by Rule 19b–4(f)(6).

[4] MSRB Rule G–3(a)(i) defines the term ''municipal securities representative'' as: a natural person associated with a broker, dealer or municipal securities dealer, other than a person whose functions are solely clerical or ministerial, whose activities include one or more of the following: (A) Underwriting, trading or sales of municipal securities; (B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities; (C) research or investment advice with respect to municipal securities; or (D) any other activities which involve communication, directly or indirectly, with public investors in municipal securities; provided, however, that the activities enumerated in subparagraphs (C) and (D) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) and (B) above.

[5] PQAC is composed of the Representative Examination Subcommittee and the Principal Examination Subcommittee. The subcommittees are composed of individuals with extensive experience in the securities industry. The committee members are employed by securities firms and bank dealers and come from diverse geographic locations.

products, and Board rules since the outline was last revised. The revised outline also provides for the inclusion of new Board rules as they are promulgated.

In the revised study outline, existing topics have been expanded to include the following terms, products, or concepts:

- taxable municipals
- multi-modal
- tax-exempt commercial paper
- forwards (forward delivery)
- capital appreciation bonds (zeros)
- current refundings
- advance refunding
- de minimis exemption on OID bonds
- Bloomberg, BOND EXPRESS and BONDTRAC
- swing coupon
- locked market
- municipal bond contract
- municipal over bond (MOB) spread
- growth
- speculation
- tax law changes
- construction fund
- enhanced securities
- letters of credit
- guaranteed investment contract (GIC)
- advance refunded
- insured
- average life (sinking fund)
- dollar value of a basis point
- convexity
- derivatives
- value of a plus (1/64)
- Consumer Price Index (CPI)
- unemployment rate
- housing starts
- foreign trade deficits
- purchasing manager's report
- leading/lagging/co-existent indicators
- Producer Price Index (PPI)
- gross domestic product
- international economic activity
- compression

Major topics added since the last published revision of the study outline are:

- duration (under the heading of mathematical calculations and methods)
- rule G–37, on political contributions and prohibitions on municipal securities business
- rule G–38, on consultants
- rule G–39, on telemarketing

Major topics deleted since the last published revision of the study outline are: [6]

- New/Public Housing Authority (NHA/PHA) bonds
- Mortgage backed bonds
- Pass-through securities
- Flower bonds
- Arbitration (rule G–35)

The test specifications allocate exam questions among the various topics. The test specifications have been revised to provide for greater emphasis under the topic areas of Economic Activity, Government Policy and Factors Affecting Interest Rates and Federal Legal Considerations. The examination will remain a three-hour 100 question examination administered by NASD Regulation, Inc. using the PROCTOR system.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(A) [7] of the Act, which requires the Board to propose and adopt rules that ensure that no municipal securities broker or dealer effects transactions in municipal securities without meeting the standards of training, experience, competence, and other qualifications determined by the Board to be necessary or appropriate in the public interest or for the protection of investors. Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers and municipal securities dealers and their associated personnel and require persons in any such class to pass tests prescribed by the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective upon filing pursuant to Section 19(b)(3)(A) [8] of the Act, and Rule 19b–4(f)(6) [9] thereunder, in that it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty (30) days from the date of its filing on June 23, 1999. In particular, the Commission believes the proposed rule change qualifies as a non-controversial filing because the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to the File No. SR–MSRB–99–6 and should be submitted by August 4, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17886 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[6] Phone call between Ronald W. Smith, Senior Legal Associate, MSRB, and Sonia Patton, Attorney, Division of Market Regulation, Commission, on July 6, 1999.

[7] 15 U.S.C. 78*o*–4(b)(2)(A).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41608; File No. SR–NYSE–99–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Equity-Linked Debt Securities

July 8, 1999.

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 May 28, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend paragraph 703.21 of its Listed Company Manual (''Manual'') regarding the listing of equity-linked debt securities (''ELDS''). The amendment deals with the minimum required term of such securities, and substitutes a one-year minimum for all ELDS (domestic and non-U.S.) for the current requirement that the securities have a term of two to seven years (three year maximum for non-U.S. securities). The text of the proposed rule change is as follows. New text is italicized and deleted text is bracketed.

NYSE Listed Company Manual

703.21 Equity-Linked Debt Securities

* * * * *

(B) Equity-Linked Debt Security Listing Standards

The issue must have:

* * * * *

• *Minimum life of one year* [A term of two to seven years; provided that if the issuer is a non-U.S. company, the issue may not have a term of more than three years].

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Exchange 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 Exchange 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

ELDS are non-convertible debt of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock. Because ELDS are a derivative product related to the underlying stock, the Exchange trades ELDS on the equity trading Floor together with the underlying stock (if such stock is listed).

Paragraph 703.21 of the Manual details the Exchange's listing standards for ELDS. Among other things, these standards require that the ELDS have a term of two to seven years, but not more than three years for ELDS based on the price of a non-U.S. issuer. The Exchange initially proposed these limits as a conservative measure to help ensure that the trading of ELDS does not have an adverse effect on the liquidity of the underlying stock, and is not used in a manipulative manner. The limits on the terms for ELDS contrast with the Exchange's general requirements of derivative instruments. Specifically, for warrants (Paragraph 703.12 of the Manual), foreign currency and currency index warrants (Paragraph 703.15 of the Manual), contingent value rights (Paragraph 703.18 of the Manual) and ''other securities'' (Paragraph 703.19 of the Manual), the Exchange requires only that the security have a minimum life of one year.

In the nearly six years that the Exchange has traded ELDS, it has not discovered any adverse effects of this instrument. Indeed, ELDS appear to be an instrument that complements the trading of the underlying stock, and the continued popularity of the instrument demonstrates its appeal in the market. Accordingly, the Exchange sees no reason to retain more stringent requirements on these instruments compared to other derivative products. Thus, the purpose of this filing is to apply to ELDS the one-year minimum term requirement generally applicable to other derivative products regardless of whether based on a domestic or non-U.S. security.

The Exchange believes that this rule change will provide issuers with more flexibility in developing ELDS and thus provide greater investment choices in the market. Specifically, the Exchange notes that many corporate debt instruments have terms well in excess of seven years, and that this rule change will allow the structuring of ELDS with terms to maturity comparable to such debt instruments. Furthermore, extending the term of ELDS will provide issuers with the ability to offer variations on ELDS, such as principal protection and call features that may not be as desirable on debt instruments with a shorter term. The Exchange believes that this added flexibility will encourage innovation without having an adverse effect on investor protection.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act[3] requiring that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[3] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–99–22 and should be submitted by August 4, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17933 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41595; File No. SR–PCX–98–02]

Self-Regulatory Organizations; The Pacific Exchange, Inc.; Order Approving Proposed Rule Change To Allow Staffing of the Public Limit Order Book by Employees of the LMM

July 2, 1999.

I. Introduction

On January 23, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 expand its Lead Market Maker (''LMM'') Book Program (''Program'') to allow qualified LMMs to manage their own employees in operating the options public limit order book (''Book''). The proposed rule change was published for comments [3] in the **Federal Register** on April 22, 1998.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.[5]

II. Description of the Proposal

On October 11, 1996, the Commission approved an Exchange proposal to adopt a one-year pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public limit order book in certain option issues.[6] Initially, the Program's participation was limited to three LMMs and 40 option symbols.[7] On April 1, 1997, the Commission approved an Exchange proposal to expand the Program limits to nine LMMs and 150 option symbols.[8] On September 22, 1997, the Commission approved an Exchange proposal to extend the pilot program for an additional year.[9] Subsequently, the Commission approved an Exchange proposal to make the Program permanent.[10]

Under the Program,[11] approved LMMs may manage the Book function with the assistance of Exchange personnel, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services.[12] Presently, an LMM must be certified as qualified by the Exchange's Options Floor Trading Committee (''OFTC'') before an employee of that LMM may assist with Book operation. Certification of an LMM is based on some or all of the following factors: experience with trading an options issue as a market maker or LMM and willingness to assume LMM responsibilities; trading volume of the options issue(s); adequacy of capital; willingness to promote the Exchange as a marketplace; history of adherence to Exchange rules and securities laws; trading crowd/LMM evaluations conducted pursuant to Options Floor Procedure Advice B–13; and ability to manage the Book operation.[13]

The Exchange now proposes to expand the Program to allow qualified LMMs to manage their own employees in operating the Book. Currently, the Exchange required participating LMMs to use Exchange personnel to assist the LMM in performing the Order Book Official (''OBO'') function, for which the Exchange charges the LMM a staffing charge.[14] LMMs who opt to manage their own employees in the Book operation would continue to set their own rates for Book executions, and would only be required to use Exchange staff, and pay a staffing charge, under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 13, 1998, the PCX submitted a letter, in response to Commission staff questions, providing a brief explanation of its proposed method for admitting employees to participate in the LMM Program and concerning its proposed surveillance of the LMM Program employees and operations. The substance of this letter is incorporated into this order. *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Marie D'Aguanno Ito, Special Counsel, Division of Market Regulation (''Division''), Commission, dated April 13, 1998 (''PCX Letter No. 1'').

[4] Securities Exchange Act Release No. 39875 (April 15, 1998), 63 FR 19994.

[5] On March 15, 1999, the PCX submitted a letter further explaining the supervision and training of LMM-employed Order Book Officials. The letter also clarifies that for purposes of the proposed rule change LMMs operating the Book will assume the duties and liabilities of the Exchange. The substance of this letter is incorporated into this order. *See* letter from Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, to Richard Strasser, Assistant Director, Division, Commission, dated February 10, 1999 (''PCX Letter No. 2'').

[6] *See* Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1996) (approving File No. SR–PSE–96–09).

[7] *Id.*

[8] *See* Exchange Act Release No. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997).

[9] *See* Exchange Act Release No. 39106 (September 22, 1997), 62 FR 51172 (September 30, 1997).

[10] *See* Exchange Act Release No. 40548 (October 14, 1998), 63 FR 56283 (October 21, 1998).

[11] Only multiple-listed option issues are currently eligible to be traded unde the Program. *See* Exchange Act Release No. 38273 (February 12, 1997), 62 FR 7489 (February 19, 1997).

[12] *See* Exchange Act Release No. 37874 (October 28, 1996), 61 FR 56597 (November 1, 1996) (approving SR–PSE–96–38, establishing a staffing charge for LMMs who participate in the pilot program).

[13] *See* Exchange Act Release No. 37810, note 6, *supra*.

[14] *Id. Also see* PCX Rule 6.82(h)(1)(a).

unusual circumstances.[15] If an LMM is not currently participating in the Program and wished to use its own employees to staff the Book, that LMM would apply to the OFTC for approval. An LMM currently participating in the Program wishing to begin using its own employees to staff the Book would also need to apply to the OFTC for approval.

Under the proposal, employees of qualified LMMs operating the Book will be required to perform OBO functions, pursuant to PCX Rules 6.51 through 6.59, as if they were Exchange employees. Like OBOs who are Exchange employees, the LMM staff handling the OBO functions will have the duty to: (1) Assist in the maintenance of a fair, orderly and competitive market; [16] (2) report any unusual activity, transactions or price changes or other unusual market conditions or circumstances that are detrimental to the maintenance of a fair, orderly and competitive market to an Options Floor Official; [17] and (3) disclose to members, upon request, the price and number of contracts that are bid below or that are offered above the Book information displayed.[18] The Exchange has represented that the LMM employees who will most likely operate the Book initially will be former Exchange OBOs and LMM employees who presently work with Exchange OBOs in apprentice-like fashion.[19] For the purposes of this proposal, LMMs will assume the liabilities of the Exchange under PCX Rules 6.59(a) and 13 for any loss, expense, damage or claim arising out of errors or omissions of their Book staff.[20]

The Exchange believes that allowing LMMs to use their own employees to operate the Book will have no negative impact on the Exchange's oversight and regulation of activities on the Options Trading Floor. LMMs who operate the Book will continue to be subject to higher capital requirements than other LMMs or Market Makers.[21] The Exchange will continue to employ Exchange staff to monitor the operations of all LMMs.[22] Exchange staff will also continue to prepare all Unusual Activity Reports that are forwarded to the Surveillance Department for review and to monitor the activities of LMMs, including those activities that are brought to the attention of Floor Officials by members of the trading crowd.[23] Finally, in addition to the on-site monitoring, Exchange staff will also use automated reports for the LMM Limit Order Book and Opening Price Surveillance to help ensure that the LMM is meeting its duties regarding the Book.[24]

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act [25] and, in particular, with Section 6(b) of the Act.[26] Specifically, the Commission finds that the proposal is consistent with the Section 6(b)(5) [27] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

The Commission believes that the proposal is reasonably designed to maintain, without disruption to activities on the Exchange's Options Trading Floor, the effective operation of the Book. Under the proposal, LMMs must be certified as Program qualified by the Exchange's OFTC based on a number of factors, including the LMM's ability to manage the Book operation. Additionally, the employees of qualified LMMs operating the Book will be required to perform OBO functions, pursuant to PCX Rules 6.51 through 6.59, as if they were Exchange employees. Like OBOs who are Exchange employees, the LMM staff handling the OBO functions will have the duty to, amongst other things: (1) Assist in the maintenance of a fair, orderly and competitive market; and (2) report any unusual activity, transactions or price changes or other unusual market conditions or circumstances that are detrimental to the maintenance of a fair, orderly and competitive market to an Options Floor Official. The LMM will be responsible for the proper execution of OBO functions by their employees, and for the purposes of this proposal, the LMMs will assume the liabilities of the Exchange under PCX Rules 6.59(a) and 13 for any loss, expense, damage or claim arising out of errors or omissions of their Book staff. Thus, all the OBO functions that are currently administered by Exchange employees should continue to be executed by LMM employees under the proposal.

The Commission also believes that the Exchange's proposal is reasonably designed to provide LMM-employed OBOs with adequate supervision. The Exchange has represented that LMMs who operate the Book will be subject to heightened scrutiny as compared to LMMs who do not operate the Book. The Exchange also represents that Floor Officials will continue to supervise the LMM trading crowds to which they are assigned. As a result, members seeking information or wishing to file a complaint may go to a Floor Official or Exchange Floor managers. Additionally, LMMs who undertake the operation of the Book under the proposal will continue to be subject to higher capital requirements than other LMMs or Market Makers; Exchange staff will continue to prepare all Unusual Activity Reports that are forwarded to the Surveillance Department for review; and Floor Officials will continue to monitor the activities of LMMs, including those activities that are brought to the attention of Floor Officials by members of the trading crowd.

The Commission believes that the Exchange's proposal is reasonably designed to provide for the adequate training of LMM employees operating the Book. The Exchange has represented that initially, the LMM employees who will most likely operate the Book will be former Exchange OBOs or present LMM employees who currently work with Exchange OBOs in apprentice-like fashion in the Program. Additionally, the Exchange has stated its willingness to assist LMM training efforts with their staff and facilities although participating LMMs will retain the primary responsibility to ensure the adequate training of their Book staff. The Commission believes that the structure of the Program, along with the supervision and oversight by the LMMs and Exchange, should help to ensure that LMM-employed OBOs are adequately trained.

The Commission also believes that the proposal should help LMMs control their operational costs, as LMMs using their own staff to administer book functions will no longer have to pay Exchange personnel staffing charges, except during unusual market

[15] In the event of unusual market circumstances, the Exchange will make Exchange staff available to assist the LMMs in performing their CBO functions on a temporary basis, and will charge such LMMs a reasonable fee for such services. The Exchange intends to file with the Commission a proposed rule change to establish temporary staffing charges for LMMs.

[16] *See* PCX Rule 6.53.

[17] *See* PCX Rule 6.54.

[18] *See* PCX Rules 6.55 and 6.57.

[19] *See* PCX Letter No. 2, note 5, *supra.*

[20] *Id.*

[21] *See* PCX Rule 6.82, Commentary .05 (requiring LMMs who run the Book to maintain ''minimum net capital,'' as provided in Exchange Act Rule 15c3–1, and also to maintain a cash or liquid asset position of at least $500,000, plus $25,000 for each issue over 5 issues for which they perform the function of an OBO).

[22] *See* PCX Letter No. 2, note 5, *supra.*

[23] *Id.*

[24] *Id.*

[25] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

circumstances. Additionally, the proposal should reduce Exchange costs associated with providing staff to operate the Book.[28] By permitting the Exchange to reduce Program costs and allocate its resources to other regulatory areas the Commission finds that the proposal is consistent with the Act. The Commission believes that the proposal is reasonably designed to maintain, without disruption to activities on the Exchange's Options Trading Floor, the effective operation of the Book functions and therefore is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change, as amended, (SR–PCX–98–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17885 Filed 7–13–99–; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41600; File No. SR–Phlx–99–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Participation on the Auto-X Wheel

July 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is heregy given that on June 21, 1999, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Options Floor Procedure Advice (''Advice'') F–24, Auto-X, Contra-Party Participation (The Wheel) to allow Registered Options Traders (''ROTs'') to only sign-on the Wheel in one Wheel assignment area (two contiguous quarter turrets) during an expiration month, unless the ROT is replacing another ROT from the same firm. The Exchange also proposes to delete references to ''brief interval'' in Advice F–24(c)(iii), to begin requiring ROTs to sign-off the Wheel if they leave the Wheel assignment area for any period of time. The text of the proposed rule change is available at the Office of the Secretary, Phlx, 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 Exchange 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 Exchange has prepared summeries, 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

The Wheel is an automated mechanism for assigning trade participation among specialists and ROTs on a rotating basis, as contra-side participants to Auto-X orders. Auto-X is the automatic execution feature of the Exchange's Automated Options Market (''AUTOM'') system,[4] which provides customers with automatic executions of eligible option orders at displayed markets. The purposes of the Wheel is to increase the efficiency of order execution through Auto-X by including 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, and no longer entered manually.

Currently, an ROT may sign-on to as many Wheels as that ROT maintains an ROT assignment, as long as the ROT is present in Wheel assignment area and actively making markets. However, pursuant to Advice F–24(c)(i), the ROT may not sign-on in more than one Wheel assignment area (two contiguous quarter turrets) at a given time. The Exchange proposes that an ROT only sign-on the Wheel in one Wheel assignment area per expiration month at any given time. For example, if an ROT signs-on following the June expiration in Wheel assignment area X, the ROT may sign-on or off the Wheel in Wheel assignment area X during that expiration month (*i.e.*, July). The ROT may not sign-on to the Wheel in Wheel assignment area Y until after the July expiration. The Exchange believes that placing this restriction will encourage ROTs to better fulfill their market making obligations in the trading crowd as well as receive the benefits of participation on the Wheel. In addition, the Exchange recognizes the need for flexibility within member firms to replace ROTs in different trading crowds on a temporary basis. Thus, the Exchange proposes that an ROT who replaces another ROT from the same firm on a temporary basis would be able to sign-on the Wheel for the duration of his replacement.[5]

Secondly, an ROT must currently sign-off the Wheel if he leaves the trading crowd for more than a ''brief interval.'' A brief interval is defined as five minutes or less or in matters of dispute, the amount of time that it takes to call a Floor Official and inform him/her of the issue at hand.[6] The Exchange proposes to delete the reference to ''brief interval'' from section (c)(iii) of Advice F–24, thus requiring ROTs to sign-off the Wheel if they leave the trading crowd for any period of time. The Exchange believes that this proposal will clarify the ROTs' responsibilities regarding sing-on/sign-off procedures on the Wheel and facilitate the administration of fines by eliminating the subjectivity as to the time period.

For these reasons, the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent

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[28] Telephone conversation between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX and Marc McKayle, Attorney, Division, Commission on June 23, 1999.

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange provided the Commission with written notice and the text of the proposed rule change on June 10, 1999 pursuant to Rule 19b–4(f)(6)(iii).

[4] AUTOM is an electronic order routing and delivery system for option orders. *See* Phlx Rule 1080.

[5] The replacement ROT must maintain an assignment in the issue where he is acting as the replacement consistent with his obligations as a market maker pursuant to Phlx Rule 1014.

[6] *See* Securities Exchange Act Release No. 38881 (July 28, 1997) 62 FR 41986 (August 4, 1997) (SR–Phlx–97–21).

and manipulative practives and to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by clarifying the ROTs' responsibilities in this area and requiring the ROTs to fulfill their market making requirements on the trading floor in order to receive the benefits of contra-side Auto-X transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8] 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. 20549–0609. 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–99–18, and should be submitted by August 4, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17883 Filed 7–13–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 07/07–0102]

Eagle Fund I, L.P.; Notice of Issuance of a Small Business Investment Company License

On December 1, 1998, an application was filed by Eagle Fund I, L.P. at 2301 S. Kingshighway, St. Louis, Missouri 63110–3498 with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 07/07–0102 on April 22, 1999, to Eagle Fund I, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 6, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17948 Filed 7–13–99; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act 1974; Computer Matching Program (Agreement for SSA/Individual Source Jurisdictions Match of Data on Certain Fugitives and Probation or Parole Violators, Match #5001)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either facsimile to (410) 597–0841 or writing to the Associate Commissioner for Program Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support at the above address.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503) amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal Government could be performed and adding certain protections for individuals applying for or receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protection for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the match agreements by any appropriate Federal agency Data Integrity Boards;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: July 2, 1999.

Susan M. Daniels, Ph.D.,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) with Individual Source Jurisdictions

A. Participating Agencies

SSA and various individual law enforcement jurisdictions.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, safeguards and procedures for the disclosure to SSA by individual source jurisdictions, information on individuals who are fugitives from justice or parole or probation violators. Individual source jurisdictions will disclose information on certain individuals through a computer matching operation for SSA's use in verifying eligibility under title XVI of the Social Security Act. SSA's Office of the Inspector General will use this information to conduct investigations into program fraud and to assist law enforcement jurisdictions with the apprehension of fugitives and parole or probation violators.

C. Authority for Conducting the Matching Program

This matching operation is carried out under the authority of sections 202(x)(1)(A)(i), and 1611(e)(5) of the Social Security Act.

D. Categories of Records and Individuals Covered by the Match

Individual jurisdictions will submit names and other identifying information of individuals who are fugitives from justice or parole or probation violators. The SSA Master Files of Social Security Number (SSN) Holders and SSN Applications (SSA/OSR 09–60–0058) contains the SSNs and identifying information for all SSN holders and the Supplemental Security Income Record (SSR 09–60–0103) contains payment information. SSA will match data from these record systems with data received from individual jurisdictions as a first step in detecting certain fugitives and probation or parole violators who should not be receiving SSI benefits.

E. Inclusive Dates of the Match

This matching program shall become effective no sooner than 40 days after notice of the program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 99–17824 Filed 7–13–99; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF STATE

Office of Visa Services

[Public Notice 3089]

60-Day Notice of Proposed Information Collection; Medical Examination of Applicants for United States Visas, Form OF–157

AGENCY: Department of State.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of Form.

Originating Office: CA/VO/F/P.

Title of Information Collection: Medical Examination of Applicants for United States Visas.

Frequency: 700,000.

Form Number: OF–157.

Respondents: Immigrant Visa Applicants.

Estimated Number of Respondents: 700,000.

Average Hours Per Response: .1 hours.

Total Estimated Burden: 70,000 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- 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 ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Jeff Abasolo, 2401 E ST, NW, RM L–703, Tel: 202–663–1164, U.S. Department of State, Washington, DC 20520.

Dated: June 29, 1999.

Mildred Patterson,

Acting Deputy, Assistant Secretary of State for Visa Services.

[FR Doc. 99–17956 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Office of Visa Services

[Public Notice 3090]

60-Day Notice of Proposed Information Collection; Application for A, G, or NATO Visa, Form DS–1648

AGENCY: Department of State.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of Form.

Originating Office: CA/VO/F/P.

Title of Information Collection: Application for A, G, or NATO Visas.

Frequency: 20,000.

Form Number: DS–1648.

Respondents: Foreign Applicants.

Estimated Number of Respondents: 20,000.

Average Hours Per Response: .5 hours.

Total Estimated Burden: 10,000 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- 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 ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Jeff Abasolo, 2401 E ST NW, RM L–703, Tel: 202–663–1164, U.S. Department of State, Washington, DC 20520.

Dated: June 29, 1999.

Mildred Patterson,

Acting Deputy Assistant Secretary of State for Visa Services.

[FR Doc. 99–17957 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Office of Visa Services

[Public Notice 3091]

60-Day Notice of Proposed Information Collection; Supplemental Registration for Diversity Immigrant Visa Program, Form DSP–122

AGENCY: Department of State.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of Form.

Originating Office: CA/VO/F/P.

Title of Information Collection: Supplemental Registration for Diversity Immigrant Visa Program.

Frequency: 55,000.

Form Number: DSP–122.

Respondents: Foreign Applicants.

Estimated Number of Respondents: 55,000.

Average Hours Per Response: .5 hours.

Total Estimated Burden: 27,500 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- 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 ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Jeff Abasolo, 2401 E ST, NW, RM L–703, Tel: 202–663–1164, U.S. Department of State, Washington, DC 20520.

Dated: June 29, 1999.

Mildred Patterson,

Acting Deputy Assistant Secretary of State for Visa Services.

[FR Doc. 99–17958 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 3092]

Overseas Citizens Services; Office of Children's Issues; 60-Day Notice of Proposed Information Collection; Application for Assistance Under the Hague Convention on Child Abduction; OMB Number 14050076; Form Number DSP–0105

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement.

Originating Office: CA/OCS/CI.

Title of Information Collection: Application for Assistance Under the Hague Convention on Child Abduction.

Frequency: On occasion.

Form Number: DSP–0105.

Respondents: Individuals.

Estimated Number of Respondents: 500.

Average Hours Per Response: 1.

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 functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- 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 ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Mary B. Marshall, CA/OCS/CI, Room 4811, 2201 C St. NW, U.S. Department of State, Washington, DC 20520, (202) 647–2598.

Dated: March 22, 1999.

Frank Moss,

Executive Director, Bureau of Consular Affairs.

[FR Doc. 99–17959 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 3093]

Office of Visa Services; 60-Day Notice of Proposed Information Collection; Petition to Classify Special Immigrants Under INA 203(b)(4) as an Employee Or Former Employee of the U.S. Government Abroad, Form DS–1884

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of Form.

Originating Office: CA/VO/F/P.

Title of Information Collection: Petition to Classify Special Immigrants Under INA 203(b)(4) as an Employer or Former Employee of the U.S. Government Abroad.

Frequency: 500.

Form Number: DS–1884.

Respondents: Foreign Applicants.

Estimated Number of Respondents: 500.

Average Hours Per Response: .5 hours.

Total Estimated Burden: 250 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- 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 ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Jeff Abasolo, 2401 E ST NW, RM L–703, Tel: 202–663–1164, U.S. Department of State, Washington, DC 20520.

Dated: June 29, 1999.

Mildred Patterson,

Acting Deputy Assistant Secretary of State for Visa Services.

[FR Doc. 99–17960 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice No. 3094]

Proposed Unidroit Convention on International Equipment Finance and a Protocol on Aircraft Transactions; Meeting Notice

AGENCY: Department of State.

ACTION: The International Commercial Finance Study Group of the Department's Advisory Committee on Private International Law will hold its next meeting in Washington, DC at the Department of Transportation on Friday, July 23 from 10:00 am to 1:00 pm. The subject will be international efforts to enhance through a new treaty system to enhance the use of secured financing for mobile equipment, with a particular focus at this stage on the air transportation industry.

Agenda

The agenda, subject to available time, will include: a review of the purpose of the proposed UNIDROIT Convention on international interests in mobile equipment; the results of the first intergovernmental meeting in February 1999 at Rome co-sponsored by UNIDROIT and ICAO, and issues expected to be on the table at the second intergovernmental meeting scheduled for August at Montreal; proposals for establishment of an internationally-linked registry system for finance interests; the proposed treaty structure and its intersection with national commercial and civil aviation laws and the Chicago and Geneva Conventions on civil aviation; and time permitting, possible future treaty protocols on railway rolling stock, space equipment and satellites, and possibly other types of equipment.

Background

The United States has been participating with other countries in preliminary negotiations on a proposed multilateral convention (UNIDROIT Convention) to protect international secured interests in mobile equipment, including aircraft, space and satellite equipment, railroad rolling stock, cargo containers, etc. Other international organizations participate as co-sponsors as appropriate, such as ICAO with respect to aircraft and airline issues. The first intergovernmental meeting was held in Rome in February, 1999. Completion of the basic convention, as well as the first equipment protocol concerning aircraft, is expected by the end of year 2000.

The proposed Convention and Aircraft Equipment Protocol together, when and if adopted and enacted into law by contracting states would provide a comprehensive international system to protect leasing and financing interests and stimulate the development of airline industries in countries in all world regions.

Significant features are expected to include parties' ability to create internationally enforceable interests pursuant to the Convention; default remedies, priorities, and establishment of an international registration system to record international consensual interests; treatment of non-consensual interests; assignments, prospective assignments, and subordinations; and optional provisions on key finance issues such as timeliness of remedies, relation to insolvency, etc. It is anticipated that an international registration system would be primarily an electronic notice system, and would not interfere with countries' national registration and recordation systems under existing civil aviation treaties.

Attendance

The meeting will be held in Conference Room 3202 at the Department of Transportation, 301 7th Street, SW Washington, DC, and is open to the public. Persons wishing to attend should contact Peter Bloch, Department of Transportation, Office of General Counsel at 202–366–9183, fax 366–9188, or Harold Burman, Department of State, Office of Legal Adviser, at 202–776–8421, fax 776–8482. Copies of relevant documents will be provided free of charge by contacting Mr. Burman at the above numbers.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law, United States Department of State.

[FR Doc. 99–17961 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3095]

Office of the Deputy Assistant Secretary for Energy, Sanctions, and Commodities

Receipt of Application for a Presidential Permit for Pipeline Facilities To Be Constructed and Maintained on the Border of the United States

AGENCY: Department of State.

SUMMARY: The Department of State has received an application from Dakota Gasification Company requesting a Presidential permit, pursuant to Executive Order 11423 of August 16, 1968, as amended by Executive Order 12847 of May 17, 1993, authorizing Dakota Gasification Company to construct, connect, operate, and maintain a carbon dioxide (CO_2) pipeline crossing the international boundary between North Dakota and Saskatchewan, Canada at a point approximately 7 miles northeast of Crosby, North Dakota at T164N, R97W, S25. The project consists of one pipeline approximately 167 miles in length.

DATES: Interested parties are invited to submit, in duplicate, comments relative to this proposal on or before August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Matthew McManus, Division Chief, Energy Producer Country Affairs,

Department of State, Washington, D.C. 20520. (202) 647–4557.

Matthew McManus,

Division Chief.

[FR Doc. 99–17962 Filed 7–13–99; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Inland Aviation Services, Inc., for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 99–7–4), Docket OST–98–3857.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Inland Aviation Services, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than July 26, 1999.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–98–3857 and addressed to the Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. James Lawyer, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1064.

Dated: July 8, 1999.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–17905 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of a Current Public Collection of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on a currently approved public information collection which will be submitted to OMB for renewal.

DATES: Comments must be received on or before September 13, 1999.

ADDRESSES: Comments may be mailed or delivered to the FAA at the following address: Ms. Judith Street, Room 612, Federal Aviation Administration, Standards and Information Division, APF–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on the following current collection of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection. Following is a short synopsis of the currently approved public information collection activity, which will be submitted to OMB for review and renewal: 2120–0640, FAA Flight Standards Service Year 2000 Readiness Questionnaire.

The information collected from this questionnaire will be used by the FAA to assess the year 2000 readiness of air carriers/operators, repair stations and training facilities. The actual survey has already been sent. However, the FAA is requesting an extension of 6 months on the clearance in order to send out follow-up letters to non-respondents. It is difficult to estimate a burden for this publication, because at this time, we do not know how many follow-up letters will need to be sent. However, for the purpose of this request, we will estimate 6000 letters sent. If the 6000 respondents answer the questionnaire, the burden would be 4,500 hours at a cost to the respondents of $180,000.

Issued in Washington, DC, on July 7, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–17939 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 99–05–C–00–MGW To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Morgantown Municipal Airport, Morgantown, WV

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 Morgantown Municipal 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 August 13, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Project Manager, Beckley Airports Field Office, 176 Airport Circle, Rm. 101, Beaver, WV 25813–9350.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Bott, Assistant Airport Director of the City of Morgantown at the following address: 389 Spruce Street, Morgantown, WV 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Morgantown under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Project Manager, Beckley Airports Field Office, 176 Airports Circle, Beaver, West Virginia, 25813 (Tel. (304) 252–6216). 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 Morgantown Municipal 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 July 1, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Morgantown 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 October 2, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–05–C–00–MGW.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2001.

Proposed charge expiration date: June 30, 2005.

Total estimated PFC revenue: $192,739.

Brief description of proposed project(s):

—Rehabilitate Access Roads
—Install Access Road Lights
—Acquire ARFF Equipment
—Rehabilitate Runway 18–36 (Design)
—Rehabilitate Runway 18–36 (Construction)
—Install Perimeter Fence
—Construct ARFF Building

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All carriers operating under FAR Part 135, FAR Part 91 and any unscheduled carriers operating under FAR Part 121. Any person may inspect the application in person at the FAA office listed above under ''FOR FURTHER INFORMATION CONTACT'' and at the FAA regional airports office located at: Fitzgerald Federal Building #111, Airports Division, AEA–610, John F. Kennedy International Airport, Jamaica, NY 114309.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Morgantown.

Issued in Jamaica, New York on July 7, 1999.

Thomas Felix,

Manager, Planning and Programming Branch, Eastern Region.

[FR Doc. 99–17940 Filed 7–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Government Securities: Call for Large Position Reports

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') called for the submission of Large Position Reports by those entities whose reportable positions in the 5½% Treasury Notes of May 2009 equaled or exceeded $2½ billion as of close of business July 9, 1999.

DATES: Large Position Reports must be received before noon Eastern time on July 16, 1999.

ADDRESSES: The reports must be submitted to the Federal Reserve Bank of New York, Market Reports Division, 4th Floor, 33 Liberty Street, New York, New York 10045; or faxed to 212–720–5030.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena, Acting Executive Director; Lee Grandy, Associate Director; or Nadir Isfahani, Government Securities Specialist; Bureau of the Public Debt, Department of the Treasury, at 202–691–3632.

SUPPLEMENTARY INFORMATION: Pursuant to the Department's large position rules under the Government Securities Act regulations (17 CFR Part 420), the Treasury, in a press release issued on July 12, 1999, and in this **Federal Register** notice, called for Large Position Reports from those entities whose reportable positions in the 5½% Treasury Notes of May 2009, Series B–2009, equaled or exceeded $2½ billion as of the close of business Friday, July 9, 1999. This call for Large Position Reports is a test. Entities whose reportable positions in this note equaled or exceeded the $2½ billion threshold must report these positions to the Federal Reserve Bank of New York. Entities with positions in this note below $2½ billion are not required to file Large Position Reports. Large Position Reports, which must include the required position and administrative information, must be received by the Market Reports Division of the Federal Reserve Bank of New York before noon Eastern time on Friday, July 16, 1999. The Reports may be filed by facsimile at (212) 720–5030 or delivered to the Bank at 33 Liberty Street, 4th floor.

The 5½% Treasury Notes of May 2009 have a CUSIP number of 912827 5G 3, a STRIPS principal component CUSIP number of 912820 DV 6, and a maturity date of May 15, 2009.

The press release and a copy of a sample Large Position Report, which appears in Appendix B of the rules at 17 CFR Part 420, can be obtained by calling (202) 622–2040 and requesting document number 4. These documents are also available at the Bureau of the Public Debt's Internet site at the following address: http://www.publicdebt.treas.gov.

Questions about Treasury's large position reporting rules should be directed to Public Debt's Government Securities Regulations Staff at (202) 691–3632. Questions regarding the method of submission of Large Position Reports may be directed to the Market Reports Division of the Federal Reserve Bank of New York at (212) 720–8023.

The collection of large position information has been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB Control Number 1535–0089.

Dated: July 8, 1999.

Gary Gensler,

Under Secretary, Domestic Finance.

[FR Doc. 99–18040 Filed 7–12–99; 12:16 pm]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Certification of Secure Gun Storage or Safety Devices.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles Bartlett, National Licensing Center, Atlanta, Georgia, 30301, (404) 679–5040.

SUPPLEMENTARY INFORMATION:

Title: Certification of Secure Gun Storage or Safety Devices.

OMB Number: 1512–0551.

Form Number: ATF F 5300.42.

Abstract: The requested information on ATF 5300.42 will be used to ensure that applicants for a Federal firearms license are in compliance with the

requirements pertaining to the availability of secure gun storage or safety devices.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 31,000.

Estimated Time Per Respondent: 1 minute.

Estimated Total Annual Burden Hours: 600.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 7, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–17916 Filed 7–13–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Fireams

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Open Letter to Federal Firearms Licensees.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Vivian Pena, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Open Letter to Federal Firearms Licensees.

OMB Number: 1512–0552.

Abstract: The FBI has informed ATF that thousands of licensees have failed to enroll with them to conduct a national instant criminal background check system (NICS). The Open Letter to Federal Firearms Licensees informs the non-enrolled licensees that they cannot transfer a firearm to a nonlicensed individual without first contacting the FBI and conducting a NICS check.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, Federal Government.

Estimated Number of Respondents: 18,000.

Estimated Time Per Respondent: 1 minute.

Estimated Total Annual Burden Hours: 306.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 7, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–17917 Filed 7–13–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Permit Under 26 U.S.C. Chapter 52 Manufacturer of Tobacco Products or Proprietor of Export Warehouse and Application for Amended Permit Under 26 U.S.C. 5712 Manufacturer of Tobacco Products or Proprietor of Export Warehouse.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Application for Permit Under 26 U.S.C. Chapter 52 Manufacturer of Tobacco Products or Proprietor of Export Warehouse and Application for Amended Permit Under 26 U.S.C. 5712 Manufacturer of Tobacco Products or Proprietor of Export Warehouse.

OMB Number: 1512–0398.

Form Number: ATF F 2093 (5200.3) and ATF F 2098 (5200.16).

Abstract: These forms and any additional supporting documentation

are used by tobacco industry members to obtain and amend permits necessary to engage in business as a manufacturer of tobacco products or proprietor of export warehouse.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 328.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 492.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 7, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–17918 Filed 7–13–99; 8:45 am]

BILLING CODE 4810–31–P

Corrections

Federal Register

Vol. 64, No. 134

Wednesday, July 14, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Technical Corrections to the Harmonized Tariff Schedule of the United States

Correction

In notice document 99–15453 beginning on page 32915 in the issue of Friday, June 18, 1999, make the following correction(s):

1. On page 32918, in the third column, in *Section M*, in paragraph (c), in the fifth line, the heading ''9907.73.01'' should read ''9907.73.02''.

2. On the same page, in the same column, in the same section, in the same paragraph, in the 20th line, the heading ''9907.84.01'' should read ''9907.85.01''.

[FR Doc. C9–15453 Filed 7–13–99; 8:45 am]

BILLING CODE 1505–01–D

THE PRESIDENT

3 CFR

Presidential Determination No. 99–31 of June 30, 1999

Eligibility of the Organization for Security and Cooperation in Europe to be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Correction

In Presidential document 99–17595 appearing on page 37033 in the issue of July 9, 1999, the dateline following the President's signature was inadvertently omitted and should read as follows:

THE WHITE HOUSE,

Washington, June 30, 1999.

[FR Doc. C9–17595 Filed 7–13–99; 8:45 am]

BILLING CODE 1505–01–D

THE PRESIDENT

3 CFR

Presidential Determination No. 99–32 of July 1, 1999

Military Drawdown for Tunisia

Correction

In Presidential document 99–32 appearing on page 37035 in the issue of July 9, 1999, the dateline following the President's signature was inadvertently omitted and should read as follows:

THE WHITE HOUSE,

Washington, July 1, 1999.

[FR Doc. C9–17596 Filed 7–13–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
July 14, 1999

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Safety Standards for Fall Protection in the Construction Industry; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

RIN 1218–AA66

[Docket No. S–206C]

Safety Standards for Fall Protection in the Construction Industry

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: In this advance notice of proposed rulemaking (ANPRM), OSHA requests comments and information on fall protection for workers engaged in certain construction activities currently covered by OSHA's Standards for Fall Protection in the Construction Industry, published in volume 29 of the Code of Federal Regulations at §§ 1926.500–1926.503 (referred to here as the ''rule''). Since the rule was published on August 4, 1994, OSHA has received numerous communications requesting interpretations and claiming that compliance with the rule is sometimes infeasible in certain activities, such as in residential and post-frame construction, while climbing reinforced steel, erecting precast concrete, drilling shafts, and when providing prompt rescue. We are asking the public for information and data on fall protection for employees in these situations.

Information provided to the Agency in support of a claim of infeasibility should explain, in detail, why the rule cannot be complied with in certain circumstances, what fall protection methods could be used to protect workers engaged in these activities, and the degree of protection such methods would provide. In addition, such claims should be supported by data demonstrating that the current rule is not feasible for a particular activity and data demonstrating the effectiveness of any alternative approaches suggested. Respondents should also provide any information on the costs of alternative approaches and the reduction in injuries likely to be experienced if alternatives were to be adopted. With respect to OSHA Instruction STD 3–0.1A (interim fall protection compliance guidelines for residential construction), the Agency intends to rescind that directive unless persuasive evidence is submitted in response to this ANPRM demonstrating that for most residential construction employers complying with the rule is infeasible or presents significant safety hazards.

DATES: Comments in response to this ANPRM must be received by October 22, 1999.

ADDRESSES: Two copies of comments must be submitted to the OSHA Docket Office, Docket S206C, Room N2625, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210, 202–693–2350. Comments consisting of 10 pages or less may be faxed to the Docket Office at the following FAX number: 202–693–1648. However, two hard copies must be mailed to us within two days. Electronic comments can be submitted on the Internet at *http://www.osha-slc.gov/e-comments/e-comments-fallprotection.html.* The exhibits referred to throughout this document are available for inspection and copying at the OSHA Docket Office (see address and telephone number above), which is open weekdays from 10:00 am to 4:00 pm.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, Room N3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, Telephone: 202 693–1999. Anyone with questions regarding the technical content of this document should contact Ms. Jule Jones at 202 693–2345. For electronic copies, contact OSHA's web page on the Internet at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 1986, OSHA proposed to revise the fall protection standard. The rulemaking record, developed over a nine-year period, resulted in a more performance-oriented rule, issued on August 9, 1994 (published in volume 29 of the Code of Federal Regulations, part 1926, subpart M, and in volume 59 of the **Federal Register**, beginning on page 40,672). You can view the rule on OSHA's Internet site at www.osha.gov. In general, the rule requires that an employee exposed to a fall hazard of six feet or more must be protected by equipment that prevents or arrests the fall.

Subsequently, some employers have claimed that parts of the rule are not appropriate for their operations. The residential, precast concrete, and post-frame construction industries state that different fall protection provisions are needed for their activities. Some vendors who deliver roofing material believe the rule should not apply to them. Reinforcing steel (rebar construction) employers request that workers who climb rebar walls and assemblies be permitted to climb without fall protection and only be required to tie off upon reaching their work location. Also, some persons familiar with safety harnesses, restraint systems and positioning devices have raised concerns regarding the standard's performance criteria for fall protection systems.

In response to feasibility issues about the rule raised by the residential construction industry, on December 8, 1995, we issued interim fall protection procedures for residential construction employers (''OSHA Instruction STD 3.1'') that differ from those in the rule (on June 18, 1999, we issued a plain language re-write of STD 3.1. The re-write, STD 3–0.1A, replaces STD 3.1). We stated that we would undertake further rulemaking to address these fall protection issues. STD 3–0.1A permits employers to use specified work practices instead of conventional fall protection (systems/devices that physically prevent a worker from falling or arrest a worker's fall) for foundation work, some installation work on roofs and in attics, and some residential roofing work.

This notice begins our evaluation of these and other fall protection practices and of STD 3–0.1A. OSHA emphasizes that the extensive rulemaking process completed in 1994 established that the fall protection requirements in the rule are reasonably necessary and appropriate to protect employees from the significant risks of fall hazards. Providing such protection was demonstrated to be both technologically and economically feasible. (See the complete discussion in the preamble to the final rule for subpart M (volume 59 of the **Federal Register** at pages 40672–40722. That preamble is available at OSHA's Internet web site at www.osha.gov.) However, because of the concerns raised by employers engaged in the operations listed above, we are seeking additional information.

OSHA needs to hear the views of interested parties on all issues raised in this notice. After reviewing your comments and data, OSHA will decide what further steps, if any, may be appropriate.

We encourage interested parties to respond to the questions raised in Section IV— Summary and Explanation of Issues, where we detail each issue that you have brought to our attention.

II. Advisory Committee on Construction Safety and Health

A summary of the issues addressed by this notice was presented to the Advisory Committee on Construction Safety and Health (ACCSH). The full committee was initially briefed April 8, 1998, with updates provided on both July 22 and October 8 of that year.

III. Explanation of Issues

OSHA solicits information on a variety of issues pertaining to the fall protection standard. We are addressing 10 issues, most of which have been raised by interested parties who believe that alternatives to some of the rule's provisions should be permitted. They generally recommend that OSHA allow work practices rather than personal fall arrest systems and guardrails to protect employees against falls. The 10 issues identified for discussion and comment are as follows:

Issue 1. Whether There Is A Need for Alternative Procedures for Residential Construction
Issue 2. Whether There Is A Need for Alternative Procedures for Precast Concrete Erection
Issue 3. Whether There Is A Need for Alternative Procedures for Post-Frame Construction
Issue 4. Whether There Is A Need For Alternative Procedures For Vendors Delivering Construction Materials
Issue 5. Whether There Are Alternative Methods of Fall Protection While Climbing Reinforcing Steel (Rebar Walls and Cages)
Issue 6. What Criteria Should Be Used for Restraint Systems
Issue 7. Whether the Strength Requirements for Anchorage Points for Personal Fall Arrest Systems, Positioning Device Systems and Restraint Systems Should Be Changed
Issue 8. Whether the Standard's Prompt Rescue Requirements Should Be Revised
Issue 9. Whether There Is A Need for Alternative Procedures for Drilling Shafts
Issue 10. Whether Body Belts Incorporated Into Full Body Harnesses Provide Appropriate Employee Protection in a Fall

Issue 1. Whether There Is A Need For Alternative Procedures for Residential Construction

Alternative Measures Allowed by the Rule

Section 1926.501(b)(13) contains the fall protection requirements for residential construction, which state:

> Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure. Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of § 1926.502.

When promulgating this standard, OSHA acknowledged that some employers in the residential construction industry might have difficulty providing conventional fall protection for certain operations. Difficulties were expected during the erection of roof trusses and the installation of roof sheathing, exterior wall panels, floor joists, and floor sheathing. Accordingly, the final rule allows some flexibility for the residential construction employer. The rule states that conventional fall protection in residential construction is presumed to be feasible. However, where the employer can show that conventional fall protection is infeasible at a particular worksite, the employer may implement a written ''alternative fall protection plan.'' The plan must be in writing, designed for the particular work site, and specify alternative measures that are as protective as possible.

Alternative Procedures Allowed by Appendix E of the Rule

OSHA published a sample fall protection plan for residential construction that outlined acceptable alternative fall protection measures for each of the operations mentioned above. That plan is published in Appendix E to the rule (it begins on page 343 of the July 1, 1998 version of volume 29 of the Code of Federal Regulations, Part 1926). The Appendix E procedures consist of training requirements, supervision and administration of the plan by a designated competent person, use of a controlled access zone to minimize access to the work area, and use of a safety monitor. It has additional work practice requirements for each of the listed work activities. Workers may work on the ''top plate'' of stud walls and on the peaks of roof trusses and ridge beams without fall protection, under certain circumstances. Roof sheathing operations must be done with slide guards and certain work practice requirements. Work practice requirements are also delineated for installation of floor joists, floor sheathing, and the erection of exterior walls.

Alternative Measures Permitted by OSHA Instruction STD 3–0.1A That Differ From the Rule

After the rule was enacted, homebuilder representatives identified three additional categories of residential work where the use of conventional fall protection systems was, in their judgment, infeasible or would present a greater hazard to their workers: (1) Working on foundation walls and formwork used to build the walls; (2) installing drywall, insulation, heating/cooling systems, electrical systems, plumbing and carpentry in attics and on roofs, and (3) roofing work (the installation of weatherproofing roofing materials). These commenters asserted that, when doing these activities, nets could not be used and there was no place available and/or strong enough to anchor fall arrest equipment. They also stated that conventional fall protection for these activities was infeasible, or would create a greater hazard, in all residential projects, so it did not make sense to require employers to have written, site-specific alternative procedure plans for each site.

OSHA Instruction STD 3–0.1A provides a list of work practice measures that employers engaged in residential construction may use instead of fall protection for work on foundation walls/formwork, installation work in attics and on roofs and for roofing work. In addition, it provides that an employer's alternative fall protection plan does not have to be written or site-specific as long as it follows either Appendix E or, for these additional types of work, the procedures in STD 3–0.1A. Further, it permits employers to use these procedures without first having to show that conventional fall protection is infeasible or creates a greater hazard.

Procedures for Foundation/formwork Activities and Installation Work in Attics and On Roofs

The work practices allowed as alternatives to fall protection for working on foundation walls and related formwork consist of limiting the work to trained workers, minimizing their fall exposure, adequately supporting the wall/formwork, not working in bad weather, staging materials and equipment in locations that are convenient to those on the formwork, and eliminating impalement hazards. The procedures for installation work in attics and on roofs require limiting the work to trained employees, limiting their exposure, staging materials, eliminating impalement

hazards, limiting access to affected work areas, and not working in bad weather.

Procedures for Roofing Work

STD 3–0.1A also contains alternative procedures for some roofing work. Shortly after OSHA issued the rule, the National Roofing Contractors Association (NRCA) and the National Association of Home Builders (NAHB) asked OSHA to clarify how the roofing provisions applied to residential construction and asserted that more flexibility was warranted. They provided information on industry practices in support of their claims.

NAHB suggested that the sample fall protection plan found in Appendix E be expanded to specifically address roofing work at residential sites. The Association considered the use of conventional fall protection systems in residential roofing to be either infeasible or to pose a greater hazard. Roofing contractors claimed that requiring conventional fall protection is extreme and would not improve safety. They stated that their workers are skilled professionals who wear the proper footwear and understand the consequences of falling, and do not believe that fall protection is necessary during roofing activities. They further believe that full compliance with the rule is too costly and interferes with their ability to remain competitive, especially since, in their view, their competitors do not use conventional fall protection. To a large extent, information from the NAHB formed the basis of the alternative procedures in STD 3–0.1A for residential roofing work.

The STD 3–0.1A alternative procedures for roofing work may only be used where the roof slope is no more than 8 inches (vertical) in 12 (horizontal) and the fall distance, from the eave of the roof to the ground level, is 25 feet or less. Workers must be trained on slip hazards, and access to the rake edge must be minimized. Work must be suspended in bad weather, and impalement hazards must be eliminated.

In addition, for roofs with a slope of up to 4 in 12 inches, the employer has the option of using either a safety monitor or slide guards. A slide guard is typically a 2″ x 6″ board attached along the roof. STD 3–0.1A specifies certain materials, configurations, and locations for slide guards, depending on the steepness of the roof.

With two exceptions, slide guards must be used on any roof with a slope of over 4 in 12, up to 8 in 12. Those two exceptions are for roofs made of tile or metal, in which case a safety monitor may be used instead of slide guards. Fall protection must be used for all roofs with a roof slope steeper than 8 in 12.

Since the rule was enacted, there have been advances in the types and capability of commercially available fall protection equipment. OSHA specifically solicits comment on the alternatives to the rule permitted for roofing work by STD 3–0.1A. Specific questions on the various operations are listed later in this document.

Definition of Residential Construction

Although the rule has specific requirements for residential construction, it does not define that term. NAHB and others have asserted that ''residential construction'' should be defined to include light commercial structures in which the materials, methods and work environment are essentially the same as in homebuilding. They asserted that many homebuilders construct light commercial structures and that the hazards on both residential and these light commercial structures are essentially the same. NRCA has also asked that we clarify the term ''residential construction.'' NRCA asserts that homebuilding and similarly constructed light commercial structures should be treated in the same way with respect to providing fall protection during roofing work.

In STD 3–0.1A, OSHA defined residential construction as including work on structures where the working environment, construction materials, methods, and work procedures are essentially the same as those used for building typical single family homes and townhouses. Also, STD 3–0.1A stated that work on discrete parts of a large commercial structure could be considered residential construction as long as the working environment, materials, methods, and procedures were similar to those used for single family homes and townhouses.

We have received a number of inquiries and comments about this definition. A number of commenters have stated that the definition fails to adequately distinguish between work that is residential and work that is commercial. Some have suggested that some fall protection devices and methods that may not be economically feasible in constructing single family homes and townhouse residences are economically feasible when similar structures are built for commercial use. Others have suggested that as long as the materials, methods and work environment are the same, the alternative procedures allowed in STD 3–0.1A should apply, without regard to whether the building will be occupied as a residence or used for commercial purposes.

Request for Comments and Supporting Information

OSHA solicits comments on the alternative fall protection measures for residential construction work in Appendix E of the rule and in STD 3–0.1A, as well as on the STD 3–0.1A definition of residential construction. We seek comments and supporting information on whether the alternative procedures in STD 3–0.1A are the most protective and feasible methods currently available for protecting residential construction workers from falls. We request that comments include detailed information on fall protection methods, equipment, injuries and accidents, and personal experience related to these topics in both residential and light commercial construction.

Questions on Installing Floor Joists and Floor Sheathing

A fall protection system that is currently available consists of three components: a body harness, an anchor, and an adjustable strap with snap hooks at each end (Ex. 1–1). The anchor consists of a strap, which looks similar to a seat belt strap, with a D-ring at one end. For a floor sheathing operation, the anchor is installed by nailing the strap end to the first course of floor sheathing with double-headed nails. The nails are installed through the floor sheathing and into a floor joist.

The adjustable strap has snap hooks at each end—one connects to the anchor's D-ring and the other connects to the harness. As the leading edge advances, or as the worker moves about, the strap can be lengthened or shortened by depressing an adjustment device and letting out or pulling in the strap. When the anchor is no longer needed, the nails are removed (facilitated by the double headed nail) and the strap is discarded.

Is there a reason why this system is not feasible in floor joist and floor sheathing installations? Are there situations where movable catch platforms could not be used below the areas where workers are installing floor joists and floor sheathing to protect against falls?

Another way of providing fall protection for some construction activities is to set up a lifeline, to which individual workers attach their lanyards. As work progresses, the lifeline is moved forward. Is there a reason why this type of system could not be used when installing floor joists and floor sheathing? Are there retractable lanyards that will engage fast

enough to prevent a worker installing floor joists and floor sheathing approximately 10 feet above the next lower level from being injured in an arrested fall?

Questions on Installing Roof Sheathing

There are a number of commercially available products designed to serve as anchor points in wood framed structures for fall arrest systems. Most of these are designed to be attached to a roof truss, rafter or sheathing. Some provide a single attachment point, while others have multiple attachment points. Some are designed to be used to support a lifeline to which two workers can attach their lanyards. Some incorporate a swivelling, retractable lanyard (Exhibits 1–2 through 1–5).

Most of these products are designed to withstand a 5,000 pound load (the rule requires fall arrest system anchors to support a 5,000 pound load or to have a safety factor of two). A key question in determining the viability of these anchors in roof sheathing operations is the strength of the part of the structure to which the anchor is attached. Some contractors are adding bracing to roof trusses so that the strap anchors can be used during part of the sheathing operation. Are there other anchor systems available that can be installed before some (or any) sheathing is in place and still withstand a 5,000 pound load? How much sheathing (and in what arrangement) has to be installed before an anchor will support this load?

Various ''shock-absorbing'' lanyards and fall protection devices have been developed. The loads imposed in an arrested fall on the anchor point when using shock-absorbing equipment is less than when using conventional equipment. How much less are those loads? What is the minimum strength needed for anchors when shock-absorbing equipment is used?

The rule's 5,000 pound/factor of two requirement is for an anchor that is used as part of a fall protection system. A fall protection system arrests a person's fall. In contrast, a fall restraint system is a system that prevents a worker from falling any distance at all. The anchor for such a system is not called upon to withstand the forces of an arrested fall—it only has to withstand the forces of restraining a worker from moving further than the length of the lanyard. What is an appropriate minimum strength for an anchor in a restraint system? Is there a reason why a restraint system could not be used when installing roof sheathing?

Some roof sheathers use the strap anchor in conjunction with the following sheathing method: The strap anchor is nailed to (and wrapped around) one or more roof trusses before it is erected. Sheathing is installed by workers by standing on platforms on the inside of the second floor, starting from the eaves and working upward toward the ridge (top) of the roof (this eliminates the fall hazard to the exterior). The final (top) course is installed by workers on the roof who tie-off to the strap anchor. At that point the trusses are braced by all but the final course of sheathing. Is there a reason why this system is not feasible in roof sheathing installations?

Questions on Setting and Bracing Roof Trusses and Rafters

The procedures in Appendix E of the rule call for the first two trusses or rafters to be set from ladders. After the first two are set, a worker is permitted to climb a ladder onto the interior top plate to secure the peaks. The worker may remain on the top plate, using the (now stabilized) trusses or rafters for support, while the other trusses or rafters are erected. Also, workers may be stationed on the peaks of trusses or the ridge beam to detach trusses from cranes and to secure trusses (and also to secure rafters to the ridge beam, where there is no other feasible means of doing this).

There is now at least one commercially available device that eliminates the need for a worker to be on a truss to install bracing. This device is a temporary, reusable brace which is attached on one end to the truss before the truss is erected. Once the truss is raised, a worker on the floor level pulls the other end of the brace down onto the adjoining truss by a rope (Ex. 1–6). This eliminates the need for a worker to be on the truss or ridge to attach bracing. There are also devices available that permit a load to be detached from a crane remotely, rather than having to be on a peak or ridge beam to detach it manually.

We are interested in hearing from those who are familiar with these types of systems and have used them in residential construction or similar situations. Is there a reason why these types of systems are not feasible or present a greater hazard to workers performing this type of work? Is there a reason why some of this work could not be done from platforms? Are there other ways of protecting against the fall hazards facing workers performing residential construction or similar work?

The sample plan in Appendix E of the rule contains the following sample statement of why ladders may be a greater hazard on a particular site: ''requiring workers to use a ladder for the entire installation process [of roof trusses and rafters] will cause a greater hazard because the worker must stand on the ladder with his back or side to the front of the ladder. While erecting the truss or rafter the worker will need both hands to maneuver the truss and therefore cannot hold onto the ladder. In addition, ladders cannot be adequately protected from movement while trusses are being maneuvered into place. Many workers may experience additional fatigue because of the increase in overhead work with heavy materials, which can also lead to a greater hazard.''

There are commercially available hooking devices for the tops of ladders. Is there a reason why these or similar devices could not be used to help secure the ladder? When a ladder is used while erecting a truss, the ladder and the worker are on the inside of the exterior wall. If the worker were to fall, the worker would fall to the inside floor. In contrast, a worker on the top plate could fall to the exterior. On a second story, that fall would be a significantly greater distance than the interior fall. Is there a reason why it would be safer to erect the truss while standing on the top plate than to use a ladder with a securing device? OSHA seeks comment on these statements and questions, particularly from equipment manufacturers and those who have used or seen devices or methods other than working from the top plate, peak or ridge.

The sample plan in Appendix E of the rule also states that ''exterior scaffolds cannot be utilized on this job because the ground, after recent backfilling, cannot support the scaffolding. In most cases, the erection and dismantling of the scaffold would expose workers to a greater fall hazard than erection of the trusses/rafters.'' OSHA seeks comments on whether the problem of recently backfilled soil is unique to residential construction and whether this is an impediment to using exterior scaffolds. We also ask for comment on the extent to which different types of scaffolding are suitable to this work.

Questions on Working on Concrete and Block Foundation Walls and Related Formwork

STD 3–0.1A permits workers to work on the top of the foundation wall or formwork to the extent necessary to do the work. The only protective measures required when working on the top of the foundation wall or formwork are training, not working in bad weather, staging materials, and eliminating impalement hazards. Are there reasons why this work could not be done from ladders and/or scaffolds? Is there formwork available for this type of work

to which scaffolds can be attached? We are particularly interested in hearing from workers or employers who have done this work without standing on the tops of the walls or formwork.

Questions on Installation Work (Drywall, Insulation, Heating and Cooling Systems, Alarms, Telephone Lines and Cable TV, Plumbing and Carpentry) in Attics and on Roofs

The only protective measures required in STD 3–0.1A for these types of installation work are training, staging materials, eliminating impalement hazards, restricting access, and suspending work in bad weather. The strap anchor mentioned above, when attached to roof trusses before installation, can be left in place to provide tie-off points for this type of work in attics and on roofs (after all work is completed, the strap is cut off). Is there a reason why that system is infeasible for this work? Is there a reason why it is not feasible to use platforms, scaffolds or ladders when doing some or all of this work? Is there a reason why other fall arrest or fall restraint systems could not be used? In particular, with respect to the work on roofs, is there a reason why a fall restraint or fall arrest system could not be anchored to the roof structure during this work?

Questions on Roofing Work

The alternative procedures in STD 3–0.1A for roofing work consist of work practices and, depending on the steepness of the roof, monitors or slide guards. For roofs with a slope of up to 4 in 12 inches, monitors may be used instead of slide guards. Are monitors an effective means of preventing falls? What experience have you had using monitors? Is there a reason why slide guards are infeasible on roofs with slopes of less than 4 in 12?

STD 3–0.1A permits monitors to be used in place of slide guards for tile or metal roofs with a slope of up to 8 to 12 inches. Since these roof surfaces are more slippery than most other types of roofing, is there a reason why monitors should be allowed in place of slide guards for these roofs? Are there slide guard brackets/devices that can be used on these roofs?

STD 3–0.1A contains specifications for the configuration and installation of slide guards. Are these specifications appropriate? Are slide guards effective as replacements for personal fall protection?

OSHA has received a number of comments stating that roof anchors cannot be used on unsheathed or partially sheathed roofs because the structure to which the anchor is attached cannot withstand a 5,000 pound load. However, there are anchors on the market that are advertised as being suitable for use on a fully sheathed roof. Since roofing work is done after the roof is fully sheathed, are there technical or other reasons why roof anchors could not be used for roofing work? Some commenters have suggested that there are liability issues associated with installing roof anchors and then leaving them in place for others to use once the job is done. The strap anchors can be removed by simply cutting the strap. Why is it infeasible to remove a roof anchor (please specify how much time/expense is needed)? Are there other roof anchors that are designed to be readily removed? OSHA is particularly interested in comments from workers, employers and manufacturers who have studied, used or designed roof anchors for roofing work.

Questions on the Definition of Residential Construction

STD 3–0.1A defines residential construction as any construction project where the working environment, materials, methods and procedures are essentially the same as those used for typical single family homes and townhouses. Therefore, many buildings that will not be occupied as residences, but will be used for light commercial purposes, are included in the definition. Also, the STD 3–0.1A definition would include portions of commercial structures where the environment, materials and methods are similar to those used in building homes and townhouses. Is this an appropriate definition of residential construction for the purposes of the rule? Does this definition adequately distinguish between projects where conventional fall protection is feasible and those where, for some operations, it is not? Is this a workable definition—can employers readily use it to determine whether their project is considered residential construction? OSHA has received letters asking how the STD 3.1 definition applies to stick frame and brick apartment buildings; single story stick-framed commercial malls; and single story stick-framed retail structures. Does the STD 3–0.1A definition adequately deal with these type of projects? Should OSHA define residential construction in terms of the end use of the structure? Should the economic scale of the project be a factor in determining the fall protection options available to the builder? Would it be appropriate for OSHA to allow the use of alternative fall protection procedures on portions of a commercial structure that meet the definition of residential construction?

Issue 2. Whether There Is A Need for Alternative Procedures for Precast Concrete Erection

The precast concrete erection rule in subpart M, § 1926.501(b)(12), generally requires protection for employees exposed to fall hazards of 6 feet or more. Fall protection options are guardrails, safety nets, or personal fall arrest systems. In addition, if the employer demonstrates that it is infeasible or creates a greater hazard to use these systems, alternative measures may be used. When using alternative measures, the employer must implement a fall protection plan meeting the requirements of section 1926.502(k).

To meet the section 1926.502(k) requirements, a precast erection employer may follow the sample plan spelled out in Appendix E to subpart M (this is printed beginning on page 343 of the July 1, 1998 edition of volume 29 Code of Federal Regulations Part 1926). Under certain circumstances, that plan permits work without conventional fall protection during leading edge erection, initial connecting and grouting. The Precast Concrete Institute (PCI) thinks that fall protection should not be required for precast concrete erection activities occurring at heights below fifteen (15) feet and thirty (30) feet, the same fall protection thresholds as those in the recently proposed rule for steel erection (volume 63 of the **Federal Register** at pages 43452-43513) (Ex. 1–7).

On August 13, 1998, OSHA issued a proposed rule for fall protection in steel erection. This proposal is a product of negotiated rulemaking, conducted under the Negotiated Rulemaking Act (printed in volume 5 of the Unites States Code at section 561). The proposed rule would require fall protection for most steel erection workers above 15 feet. In that rule, however, there are exceptions for steel erection employees engaged in connecting activity and for deckers. Employees engaged in connecting work would be allowed to work at heights up to 30 feet without fall protection (but they must wear fall protection equipment and the employer must provide an attachment point). Deckers would also be allowed to work without fall protection up to 30 feet as long as they work in a Controlled Decking Zone. Conventional fall protection, such as safety nets, guardrail systems, or personal fall arrest systems would be required for all steel erection workers at heights over 30 feet.

PCI believes that the 15 foot threshold used in the proposed steel erection rule should also apply to the precast erection industry. They state that overhead attachment points (anchorages) are not always available when performing precast concrete work and that workers tied off at foot level need at least 12–19 feet of clearance below, depending on the type of system chosen.

PCI believes that the steel erection industry will have an unfair economic advantage over their industry if the threshold heights for fall protection differ in each industry. In support of this assertion, PCI has submitted data which it claims show that the use of fall protection equipment causes a 25 percent reduction in productivity. (Ex. 1–8)

PCI also argues that there are structures where both precast concrete and steel is erected and the same workers on such sites may be required to operate under two different rules. In such situations, under the steel erection proposal, workers doing the steel erection would be under the 15/30 foot thresholds. When the precast concrete is erected, with concrete members placed directly on the structural steel, the 6 foot threshold of subpart M would apply. This precast work is sometimes done by the same crews that erected the steel. PCI believes there should be one rule for these operations.

OSHA specifically requests comment on the extent to which the technical limitations of fall protection systems, and the limitations on the ways those systems can be used, forecloses the option of using conventional fall protection in precast erection. For example, the 15 foot minimum clearance limitation alluded to by PCI relates to assertions that have been made on the limitations of three types of fall protection systems: fixed lanyards anchored at floor level, some retractable lanyards, and nets. However, no minimum clearance is needed for temporary guardrails. The strap system described above is designed to work when anchored at floor level. The adjustable strap lanyard permits a worker to be tied-off at a fixed point and to move to various distances by extending and shortening the strap as needed. We believe that other lanyard systems connected to a lifeline can be installed so that a worker can work at and along a leading edge and be prevented from stepping past the edge, or to limit a leading edge worker's fall to six feet. We seek information on whether there are specific instances where these types of systems would not work in precast erection.

Questions on Precast Concrete Erection

In what specific situations are guardrails not useable in precast erection? Are there situations where lanyards connected to lifelines are not useable in precast concrete erection? Are there situations where the strap system would not be feasible? How do these limitations compare to those used in steel erection? Are there other fall protection devices that are useable in precast erection at 6 feet? In what specific way does the current rule for precast concrete erection, which gives alternatives when employers can show infeasibility or greater hazard, have insufficient flexibility to account for the technical limitations of fall protection systems?

Issue 3. Whether There Is A Need for Alternative Procedures for Post-Frame Construction

Post-frame construction employers believe there are many similarities between their work and residential construction, and that they too should be allowed to protect employees by using alternatives to conventional fall protection systems without showing on a site-specific basis that conventional fall protection is infeasible or creates a greater hazard.

The National Frame Builders Association (NFBA) suggested (in a letter to OSHA dated August 16, 1995, Ex. 1–9) that their work was similar to steel erection and that OSHA should exempt them from any fall protection rules up to a height of 25 feet. They assert that OSHA's requirements for residential construction, along with Appendix E of the rule and STD 3.1, are reasonable and appropriate for post frame construction operations.

Questions on Post-frame Construction

OSHA seeks comments and/or data on the following: under what specific circumstances are there problems with using conventional fall protection when building a post-frame structure? In what particular phases and parts of the operation do those problems arise? What factors limit the usability of fall protection systems in post-frame construction? Are there reasons why ladders, work platforms, scaffolds, restraint systems or fall protection systems cannot be used in post-frame construction? Are workers in post-frame construction exposed to unique fall hazards? We are particularly interested in hearing from safety product manufacturers or dealers, familiar with post-frame construction, who know of fall protection systems that can be used during post-frame construction and the limitations of those systems. We are also interested in hearing from builders and employees engaged in post-frame construction. What experiences do you have with fall protection systems in these operations? What accidents and/or near misses have occurred in your post-frame construction operations?

Issue 4. Whether There Is A Need For Alternative Procedures For Vendors Delivering Construction Materials

Employees of vendors delivering materials to a construction site can be exposed to the same fall hazards that construction workers face every day. However, some vendors have stated that fall protection for their workers is often infeasible, for several reasons. One is that the strength of a roof under construction is limited; if the weight of the materials being delivered collapses the structure, being tied-off to the structure will obviously not provide protection. Second, they assert that in the limited work area provided by the roof under construction, the use of fall protection systems creates a greater hazard because workers may trip over each other's lanyards. Finally, they point out that ''rope grab'' systems are infeasible for their workers. Those systems require the user to pull the lanyard with one hand in order to move across a work surface. Workers delivering materials would need to hold the rope grab with one hand and, at the same time, carry the materials, which are often large and/or heavy, with the other.

In February 1995 OSHA addressed fall protection issues related to vendors delivering materials by issuing two interpretations, designated Interpretation M–1 and Interpretation M–2 (Ex. 1–10). In Interpretation M–1, OSHA clarified when vendor employees are engaged in construction. They are defined as being so engaged ''when they deliver products or materials to the construction site that are used during the construction activity or when they are engaged in an activity that completes the construction work, such as final cleaning of buildings and structures.'' The Interpretation also made clear that if a construction contractor picks up materials at the vendor's store or outlet (rather than having the vendor deliver the materials), the vendor is not engaged in construction. Therefore, vendor employees delivering materials to a construction site and exposed to fall hazards of 6 feet (1.8 m) or more are covered by subpart M (Interpretation M–1).

Interpretation M–2 explained how OSHA would apply the fall protection requirements to vendor employees:

Gaining Access to the Roof: A handhold (rope, chain, or other railing) must be attached to the conveyer belt so that the employee has something to steady himself with as he gains access to the roof or a ladder must be used to gain access to the roof.

Distributing the Roofing Materials: Once on the roof the vendor's employee will receive the roofing products from a conveyor belt (lift truck or similar equipment) and then distribute the products onto the roof at various locations. During this distribution process, OSHA will not require the vendor's employees to install an anchorage point for fall protection equipment regardless of the slope of the roof or the fall distance.

However, if an anchorage point is already available on the roof, the employees must use fall protection equipment.

Questions on Fall Protection for Vendor Employees

Is there a reason why conventional fall protection for vendors is infeasible? Although the use of lanyards may pose a tripping hazard, that hazard—falling while protected by a fall protection system—must be compared with falling six or more feet to a lower level or to the ground. Why would tripping and being in an arrested fall be a greater hazard than the risk of falling, unprotected, to the ground?

We believe that there are fall protection devices available for this work other than rope grabs. For example, retractable lanyards and lanyards attached to lifelines permit workers to move across a surface while still being protected from falls. We believe that, when using these systems, a worker can use both hands and not have to hold onto the fall protection equipment. Are there reasons why these types of systems cannot be used to protect vendor employees?

There are now commercially available fall protection anchors that are designed to be placed on top of roof sheathing (Ex. 1–2). Is there a reason why vendors delivering supplies to a roof could not install this type of anchor and use it for fall protection for their employees? Also, the strap anchor can be installed to the trusses and be left available for the roofing work. Is there a reason why these systems are infeasible or would pose a greater hazard? We are particularly interested in hearing from safety product manufacturers or dealers, familiar with these operations, who are aware of fall protection systems (and their limitations) that can be used when delivering materials to roofs. We would also like to hear from vendors and vendor employees who have knowledge of industry practice and the use of fall protection for workers delivering construction materials.

Issue 5. Whether There Are Alternative Methods of Fall Protection While Climbing Reinforcing Steel (Rebar Walls and Cages)

Paragraph (b)(5) of § 1926.501, titled ''Formwork and reinforcing steel,'' requires employers to protect employees from falls by a safety net system, personal fall arrest system, or a positioning device system. These requirements are essentially the same ones that applied before we revised the rule. The issue concerning climbing rebar (steel rods used to reinforce concrete) is whether fall protection is infeasible for employees while climbing rebar walls and assemblies. In late December 1994, the National Association of Reinforcing Steel Contractors (NARSC) and the International Association of Bridge, Structural, and Ornamental Iron Workers (IWI) asked OSHA to clarify the requirements for workers climbing built-in-place rebar walls. They felt that employees were safer if allowed to climb the rebar without fall protection; only upon reaching their work location should they have to attach their personal fall arrest system or positioning device system (such as a rebar chain assembly).

Usually when placing and tying built-in-place rebar walls (as opposed to preassembled units, which are built on the ground and lifted into position), workers carry lengths of rebar cradled in their arms as they climb. Because of this, and the need to constantly connect and disconnect the lanyard while climbing, the NARSC and IWI felt their workers would encounter a greater risk of falling if required to comply with the rule. Also, the chain length in a rebar chain assembly, or the length of the lanyard in a positioning device system, ranges from 18 to 24 inches. This restricts the worker's movement and increases the frequency of disconnecting and reconnecting, according to these commenters.

In December 1994 and January 1995 (Ex. 1–11), OSHA issued interpretation letters that responded to these concerns by allowing employees to climb vertically and/or horizontally on the face of reinforcing steel walls and cages, up to a height of 24 feet, without being protected from falls. Over 24 feet, employees could not free climb.

Subsequently, on July 18 and August 5, 1996, the NARSC and the IWI submitted another interpretation request, which focused on preassembled reinforcing steel units. NARSC and IWI wanted us to expand our earlier interpretation for built-in-place units to cover preassembled units. Several interested parties supported NARSC's and IWI's request.

In a letter of interpretation dated May 19, 1997 (Ex. 1–12), we stated that, pending future rulemaking, employees could climb or move on both built-in-place and preassembled rebar units without fall protection until they reached their work location or until they reached a fall distance of 24 feet. Over 24 feet, continuous fall protection would be required.

Questions on Climbing Rebar

Are there ways of transporting lengths of rebar, other than having workers carry them in their arms? How far do workers typically have to move on the rebar in order to get to their initial work station, and to get to subsequent work stations? What portion is typically vertical, how much is horizontal, and for what part of the work? How many cycles of connecting disconnecting/reconnecting a fall protection device would be required in these point-to-point moves? To what extent is moving vertically on the rebar similar to climbing a fixed ladder? What problems are involved with providing fall protection for horizontal climbing? How are they different from those in vertical climbing? When employees climb without carrying rebar, are there any problems using positioning devices or personal fall arrest systems? Are there reasons why employees engaged in work other than rebar assembly work cannot use fall protection while climbing rebar? We are particularly interested in hearing from employers and employees engaged in placing and tying rebar walls and assemblies, and the type of fall protection methods they currently use. We would also like to receive information, including accident experience or data, as well as comments, comparing the risk of falling while moving horizontally and the risk while moving vertically.

Issue 6. What Criteria Should Be Used for Restraint Systems?

Subpart M does not mention ''restraint systems.'' Employers have asked for criteria for restraint systems and have questioned whether they can use a body belt with a restraint system instead of a full body harness to comply with the rule (Ex. 1–13). They have questioned whether the anchorage requirements for a restraint system need to be as strong as those for a personal fall arrest system, since a restraint system prevents a fall. Since restraint systems prevent falls, they can be used

to meet the requirements of the rule, according to some employers.

Is there is a need for a definition clarifying how restraint systems differ from other types of fall protection? In recent interpretation letters (Exs. 1–14 and 1–15), OSHA defined a restraint system as a means of preventing an employee from reaching a fall hazard. In other words, there will be no fall distance because the fall is prevented. For example, a restraint system would prevent an employee from stepping past the edge of a floor or roof. In contrast, a positioning device permits a fall, but the fall is arrested after no more than two feet. A personal fall arrest system arrests a fall after no more than six feet.

There are several reasons to consider adopting a definition and criteria for restraint systems. When using a restraint system, there is no fall to arrest—which means that no load is imposed on the body from an arrested fall. That may obviate the need for a body harness. Also, restraint system components may not need to be as strong as those for fall arrest systems; they need only be strong enough to hold an employee back from the edge.

One drawback to having diminished strength requirements for restraint systems may be that restraint system components may get mixed up with fall arrest system components and fail when used in a personal fall arrest system. This may be a particular problem with anchors—fall arrest systems may be inadvertently anchored to a restraint system anchor, which would not be adequate in an arrested fall.

Questions About Restraint System Criteria

OSHA requests comments on whether it should adopt separate requirements in § 1926.502 for restraint systems. Specifically, what are the maximum loads expected to be imposed on a system designed to restrain an employee from stepping past an edge? What are the appropriate strength requirements for restraint system anchors and other components? Is there a need for the requirements in subpart M for snap hooks and other connecting hardware also to apply to restraint systems? Alternatively, should components of a restraint system meet the same strength and other criteria as those for personal fall arrest systems? Is there a significant likelihood that restraint system components would get mixed up with personal fall arrest system components?

Issue 7. Whether the Strength Requirements for Anchorage Points for Personal Fall Arrest Systems, Positioning Device Systems, and Restraint Systems Should Be Changed

This issue addresses whether the anchorage requirement for positioning device systems should be changed. Commenters point out that, in some circumstances, the strength requirements for positioning device anchors are greater than those for personal fall arrest system anchors (Ex. 1–16). They assert that this does not make sense because positioning devices do not have to withstand as much force as fall arrest systems.

The rule requires fall arrest system anchorages to be capable of supporting at least 5,000 pounds (22.2 Kn) per employee or that the system maintain a safety factor of two. These commenters have calculated that, in some circumstances, a safety factor of two can be achieved in a 6 foot fall using an anchor strength of 2,000 pounds.

In contrast, positioning device anchors must always have a strength of at least 3,000 pounds. (Under § 1926.502(e)(2), positioning device anchors must be capable of supporting at least twice the potential impact load of an employee's fall, or 3,000 pounds, whichever is greater.) Since a positioning device limits a fall to only two feet, while a personal fall arrest system must sustain the much higher loads imposed by a six foot fall, these commenters suggest that the positioning device anchor requirements in § 1926.502(e)(2) be changed to require a support capability of 3,000 pounds, or two times the potential impact, whichever is less, rather than the current rule's requirement of whichever is greater.

Questions on Strength Requirements for Positioning Device Anchors

We request comments on whether the strength requirement for positioning device anchors should be changed to permit a capability based on the calculated potential impact. Are there circumstances when a positioning device anchor would have to be stronger than a fall arrest system anchor, as suggested by these commenters? What are the factors that a strength calculation should be based on? Should it be similar to the approach taken for fall arrest system anchors?

Issue 8. Whether the Standard's Prompt Rescue Requirements Should Be Changed

The rule requires employers to ensure that workers in an arrested fall either be promptly rescued from the fall arrest system or be able to rescue themselves, § 1926.502(d)(20). Some employers state that they cannot comply with this requirement when an employee is working alone in a remote location. Commenters say that self-rescue is rarely possible, since the worker is hanging in a harness in mid-air, often at least six feet down from the anchor point. Providing a mobile telephone or two-way radio will not always work, because these devices may be out of range in remote areas. Even in less remote areas, there are ''dead spots'' where these communication devices will not work. They also claim that it is often impossible to determine in advance if a construction crew will be working in a dead spot. A further complication is that in some remote areas, even if rescue personnel can be reached by telephone or radio, it may take a long time for help to arrive.

In some cases, providing an additional worker would ensure a prompt rescue. Some commenters have asserted that in many situations this second person would have no work to do other than to ''stand by'' in the event of an arrested fall. Others have questioned the need for this provision, pointing out that rescue is not required when employees are protected from falls by a positioning device or while tethered or restrained. They assert that rescue is only required when employees are performing construction work and using a personal fall arrest system—that there is no comparable rescue requirement while employees are performing maintenance work.

Most of the general industry standards do not explicitly require prompt rescue, although OSHA interprets the general industry standard for electric power generation, transmission and distribution (volume 29 of the Code of Federal Regulations at section 1910.269) as incorporating the rescue provision of 1926 subpart M. For other work, an employee who must be protected by the rescue requirement while doing construction work would not have to be protected in this way when engaged in maintenance work.

Questions on Prompt Rescue

OSHA seeks comments and information on the rule's prompt rescue requirement. We specifically seek information on the extent to which there have been instances where rescue has been necessary from arrested falls, or where workers have fallen unprotected by a fall arrest system, but would have needed to be rescued had they been protected. Is there a need to define ''prompt'? How long can an employee

be suspended in a harness without being harmed?

Issue 9. Whether There Is a Need for Alternative Procedures for Drilling Shafts

The rule (§ 1926.501(b)(7)(ii)) requires employees at the edge of a well, pit, shaft, or similar excavation, 6 feet or more in depth, to be protected from falling by the use of a guardrail system, fences, barricades, or covers. OSHA's policy is that where these options are infeasible, this requirement can be met by the use of a personal fall arrest system.

The International Association of Foundation Drilling and others are concerned that excavating shafts using drilling rigs presents unique fall protection problems and that requiring conventional fall protection while performing certain tasks creates a greater hazard to workers. They assert that lanyards and lifelines can get entangled with equipment and that self-retracting lanyards may be rendered inoperable by mud and/or wet concrete. They do not consider guardrails, fences, barricades, or covers as viable fall protection options around an active shaft because these would prevent the drilling workers from doing their work.

When addressing the fall hazards associated with holes, OSHA stated in the preamble to the rule (located at volume 59 of the **Federal Register** at page 40686) that it did not intend a guardrail to be erected around holes while employees were working at the hole and that, if a hole cover was removed while work was in progress, guardrails would not be required because they would interfere with the performance of work. The drilling industry commenters believe that this statement should apply to shafts that are actively being drilled and that only after the shaft has been completed should fall protection be required.

These commenters also suggest that the diameter of a shaft should be considered in determining when fall protection is required. They assert that small diameter shafts do not pose the same hazards as larger diameter shafts—that workers around shafts with a diameter of 18–30″ do not necessarily need fall protection.

Questions on Fall Protection While Drilling Shafts

OSHA requests comments with supporting information on any difficulties or hazards associated with providing fall protection during the drilling of shafts. With respect to the entanglement issue, what equipment at a drilling or shaft excavation site can entangle a fall protection system, and under what specific circumstances can that occur? Where is the fall protection equipment anchored when the entanglement potential exists? What movement of which equipment could catch the safety lines? What work activities are being performed near the excavation? Is there a reason why the entanglement problem could not be avoided by using different safety equipment, coordinating work or modifying work practices? Are there retractable lanyards that are not adversely affected by mud and wet concrete? Are there ways of covering the lanyards to protect them from mud and concrete? Is there a reason why catenary lifeline systems could not be used? Under what circumstances are guardrails infeasible? Does the diameter of the shaft have a bearing on the extent to which fall protection is infeasible or on the degree of hazard present? Under what circumstances is the installation of a collar on top of a caisson, or simply allowing the caisson to extend above grade, infeasible?

Issue 10. Whether Body Belts Incorporated Into Full Body Harnesses Provide Appropriate Employee Protection in a Fall

Interested parties have raised a concern about full body harnesses that incorporate body belts into the harness system. Their concern is that, during a fall, these types of body harnesses impose loads on the user that are similar to those imposed by a body belt, since the belt portion of the harness transmits the arresting forces directly to the abdomen. They claim that workers may attach their lanyards to the belt portion of the harness, thus defeating the advantages of using a harness instead of a body belt. Under § 1926.502(d), body belts are not permitted as part of a personal fall arrest system because of their potential to cause injury to a worker who falls.

The rule currently defines a body harness as ''straps which may be secured about the employee in a manner that will distribute the fall arrest forces over at least the thighs, pelvis, waist, chest and shoulders with means for attaching it to other components of a personal fall arrest system.'' OSHA solicits comments on full body harnesses that incorporate body belts. OSHA encourages individuals familiar with these types of harness systems to comment on the possible benefits or detriments of their use.

Questions on Body Harnesses

Should OSHA revise its definition of a body harness to prohibit harnesses that, in effect, incorporate body belts? Does this type of harness transmit excessive forces to the waist/abdomen area in an arrested fall when the harness is properly attached?

IV. Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

Signed at Washington, D.C. this 1st day of July, 1999.

Charles N. Jeffress,

Assistant Secretary.

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Wednesday
July 14, 1999

Part III

Department of Labor

Employment and Training Administration

Unemployment Insurance Program: Unemployment Insurance Program Letter No. 37–99, UI PERFORMS Performance Measures and Minimum Performance Criteria for Tier 1 Measures; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Unemployment Insurance Program:

Unemployment Insurance Program Letter No. 37–99, UI PERFORMS Performance Measures and Minimum Performance, Criteria for Tier I Measures

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: UI PERFORMS is the Department of Labor's management system for promoting continuous improvement in Unemployment Insurance (UI) operational performance. Unemployment Insurance Program Letter (UIPL) No. 41–95 (August 24, 1995) described in detail the features of the UI PERFORMS performance management system, including Tier I performance measures, for which uniform national criteria representing minimum levels of acceptable performance would be established, and Tier II measures, for which no uniform national criteria would be established.

The proposed minimum performance criteria for UI PERFORMS Tier I measures were published in UIPL No. 4–99 (October 20, 1998) and the **Federal Register** (FR) at 63 FR 63544 (November 13, 1998). These issuances also proposed additional Tier II measures beyond those initially identified in UIPL No. 41–95 and invited the comments of State Employment Security Agency (SESA) Administrators and the public. This notice consists of the Department of Labor's responses to the comments that were submitted, and a UIPL which disseminates the minimum performance criteria for Tier I measures and their effective dates and describes the relationship of the Tier I and Tier II measures to the State Quality Service Plan (SQSP) process.

EFFECTIVE DATES: The effective dates for each of the minimum performance criteria for UI PERFORMS Tier I measures are provided in the summary table in section four of the UIPL.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra King, Director, Division of Performance Review, Unemployment Insurance Service, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room S–4231, Washington, DC 20210 (telephone: 202–219–5223, extension 160); or Andrew Spisak, who can be contacted at the same address or by telephone at 202–219–5223, extension 157. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

Background

When the State-Federal Performance Enhancement Work Group (PEWG) established the outlines of the UI PERFORMS system for promoting continuous improvement in UI operational performance, it identified ten key measures for which uniform national criteria would be set. It called these ''Tier I'' measures. The criteria for these measures were to be interpreted as minimum levels which States always would be required to meet.

In November 1997, the Performance Enhancement Group (PEG) met for the first time in Washington, DC. The PEG is the successor to the PEWG, and, like the PEWG, is comprised of State and Federal employment security administrators. The PEG was convened to complete the design and implementation of the UI PERFORMS system.

The PEG ratified the PEWG's definitions of the performance measures and established three workgroups—Appeals, Benefits, and Tax—to develop recommendations for the criteria. Each group included Federal staff from the National and Regional Offices, and representatives from at least two States. The PEG developed guidelines for the workgroups to follow in developing their recommendations. The PEG also deferred setting a criterion for one Tier I measure, cashiering timeliness, until a data collection methodology can be developed for that measure that can be applied uniformly by all States.

The workgroups' reports were presented to the PEG at its meeting in Washington, DC, on September 28–30, 1998. The PEG reviewed the workgroups' recommendations, both in terms of the individual Tier I measures and in light of their cumulative burden, and recommended appropriate adjustments. UIPL No. 4–99 and the November 13, 1998 FR Notice identified and discussed the proposed minimum performance criteria for UI PERFORMS Tier I measures and solicited the comments of the SESA administrators and the public on the proposed performance criteria.

Summary of Comments and Department of Labor Responses

A total of 26 States submitted comments in response to UIPL No. 4–99. Six States submitted comments in response to the November 13, 1998 FR Notice, which provided a 60-day period for public comment on the proposed criteria. The comments of three of these States were the same as the comments these States submitted in response to the UIPL. In addition to the States, two public interest groups submitted comments in response to the FR Notice.

The following sections identify the minimum criteria for the nine Tier I measures that were proposed in UIPL No. 4–99 and the November 13, 1998 FR Notice; summarize the comments; and give the Department of Labor's responses.

I. First Payment Timeliness

Proposed criteria effective fiscal year (FY) 2000: One aggregate measure combining total and partial/part-total first payments for intrastate and interstate State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Servicemembers (UCX):

1. 87 percent within 14 days of the week-ending date of the first compensable week for States requiring a waiting week of unemployment and 21 days of the week-ending date of the first compensable week for non-waiting week States.

2. 93 percent within 35 days.

Proposed criteria effective FY 2002 or the first SQSP cycle following the issuance of the regulation governing UI PERFORMS, whichever is later:

One aggregate measure combining total and partial/part-total first payments for intrastate and interstate State UI, UCFE, and UCX:

1. 90 percent within 14 days of the week-ending date of the first compensable week for States requiring a waiting week of unemployment and 21 days for non-waiting week States.

2. 95 percent within 35 days.

Summary of Comments and the Department's Response: Thirteen States commented on this measure.

Two States supported the proposed criteria for the aggregate measure of first payment timeliness. One of these States also endorsed the proposal to establish separate Tier II measures for UI interstate, UCFE, and UCX first payments. Two States expressed their expectations of meeting the proposed criteria without commenting on the merits of the proposed criteria.

Nine States objected to the proposed criteria for the aggregate measure, although one of these States supported the current criterion for compliance in 20 CFR 640.5 of 87 percent of first payments issued within 14 days from the week-ending date of the first compensable week in States that require a waiting week and 21 days in States that do not require a waiting week. These nine States cited several reasons

for objecting, such as the inclusion in the measure of interstate UI, UCFE, and UCX claims (for which prompt first payments might be more difficult), State alternative base period provisions, the fact-finding efforts required to satisfy the nonmonetary quality review, the inclusion of payments resulting from appeals reversals, and State law provisions such as backdating claims for partial unemployment.

The Department believes that the proposed minimum criteria are administratively feasible, and that differences in State UI laws and procedures will not affect the ability of States to meet the criteria. For the period April 1998 through March 1999, 46 States met the current 14/21-day timeliness criterion for compliance in 20 CFR 640.5 for first payment of benefits for weeks of total unemployment for intrastate claims under the State UI program, and five of the seven States that did not meet the criterion were within five percentage points of meeting it. Fifty-two States met the 35-day timeliness criterion for compliance in 20 CFR 640.5 for first payment of benefits for weeks of total unemployment for intrastate claims under the State UI program. For first payment of benefits for weeks of total unemployment for interstate claims under the State UI program, 49 States met the 14/21-day criterion, and 51 States met the 35-day criterion in 20 CFR 640.5.

Performance data do not support the contention that including payments for interstate UI, UCFE, and UCX claims in the measure will preclude States from meeting the minimum criteria. From April 1998 through March 1999, only 3 of the 46 States that met the 14/21-day timeliness criterion for compliance in 20 CFR 640.5 for first payment of benefits for weeks of total unemployment for intrastate claims under the State UI program would fail to meet the same criterion applied to an aggregate timeliness measure that included first payments for weeks of total and partial/part-total unemployment for interstate and intrastate claims in the State UI, UCFE, and UCX programs.

For the same period, none of the 52 States that met the 35-day timeliness criterion for compliance in 20 CFR 640.5 for first payment of benefits for weeks of total unemployment for intrastate claims under the State UI program would fail to meet the same criterion applied to an aggregate timeliness measure.

The Department intends to issue a notice for comment on a proposed regulation establishing a UI PERFORMS management system. The Department intends that this regulation will supersede 20 CFR Part 640. Comments submitted in response to the UI PERFORMS proposed regulation will be considered along with the comments submitted in response to UIPL No. 4-99 and the November 13, 1998 FR Notice prior to publishing a UI PERFORMS Final Rule. Until the UI PERFORMS Final Rule takes effect, the existing criteria for compliance with the Secretary's Standard for Unemployment Compensation benefit payment promptness (20 CFR 640.5) continues to be the minimum performance criteria for the first payment timeliness Tier I measure.

For first payments of weeks of total unemployment for intrastate State UI claims, consistent with 20 CFR 640.5, the minimum Tier I performance criteria are:

1. 87 percent within 14 days of the week-ending date of the first compensable week for States requiring a waiting week of unemployment and 21 days of the week-ending date of the first compensable week for non-waiting week States.

2. 93 percent within 35 days.

For first payments of weeks of total unemployment for interstate State UI claims, consistent with 20 CFR 640.5, the minimum Tier I performance criteria are:

1. 70 percent within 14 days of the week-ending date of the first compensable week for States requiring a waiting week of unemployment and 21 days of the week-ending date of the first compensable week for non-waiting week States.

2. 78 percent within 35 days.

II. Nonmonetary Determinations Timeliness

Proposed criteria effective FY 2002: Single aggregate measure including determinations for intrastate and interstate claims for State UI, UCFE, and UCX:

1. 80 percent of separation determinations issued within 21 days from date of detection by the SESA of any nonmonetary issue which had the potential to affect the claimant's past, present, or future benefit rights to date of the determination.

2. 80 percent of nonseparation determinations issued within 14 days from date of detection by the SESA of any nonmonetary issue which had the potential to affect the claimant's past, present, or future benefit rights to date of the determination.

Summary of Comments and the Department's Response: Fourteen States and one public interest group commented on this measure.

Six States objected to the disparate treatment of separation and nonseparation determinations, because separation and nonseparation issues are detected often at the same time.

With respect to the point of time at which separation and nonseparation issues are detected, although both separation and nonseparation issues that must be adjudicated can arise when a new initial claim for UI benefits is filed, most nonseparation issues arise from continued claims. The Department believes that the proposed timeliness intervals for separation and nonseparation determinations ensure that UI claimants receive payments expeditiously while taking into account differences in the extent of fact-finding that is required to adjudicate separation and nonseparation issues. Recognizing that nonmonetary determinations vary in their degree of complexity, separation issues, in general, require that the agency contact and gather information from the claimant, one or more employers, and, in some instances, third parties in order to decide eligibility. Nonseparation issues can, more frequently than separation issues, be adjudicated on the basis of information obtained from the claimant or agency records. Therefore, a shorter time interval is justified for nonseparation issues.

Five States believed there was an inconsistency between the proposed criteria for the timeliness of nonmonetary determinations and the proposed criteria for first payment promptness. Three States cited examples in which nonmonetary determinations are required prior to the date by which the first payment must be issued. For example, one State cited a separation issue detected on a new initial claim on the 2nd of the month. In order to meet the proposed timeliness criteria, an eligibility decision would have to be issued by the 23rd, and, assuming the claimant was determined to be eligible for benefits, the first payment would be due within 14 days of the first compensable week. If the first compensable week ended on the 14th, the first payment must be issued no later than the 28th.

The Department does not agree that there is a conflict between the proposed timeliness criteria for first payment of benefits and nonmonetary determinations. The Department believes that it is, in fact, logical to require the nonmonetary issues to be adjudicated and claimant eligibility determined prior to the date by which a first payment must be issued.

Six States cited adjudication procedures, including due process requirements for notification and response and the practice of issuing nonmonetary determinations only after a week of unemployment has been claimed, as factors making it difficult to meet the proposed criteria.

The Department believes that many of the concerns cited by the States arise from a small number of more complex claims that are not typical of the majority of nonmonetary adjudications, so that for the totality of nonmonetary adjudications, the proposed criteria are administratively feasible.

With respect to States that do not issue nonmonetary determinations until a claim is filed, ET Handbook No. 301, page V–9, states that the issue detection date is, ''[T]he date the SESA first detected the issue to which the nonmonetary determination applies. The exception to this rule is a case where the claimant fails to file a timely certification and the State has a policy of waiting for a week to be claimed prior to making a determination. In such cases, the detection date for the original unresolved issue(s) is the date the claimant subsequently files an additional or reopened claim.''

Two States commented that the majority of States currently perform below the proposed criteria, and that it is unrealistic to expect dramatically improved performance by FY 2002. Conversely, the public interest group questioned the justification for delaying the effective date until FY 2002 when so many States are failing to achieve the criteria and questioned whether the Department currently has the authority to sanction these States.

The PEG discussed the issue of an appropriate effective date and agreed that, given the number of States currently performing below the minimum levels (34 States for the period April 1998 through March 1999) and the degree of improvement that is needed for several of the States to meet the criteria (only 5 of the 34 States not meeting the criteria were within 5 percentage points), an effective date prior to FY 2002 would not be realistic. A two-year delay in implementing these criteria will provide additional time for States to work with the Federal partner to identify those areas of UI operations that need to be addressed and to undertake actions required to improve performance and meet the criteria.

With respect to the ability to sanction States, the Department notes that currently there are no criteria specified in regulation for this measure. States which do not meet the minimum performance criteria for this measure will be required to submit plans identifying the steps the State will take to achieve those criteria, and must demonstrate progress toward meeting them. However, the Department will not initiate formal action if State performance fails to meet a new criterion prior to its effective date, provided the Department has received and approved a satisfactory corrective action plan, and there is evidence of continuing progress in its achievement.

The public interest group commented also that timeliness should be measured from the date the claim is filed rather than from the date of detection. Measuring timeliness from the date of detection might discourage adjudicators from finding out what the actual issues are or pursuing leads of issues that are disclosed through fact-finding from sources other than the employer. The group also believes that it would also be easier to monitor timeliness measured from the claim date.

The Department notes that State nonmonetary adjudications are reviewed each quarter to evaluate the quality of the SESA's fact-finding efforts with respect to claimants, employers, and other interested parties. The Department has no evidence that measuring timeliness from the date of detection has an adverse effect on fact-finding. The Department also notes that, as defined in ET Handbook No. 401 (page V–3–6), ''The issue detection date is the date the new, additional, or reopened claim is filed. If no issue exists at the time a claim is filed but information is later received that presents an issue, then the issue detection date is the date this information is received by the agency.''

One State ''strongly opposed'' the requirement to produce improvement plans prior to the effective date of the criteria.

(**Note:** this State also applied this comment to the proposed criterion for nonmonetary quality.)

In order to achieve the goal of continuous program improvement, the Department believes that it is essential for the Department and the States to work cooperatively in identifying those practices and procedures that are necessary to raise the State's level of performance, especially for those States not meeting performance floors.

One State did not comment specifically on the proposed criteria but noted that it had previously expressed its concerns about the UI PERFORMS process.

III. Nonmonetary Determinations Quality

Proposed criterion effective FY 2002: 75 percent of all determinations with scores greater than 80 points, based on evaluation results of quarterly samples of nonmonetary determinations selected from the universe of nonmonetary determinations for intrastate and interstate claims for State UI, UCFE, and UCX, reported on the ETA 9052 report. Nonmonetary determination samples will be evaluated as instructed in ET Handbook No. 301 (rev. January 1998).

Summary of Comments and the Department's Response: Thirteen States and one public interest group commented on this measure.

Five States supported the proposed criterion in general. However, one of these States commented that the quality evaluation should be limited to discharge, voluntary quit, able and available, and job refusal issues. This State felt that inclusion of such issues as full-time employment and holiday pay will inflate the scores of some States. Another of these States urged the Department to increase its support and scheduling of benefits quality training.

The Department believes that it is important to include all nonmonetary issues in order to conduct a comprehensive evaluation of quality. Because the State quality samples are representative of the population of nonmonetary determinations, the State's aggregate score will reflect the relative importance of the four issue areas cited by the State. Further, the Department is committed to continue to schedule benefits quality training at various times and locations.

Three States questioned the scoring system used to evaluate the quality of nonmonetary determinations. One State felt that the quality evaluation is a *de facto* pass/fail system, because a deduction of points other than for an inadequate written determination will result in a score of less than 80 points, which is a failing score.

The Department believes that the nonmonetary quality measurement instrument produces a comprehensive and fair evaluation of the critical indicators of the quality of State nonmonetary procedures: adequacy of claimant, employer, and third party fact-finding; opportunity for rebuttal to the interested parties; correct application of State law and policy; and the adequacy of the written determination. Evaluators assign scores which reflect the State agency's performance in these critical areas. Scoring is conducted as a tripartite review in which at least one, and preferably two, of the reviewers are

nonmonetary experts from outside the State which is being evaluated. Five tripartite review options are available, depending on the composition of the review team (i.e., the mix of staff from the State being evaluated, staff from other States, and Federal staff) and the method used to resolve scoring disagreements. The tripartite review procedure is described in detail in ET Handbook No. 301, chapter IV and Appendix B.

Three States urged the Department to identify the reasons so many States fail to meet the criterion, including a reexamination of the evaluation measurement tool. One of these States urged that the States that are meeting the criterion share information with the other States on the reasons for their success, and another State urged the Department to collect information on State best practices, share these with all States, and use this information to provide technical and financial assistance to the States. Two States urged the Department to defer implementation of a minimum performance criterion until the Department and the States identify the reasons why so many States are failing to meet the proposed criterion.

As stated in UIPL No. 4–99 and the November 13, 1998 FR Notice, the Department will study the reasons why States fail to meet the minimum level of performance and will share this information with the States. The Department will also encourage States that are performing above the minimum level to share best practices with other States.

The PEG discussed the issue of an appropriate effective date and agreed that a two-year delay in implementing this criterion will provide States with sufficient time to undertake actions required to improve performance and meet the criterion. The Department believes that an effective date of FY 2002 is realistic, given the number of States currently performing below the minimum levels (26 States in calendar year 1998) and the degree of improvement that is needed for several of the States to meet the criterion (only 7 of the 26 States not meeting the criterion were within 5 percentage points).

One State commented that it would have to improve its performance for this measure without commenting on the merits of the proposed criterion. Another State did not comment specifically on the proposed criterion but noted that it had previously expressed its concerns about the UI PERFORMS process.

IV. Lower Authority Appeals Timeliness

Proposed criteria effective FY 2000:

1. 60 percent of decisions within 30 days. (Existing Secretary's Standard at 20 CFR 650.4(b))

2. 80 percent of decisions within 45 days. (Existing Secretary's Standard at 20 CFR 650.4(b))

Proposed criteria effective FY 2002 or the first SQSP cycle following the issuance of the regulation governing UI PERFORMS, whichever is later:

1. 60 percent of decisions within 30 days.

2. 85 percent of decisions within 45 days.

3. 95 percent of decisions within 75 days.

Summary of Comments and the Department's Response: Ten States commented on this measure.

Although two of the States that submitted comments supported the proposed criteria, eight States expressed concerns that centered on three issues: (1) The concern that improvements in timeliness will compromise quality and/or due process; (2) the ability to meet the proposed criteria during periods of high workloads; and (3) the justification for raising the 45-day performance criterion and adding a third criterion.

State performance data on lower authority appeals timeliness (ETA 9054 report) and quality (ETA 9057) do not support the contention that there is a trade-off between quality and promptness. For calendar year 1998, 48 States met the 30-day criterion for compliance in 20 CFR 650.4(b) for lower authority appeals promptness, and 50 States met the 45-day criterion for compliance in 20 CFR 650.4(b) for lower authority appeals promptness. Only four of the States meeting the 45-day timeliness criterion failed to meet the proposed lower authority appeals quality criterion of 80 percent of all benefit appeals with combined scores equal to at least 85 percent of the potential points that could be awarded for the evaluation. Only one of the States meeting the 45-day timeliness criterion failed to meet the current lower authority appeals quality desired level of achievement of 80 percent of all benefit appeals with combined scores equal to at least 80 percent of the potential points that could be awarded for the evaluation.

These quarterly evaluations of lower authority appeals quality include several elements addressing due process. Based on the results of these evaluations, the Department believes that the timeliness criteria will not compromise the due process rights of the interested parties.

With respect to the ability of States to meet the proposed criteria during periods of high workloads, the PEWG established, as one of the performance criteria guidelines, the principle that States would be expected to meet or exceed the criteria, unless attaining the established levels was not ''administratively feasible'' for the period measured. State workload is one of several factors that the State and the Department will consider when assessing administrative feasibility.

The proposal to raise the performance criterion for the 45-day timeliness measure and add a third criterion reflects the Department's goal of ensuring that a greater percentage of the cases are disposed of as efficiently as possible; that cases are not allowed to accumulate for long periods of time; and that parties to an appeal receive a hearing and decision in a reasonable amount of time. The third criterion for the issuance of 95 percent of lower authority appeals decisions within a specified period will encourage States to reduce the number of cases that have not been decided within 45 days.

Six States cited concerns about the effect on quality of the proposed new criterion for issuing 95 percent of lower authority appeals decisions within 75 days. Two States proposed modifying the criterion to require that States issue 90 percent of lower authority appeals decisions within 75 days.

The Department believes that in order to adequately address the case-aging concerns that motivated the PEG to propose a third criterion, the criterion must require that 95 percent of the lower authority appeals decisions be issued within a designated time period. This will ensure the disposition of all but the most complex cases within a reasonable time period. However, in order to provide States with more flexibility to adapt their lower authority appeals practices and procedures to the new criterion, the Department proposed, and the PEG agreed, to modify the criterion to require that States issue 95 percent of lower authority appeals decisions within 90 days, rather than 75 days.

One State suggested that the time lapse measure be replaced with an ''average pendency level'' measure, defined as the total number of days all appeals have been pending divided by the number of appeals.

The PEG decided that consideration of this measure should be deferred pending further study of State performance based on this measure and changes in State data collection procedures that would be required for its implementation.

The Department intends to issue a notice for comment on a proposed regulation establishing a UI PERFORMS management system. The Department intends that this regulation will supersede 20 CFR Part 650. Comments submitted in response to the UI PERFORMS proposed regulation will be considered along with the comments submitted in response to UIPL No. 4-99 and the November 13, 1998 FR Notice prior to publishing a UI PERFORMS Final Rule. Until the UI PERFORMS Final Rule takes effect, the existing criteria for compliance with the Secretary's Standard for Unemployment Compensation appeals promptness (20 CFR 650.4(b)) continues to be the minimum performance criteria for the lower authority appeals timeliness Tier I measure:

1. 60 percent of decisions within 30 days.
2. 80 percent of decisions within 45 days.

V. Higher Authority Appeals Timeliness

Proposed criteria effective FY 2000:

1. 50 percent of decisions within 45 days.
2. 80 percent of decisions within 75 days.
3. 95 percent of decisions within 120 days.

Summary of Comments and the Department's Response:

Nine States and one public interest group commented on this measure. A second public interest group endorsed the comments of the first.

One State described the proposed criteria as ''fair and reasonable'', and another State did not comment on the merits of the proposed criteria but stated that it would have no problem in meeting them.

Seven States expressed concerns that centered on one or more of three issues: (1) The ability to meet the proposed criteria during periods of high workloads; (2) the justification for adding a third criterion; and (3) the concern that improvements in timeliness will compromise quality and/or due process.

With respect to the ability of States to meet the proposed criteria during periods of high workloads, the PEWG established, as one of the performance criteria guidelines, the principle that States would be expected to meet or exceed the criteria, unless attaining the established levels was not ''administratively feasible'' for the period measured. State workload is one of several factors that the State and the Department will consider when assessing administrative feasibility.

The proposal to add a third criterion reflects the Department's goal of ensuring that a greater percentage of the cases are disposed of as efficiently as possible; that cases are not allowed to accumulate for long periods of time; and that parties to an appeal receive a hearing and decision in a reasonable amount of time. The third criterion for the issuance of 95 percent of higher authority appeals decisions within a specified period will encourage States to reduce the aging of cases that have not been decided within 75 days.

Four States disagreed with the proposed time interval for the 95 percent completion criterion and suggested alternative completion percentages and/or time intervals.

The Department believes that in order to adequately address the case-aging concerns that motivated the PEG to propose a third criterion, the criterion must require that 95 percent of the higher authority appeals be issued within a designated time period. This will ensure the disposition of all but the most complex cases within a reasonable time period. However, in order to provide States with more flexibility to adapt their higher authority appeals practices and procedures to the new criterion, the Department proposed, and the PEG agreed, to modify the criterion to require that States issue 95 percent of higher authority appeals decisions within 150 days, rather than 120 days.

Three States commented that due to the precedential and policy setting implication of their decisions, higher authority appeals often require additional time for fact finding, hearings, research, and drafting opinions. One of these States commented that appellants prefer the thoroughness and quality of the review process and the due process guarantees of their State law, to a speedy decision that does not include a careful review of the facts.

Based on State performance data, the Department believes that the proposed minimum performance criteria for higher authority appeals timeliness are reasonable and achievable, given the need to meet the due process requirements of State law and policy. For the period April 1998 through March 1999, 44 of the 50 States that provide for a higher authority appeals process met the 45-day and 75-day timeliness criteria, and 43 States met the proposed 150-day timeliness criterion.

The public interest group urged the establishment of a quality criterion for higher authority appeals, in addition to the timeliness measure. A second public interest group endorsed this recommendation.

The Department notes that developing a cost-effective method to measure higher authority appeals quality that all States can apply uniformly might be difficult. Nevertheless, because higher authority appeals quality is important, the PEWG established such a measure under Tier II, and the Department is committed to its development. As a Tier II measure, higher authority appeals quality will not have a minimum performance criterion. However, all UI PERFORMS measures, including their categorization as Tier I or Tier II measures, will be periodically reviewed.

VI. Lower Authority Appeals Quality

Proposed criterion effective FY 2000: 80 percent of all benefit appeals with combined scores equal to at least 85 percent of potential points, based on the results of quarterly samples of lower authority benefit appeals hearings selected and evaluated as instructed in ET Handbook No. 382 (2nd ed.).

Summary of Comments and the Department's Response: Six States commented on this measure.

Comments were generally positive, although one State commented that setting the minimum passing score at 85 percent of the potential points is a significant change from the current desired level of achievement, for which the minimum passing score is 80 percent of the potential points, and increases the likelihood that a case will fail the evaluation. This State urged postponement of the higher criterion until FY 2002 to allow States to correct any problems developing from the criterion.

Data for calendar year 1998 show that 46 States met the proposed criterion and 2 other States were within 5 percentage points of meeting the criterion. Therefore, based on State performance, the Department believes the criterion is reasonable and should not be postponed.

One State recommended that any hearing that fails any of the eight critical elements should fail the quality review.

The Department believes that it would be premature to propose a criterion for minimum performance with respect to the critical elements. After additional data are collected, State performance on these critical elements can be evaluated, and the role of these elements in setting minimum performance criteria can be considered when the Tier I measures are next reviewed.

VII. Timeliness of New Employer Status Determinations

Proposed criteria effective FY 2002:

1. 60 percent of determinations made within 90 days of the quarter ending date (QED).

2. 80 percent of determinations made within 180 days of the QED.

Summary of Comments and the Department's Response: Nine States commented on this measure.

Comments were generally positive, although one State proposed that for those employer determinations for which the tax office has not been notified timely that liability has occurred, the notification date (comparable to the date of detection for nonmonetary determinations) should be used to calculate timeliness instead of the QED.

The Department does not agree with this proposal, because relying on the employer notification date will remove any incentive for States to actively identify new employers. Further, the current reporting system does not use the notification date and, therefore, does not support this proposal.

VIII. New Employer Status Determinations Accuracy

Proposed criterion effective FY 2002: No more than 6 cases from an acceptance sample of 60 cases can fail the evaluation. This criterion implies that at least 95 percent of the samples will *pass* (that is, 6 or fewer cases will fail the evaluation) if State accuracy rate is greater than or equal to 94.5 percent, and that at least 90 percent of the samples will *fail* (that is, more than 6 cases will fail the evaluation) if State accuracy rate is less than or equal to 82.4 percent.

Summary of Comments and the Department's Response: Nine States commented on this measure.

Comments were generally positive, although 2 States questioned whether the proposed criterion of 6 failures in a sample of 60 cases should apply also to other Tax Performance System (TPS) measures.

Currently, no more than 2 cases in an acceptance sample of 60 cases may fail an evaluation for a TPS measure. This standard implies a level of performance higher than the level that is appropriate for Tier I measures, which are minimum performance levels. New Employer Status Determinations Accuracy is the only TPS acceptance sample measure that is in Tier I and, therefore, should be subject to a different criterion from other TPS measures.

One State sought clarification of whether this measure includes the accuracy of both the determination and the posting of the determination (that is, the accurate recording of the accounts maintenance function information in the agency's records).

This measure will apply to the accuracy of the determination only. This includes the accuracy of the liability decision, whether the State followed correct procedures and obtained proper documentation, and whether it assigned the correct tax rate. Accuracy of the posting will be evaluated as a Tier II measure.

IX. Timeliness of Transfer From Clearing Account to Trust Fund

Proposed criterion effective for the FY 2000 and FY 2001 SQSP: A maximum of two days to transfer funds from the State clearing account to the State account in the Unemployment Trust Fund.

Effective with the FY 2002 SQSP: Maintenance of an annual ratio of the monthly average daily available balance (line 10, ETA 8414 report) to the average daily transfer to the trust fund (line 3, ETA 8405 report, divided by the number of days in the month) less than or equal to 1.75.

Effective with the FY 2005 SQSP: Maintenance of an annual ratio less than or equal to 1.0.

Summary of Comments and the Department's Response: Fourteen States commented on this measure.

Comments were mixed, with six States offering outright or qualified support for the proposed criteria. However, four States strongly objected to both the current timeliness and proposed ratio criteria on the grounds that States which finance banking services through clearing account balances would not be able to meet either the time lapse or ratio criteria. Two States noted that States would be forced to eliminate a source for paying for banking services in order to meet the criterion. Another State suggested that this measure be moved to Tier II, because State performance cannot be measured in a uniform manner, or that separate measures be developed for States funding lockbox operations through clearing account balances. One State urged the Department to provide States with incentives to make the transition to electronic filing and payment. One State ''strongly'' urged the Department to consider the funding of banking services in developing cash management performance measures.

The Department acknowledges the States' desire to maintain compensating balances in the clearing account to support State banking services and lockbox operations. However, the PEWG considered it important to establish a Tier I measure that reflects the immediate deposit and withdrawal requirements. The PEG ratified this decision. Compensating balances in the clearing account are in direct conflict with Federal law governing the ''immediate deposit'' (section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) and section 303(a)(4) of the Social Security Act (SSA)) and ''withdrawal'' (section 3304(a)(4) of FUTA and section 303(a)(5) of the SSA) requirements. Under the ''immediate deposit'' standard, in order for employers in a State to receive credit against the Federal unemployment tax, and for States to receive their administrative grants, all UI taxes must be transferred to and deposited in the Unemployment Trust Fund immediately after going through the State's clearing account. Under the ''withdrawal'' standard, money must be withdrawn from the State's unemployment fund solely for payment of unemployment compensation. The use of such funds for ''expenses of administration'' is explicitly prohibited. Therefore, the constructive use of compensating balances by States is inconsistent with Federal law.

The President's FY 2000 budget proposal committed the Department to discuss UI and employment service reform with stakeholders and Congress for purposes of developing a comprehensive bipartisan legislative reform proposal. As a result of discussions which have occurred so far, two proposals are under consideration which, if enacted, would affect this criterion. The first would allow States to use earnings on moneys in the clearing account to pay routine banking costs. The second would allow also for the payment of additional costs such as those incurred in operating a lockbox. Should either of these changes become law, the criterion for this measure will be revised accordingly.

Two States sought a more complete discussion of the data reporting issues that need to be resolved as a prerequisite to the implementation of the ratio measure.

The Department believes that the proposal provides adequate time to resolve data reporting inconsistencies before the proposed ratio measure is introduced. The Department is committed to resolving these issues with the full participation of the States.

Two States expressed concern that use of the average daily available balance in the ratio measure would produce a skewed or misleading result due to the commingling of funds in the State clearing account that are not transferred to the trust fund.

The Department notes that States must identify and report separately

funds other than employer contributions that are deposited in the clearing account, which eliminates the potential for skewed or misleading results.

Three States believed the proposed ratio criterion will be more difficult to meet than the time lapse measure.

Performance data do not support the contention that States which are able to meet the 2-day time lapse criterion would have difficulty meeting the proposed ratio of 1.75 or less. For the reporting period April 1998 through March 1999, only 2 of the 31 States that met the 2-day time lapse criterion had ratios greater than 1.75. On the other hand, 7 States that failed to meet the 2-day time lapse criterion had ratios less than 1.75.

General Comments

Nine States and two public interest groups offered comments that were not specific to any measure.

- Two States requested clarification of the term ''administratively feasible''.

The Department measures administrative feasibility by observing and evaluating State performance. If States are performing at or above a minimum performance level of quality, promptness, etc., this constitutes evidence that a criterion is administratively feasible. However, a variety of evidence may be used to measure administrative feasibility. Because circumstances in States vary, the Department reserves the right to evaluate administrative feasibility on a case-by-case basis.

- One State requested that the reference to ''persistent performance below the established criterion'' be described or defined.

The period must be long enough to establish that the poor performance is not transitory, and also to allow the State a reasonable time to improve performance. In general, the Department believes that two years of continuous performance below the criterion demonstrates sustained poor performance. However, since circumstances in States vary, the Department reserves the right to handle performance problems on a case-by-case basis.

- Two States pointed out the difficulty of applying universal criteria to diverse State operations. One of these States expressed concern that States might be forced into standardizing their operations to meet national criteria, thereby compromising their rights in the State/Federal partnership.

The Department believes that uniform performance criteria must be applied as a matter of fairness and equity for States, employers, and UI claimants across all jurisdictions. The application of different criteria in an attempt to take into account differences in State laws and administrative practices inevitably invites subjective judgements, which would be inconsistent with a national program improvement system such as UI PERFORMS. Among the principles for Tier I performance measures established by the PEWG and ratified by the PEG is the requirement that Tier I measures would have the same meaning in all States so that interstate comparisons are valid. In contrast, the PEWG and PEG recognized that some performance measures inherently reflect interstate variability and, accordingly, designated these as Tier II measures.

The Department believes that the Tier I measures represent core or critical areas of UI customer service and that the criteria are minimum levels, at or above which all States should be able to perform, regardless of differences in State operations.

- One State recommended that a customer satisfaction survey be added as a performance measure.

The Department will require States to include information on their plans for evaluating customer satisfaction and utilizing customer input to promote continuous improvement in the SQSP narrative. However, the Department does not agree that the results of State customer satisfaction surveys can be used as a Tier I measure. The Department believes that the results of State customer satisfaction surveys will reflect differences in survey design and administration. Therefore, these results cannot be used to establish uniform national criteria for Tier I measures.

We note that the Department's Unemployment Insurance Service (UIS) conducted a national survey of customer satisfaction and transmitted the final report to Regional Administrators via UIS Information Bulletin 6–99 (February 19, 1999). States may obtain copies by contacting their respective Regional Office.

- One State questioned whether resources in small States are adequate to achieve the performance criteria, given the commitment of resources required to achieve Y2K compliance of automated systems, and the need to commit resources to continuous program improvement, which have placed a strain on UI program operations, particularly in smaller States.

Although the Department is aware of the many demands on program resources, the Department believes that all States have the resources necessary to meet these minimum levels of UI program performance. State data do not indicate that there is any correlation between State UI workload and State performance for the Tier I measures. An examination of the most recent annual performance data shows that the smaller States were no more likely to fail to meet the proposed criteria than were the larger States.

- One State questioned why no large States were represented on the PEG.

The Department asked the Interstate Conference of Employment Security Agencies (ICESA) to solicit State participation on both the PEWG and PEG and selected members from the State volunteers identified by ICESA.

- The public interest groups strongly urged the Department to implement all of the performance measures and minimum criteria in regulation, rather than through a UIPL and FR Notice, to provide added weight in achieving compliance.

The Department intends to establish a regulation governing the structure of the UI PERFORMS system. A principal goal of UI PERFORMS is the continuous improvement of the UI system. The Department believes that achieving this goal requires flexibility, especially in the early stages, and that the specification of performance measures and criteria through UIPLs and FR Notices, instead of through regulation, provides this flexibility and simplifies the process of changing the measures or criteria as needed. However, the Department will make no changes in the performance measures without providing advance notice and an opportunity for comment.

The Department is committed to reviewing performance measures and criteria periodically, as agreed to by the PEWG and affirmed by the PEG. Final determination of the criteria for the two current Secretary's Standards—first payment timeliness and lower authority appeals timeliness—will occur in conjunction with proposed UI PERFORMS rulemaking. The first periodic review of the full set of Tier I measures will occur not more than five years from the date of issuance, with the exception of the criteria for nonmonetary determinations timeliness, nonmonetary determinations quality, and new employer status determinations accuracy, which will be reviewed after two years.

- With respect to all of the timeliness measures, one of the public interest groups noted that the criteria do not impose any requirements with respect to those matters, above the maximum percentage listed, which do not meet the longest time interval. The group noted that both the Department and others need information on what has happened to those cases, because they, too, are

governed by the ''payment of unemployment compensation when due'' requirement of section 303(a)(1) of the Social Security Act. The group commented that State reports must continue to include information on the precise time lapses for these cases, and that the Department should review this data, make a factual inquiry into why those decisions have been delayed, and assess whether the State has met the administrative feasibility standard of the ''when due'' clause of section 303(a)(1), SSA, as interpreted in *California Dept. of Human Resources Development* v. *Java,* 402 U.S. 121, 91 S.Ct. 1347 (1971).

The Department will continue to require that States report UI program data for all time intervals defined in ET Handbook No. 401, including intervals greater than the maximum intervals specified for the Tier I timeliness measures. The Department will use this information as part of the SQSP process to achieve the UI PERFORM's goal of continuous program improvement.

Attached is UIPL No. 37–99, titled ''UI PERFORMS Tier I and Tier II Performance Measures, and Minimum Performance Criteria for Tier I Measures''.

Signed at Washington, DC, on June 28, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

Date: July 1, 1999.

Directive: Unemployment Insurance Program Letter No. 37–99.

To: All State Employment Security Agencies.

From: Grace A. Kilbane, Director, Unemployment Insurance Service.

Subject: UI PERFORMS Tier I and Tier II Performance Measures, and Minimum Performance Criteria for Tier I Measures.

1. *Purpose.* To disseminate the performance measures that will be used to assess program operations and plans for program improvement, establish the minimum performance criteria for Tier I measures and their effective dates, and discuss the relationship of the Tier I and Tier II measures to the State Quality Service Plan (SQSP) process.

2. *References.* Unemployment Insurance Program Letter (UIPL) No. 41–95 (August 24, 1995), UIPL No. 19–98 (March 30, 1998), UIPL No. 34–98 (July 23, 1998), UIPL No. 4–99 (October 20, 1998), and **Federal Register** Notice (FRN) 63 FR 63544 (November 13, 1998).

3. *Background.* The State-Federal Performance Enhancement Work Group (PEWG) established the outlines of the UI PERFORMS system for promoting continuous improvement in UI operational performance and identified performance measures for the performance management system. Ten of these measures were designated ''Tier I'' measures, for which uniform national criteria representing minimum levels of acceptable performance would be established.

UIPL No. 41–95 provided a detailed description of the UI PERFORMS system and solicited comments on the proposed system from State Employment Security Agency (SESA) administrators.

UIPL No. 41–95 included:

- A discussion of the principles of the State and Federal partnership, including the roles and responsibilities of each party.
- The identification of key performance measures, which were designated as either Tier I or Tier II measures.
- Ten Tier I measures were identified. These measures represent core or critical areas of UI customer service for which uniform national criteria would be established. States would address their performance for the Tier I measures annually through the SQSP.
- The Tier II measures were established for other important UI activities. States would report performance data on a regular basis to the Department of Labor; however, no performance criteria were established for Tier II measures. States would set performance targets for the Tier II measures in consultation with the Federal partner and plan for performance improvement through the SQSP process. The Tier II measures are listed in the Attachment.
- A general description of the continuous improvement, ''Plan-Do-Check-Act'' cycle, and a detailed discussion of the SQSP and the planning process, including the plan narrative, quantitative displays of performance data, and criteria to identify performance needing improvement.
- A discussion of Federal oversight, including technical assistance, financial assistance, rewarding State accomplishments, and actions to improve performance. This last activity includes the development of corrective action plans by States that fail to meet the minimum performance criteria, and conformity/compliance actions to address exceptional instances of continued failure to meet minimum levels of performance.

The PEWG's successor, the Performance Enhancement Group (PEG), ratified the performance criteria principles established by the PEWG. These principles were included in UIPL No. 4–99. PEG materials related to the establishment of performance criteria for the Tier I measures were provided in UIPL No. 19–98, and UIPL No. 34–98 described the process for establishing the performance criteria.

The PEG also deferred setting a criterion for one of the ten Tier I measures, cashiering timeliness, until a data collection methodology can be developed for that measure that can be applied uniformly by all States.

The PEG established three workgroups—Appeals, Benefits, and Tax—to develop recommendations for the criteria for the nine other Tier I measures. Each workgroup included Federal staff from the National and Regional Offices and representatives from at least two States. The PEG developed guidelines for the workgroups to follow in developing their recommendations.

The workgroups' reports were presented to the PEG at its meeting in Washington, DC, on September 28–30, 1998. The PEG reviewed the workgroups' recommendations, both in terms of the individual Tier I measures and in light of their cumulative burden, and recommended appropriate adjustments.

UIPL No. 4–99 disseminated the proposed criteria and solicited the comments of the SESA Administrators. The November 13, 1998 FRN disseminated the proposed criteria and provided a 60-day period for public comment on the proposed criteria.

A total of 26 States submitted comments in response to UIPL No. 4–99. Six States submitted comments in response to the November 13, 1998 FRN. However, the comments of three of these States were the same as the comments these States submitted in response to the UIPL. In addition to the States, two public interest groups submitted comments in response to the FRN.

4. *Definitions, Criteria, and Effective Dates.* Tier I criteria will be used to assess State performance beginning with the SQSP cycle shown in the following Tier I performance measure table. States which do not meet minimum performance criteria which become effective in fiscal year (FY) 2002 (or later) will be required to submit plans identifying the steps the State will take to achieve those criteria, and must demonstrate progress toward meeting them. However, the Department of Labor will not initiate formal action if State performance fails to meet a new criterion prior to its effective date, provided the Department of Labor has received and approved a satisfactory corrective action plan and evidence of continuing progress in its achievement.

State performance assessment is discussed in detail in the State Quality Service Plan Handbook (ET Handbook No. 336, 16th Edition).

Tier I measure	Effective date/criterion Fiscal year—		
	2000 SQSP	2002 SQSP	2005 SQSP
First Payment Timeliness: Number of days elapsed from week-ending date of the first compensable week in benefit year to date payment is made in person, mailed, or offset or intercept is applied on the claim. Source: ETA 9050 report.			
Percent of 1st Payments within 14/21 days: Intrastate UI, full weeks	87		

Tier I measure	Effective date/criterion Fiscal year—		
	2000 SQSP	2002 SQSP	2005 SQSP
Percent of 1st Payments within 35 days: Intrastate UI, full weeks	93	.....	.....
Percent of 1st Payments within 14/21 days: Interstate UI, full weeks	70	.....	.....
Percent of 1st Payments within 35 days: Interstate UI, full weeks	78	.....	.....
Percent of 1st Payments within 14/21 days: Intrastate + Interstate UI, UCFE, UCX programs, full + partial/part-total weeks	.....	*90	*90
Percent of 1st Payments within 35 days: Intrastate + Interstate UI, UCFE, UCX programs, full + partial/part-total weeks	.....	*95	*95
Nonmonetary Determinations Timeliness: Number of days elapsed from date of detection by the SESA of any nonmonetary issue which had the potential to affect the claimant's past, present or future benefit rights to date of the determination. Source: ETA 9052 report.			
Percent of separation determinations within 21 days of detection date: Intrastate + Interstate UI, UCFE, UCX	.....	80	80
Percent of nonseparation determinations within 14 days of detection date: Intrastate + Interstate UI, UCFE, UCX	.....	80	80
Nonmonetary Determinations Quality: Evaluation results of quarterly samples of nonmonetary determinations selected from the universe of nonmonetary determinations reported on the ETA 9052 report, as instructed in ET Handbook No. 301 (revised January 1998). Source: ETA 9056 report.			
Percent of separation and nonseparation determinations with quality scores >80 points: Intrastate + Interstate UI, UCFE, UCX	.....	75	75
Lower Authority Appeals Timeliness: Number of days elapsed from the date the request for a lower authority appeals hearing is filed to date of the decision. Source: ETA 9054 report.			
Percent of lower authority appeals decided within 30 days of filing: Intrastate + Interstate UI, UCFE, UCX	60	*60	*60
Percent of lower authority appeals decided within 45 days of filing: Intrastate + Interstate UI, UCFE, UCX	80	*85	*85
Percent of lower authority appeals decided within 90 days of filing: Intrastate + Interstate UI, UCFE, UCX	.....	*95	*95
Higher Authority Appeals Timeliness: Number of days elapsed from the date a higher authority appeal is filed to date of the decision. Source: ETA 9054 report.			
Percent of higher authority appeals decided within 45 days of filing: Intrastate + Interstate UI, UCFE, UCX	50	50	50
Percent of Higher authority appeals decided within 75 days of filing: Intrastate + Interstate UI, UCFE, UCX	80	80	80
Percent of higher authority appeals decided within 150 days of filing: Intrastate + Interstate UI, UCFE, UCX	95	95	95
Lower Authority Appeals Quality: Evaluation results of quarterly samples of lower authority benefit appeals hearings selected and evaluated as instructed in ET Handbook No. 382 (2nd Edition). Source: ETA 9057 report.			
Percent of lower authority appeals with quality scores equal to at least 85% of the potential points: Intrastate + Interstate UI, UCFE, UCX	80	80	80
New Employer Status Determinations Timeliness: Number of days elapsed from last day of the quarter (Quarter Ending Date—QED) in which liability occurred to date of determination (date that the status information was officially entered into the State's system). Source: ETA 581 report.			
Percent of status determinations for newly established employers made within 90 days of the QED	60	60	60
Percent of status determinations for newly established employers made within 180 days of the QED	80	80	80
New Employer Status Determinations Accuracy: Accuracy of status determinations based on the application of a review instrument for an annual acceptance sample selected from a universe of all status determinations for new and reactivated employers made during one complete calendar year, as instructed in ET Handbook No. 407 (revised December 1998). This measure includes only the accuracy of the determination, not the posting.			
Pass new employer status determinations accuracy acceptance sample: No more than 6 failed cases in a sample of 60	.....	Pass	Pass

Tier I measure	Effective date/criterion Fiscal year—		
	2000 SQSP	2002 SQSP	2005 SQSP
Timeliness of Transfer from Clearing Account to Unemployment Trust Fund (UTF):			
Average number of days funds are on deposit in the State clearing account before transfer to the State account in the UTF, estimated from total deposits to the clearing account and total daily ledger balance reported on the ETA 8414 report	<=2 days	.....	.....
Ratio of average daily loanable balance in clearing account to average daily transfer to UTF: Ratio of the monthly average daily loanable balance (line 10, ETA 8414 report) to the average daily transfer to the Trust Fund (line 3, ETA 8405 report, divided by the number of days in the month)	.....	<=1.75	<=1.0
Timeliness of Deposit to the Clearing Account: Elapsed time from the State's receipt of employer contributions to their deposit in the clearing account, estimated from a random sample of contributions received by the State during a specified time interval.			
Criterion deferred until uniform measurement methodology is developed	.....	.....	.....

*The criteria proposed for First Payment Timeliness and Lower Authority Appeals Timeliness will not be effective unless and until the final UI PERFORMS regulation replaces the existing criteria for compliance in 20 CFR 640.5 and 20 CFR 650.4(b).

5. *Periodic Review and Affirmation or Revision.* The Department of Labor is committed to reviewing performance measures and criteria periodically, as agreed to by the PEWG and affirmed by the PEG. Final determination of the criteria for the two current Secretary's Standards—first payment timeliness and lower authority appeals timeliness—will occur in conjunction with proposed UI PERFORMS rulemaking. The first periodic review of the full set of Tier I measures will occur not more than five years from the date of issuance, with the exception of the criteria for nonmonetary determinations timeliness, nonmonetary determinations quality, and new employer status determinations accuracy, which will be reviewed after two years. The reviews will include all State performance data for these measures available at the time of the review.

6. *Action Required.* SESA Administrators are requested to provide this information to appropriate staff.

7. *Inquiries.* Please refer inquiries to the appropriate Regional Office.

8. *Attachment.* UI PERFORMS Tier II measures.

Attachment

UI PERFORMS Tier II Measures

Benefits Payment Timeliness Measures

1. Intrastate UI First Payments Timeliness*
2. Interstate UI First Payments Timeliness*
3. UI First Payments Timeliness (Partials/Part Totals)
4. UCFE First Payments Timeliness
5. UCX First Payments Timeliness
6. Continued Weeks Payments Timeliness*
7. Continued Weeks Payments Timeliness (Partials/Part Totals)
8. Workshare First Payments Timeliness
9. Workshare Continued Weeks Payment Timeliness

*Includes Total and Partials/Part-Total payments.

Nonmonetary Determinations Timeliness Measures

10. Intrastate Separation Determinations Timeliness
11. Intrastate Nonseparation Determinations Timeliness
12. Interstate Separation Determinations Timeliness
13. Interstate Nonseparation Determinations Timeliness
14. Nonmonetary Issue Detection Timeliness
15. Nonmonetary Determinations Implementation Timeliness

Appeals Timeliness Measures

16. Implementation of Appeals Decision Timeliness
17. Employer Tax Appeal Timeliness [to be developed]
18. Lower Authority Appeals, Case Aging
19. Higher Authority Appeals, Case Aging

Combined Wage Claims Timeliness Measures

20. Combined Wage Claim Wage Transfer Timeliness
21. Combined Wage Claim Billing Timeliness
22. Combined Wage Claim Reimbursements Timeliness

Tax Timeliness Measures

23. Contributory Employer Report Filing Timeliness
24. Reimbursing Employer Report Filing Timeliness
25. Securing Delinquent Contributory Reports Timeliness
26. Securing Delinquent Reimbursing Reports Timeliness
27. Resolving Delinquent Contributory Reports Timeliness
28. Resolving Delinquent Reimbursing Reports Timeliness
29. Contributory Employer Payments Timeliness
30. Reimbursing Employer Payments Timeliness
31. Successor Status Determination Timeliness (within 90 days of Quarter End Date)
32. Successor Status Determination Timeliness (within 180 days of Quarter End Date)

Appeals Quality Measures

33. Lower Authority Appeals Due Process Quality
34. Higher Authority Appeals Quality—[to be developed]

Tax Quality Measures

35. Employer Tax Appeals Quality—[to be developed]
36. Delinquent Reports Resolution Quality
37. Collection Actions Quality
38. Turnover of Contributory Receivables to Tax Due
39. Turnover of Reimbursing Receivables to Tax Due
40. Writeoff of Contributory Receivables to Tax Due
41. Writeoff of Reimbursing Receivables to Tax Due
42. Contributory Accounts Receivable as a Proportion of Tax Due
43. Reimbursing Accounts Receivable as a Proportion of Tax Due
44. Field Audits Quality
45. Field Audit Penetration, Employers
46. Field Audit Penetration, Wages
47. Percent Change as a Result of Field Audit

Benefits Accuracy Measures

48. Paid Claim Accuracy
49. Denied Claim Accuracy [under development]

Tax Accuracy Measures

50. Posting New Determinations Accuracy
51. Successor Determinations Accuracy
52. Posting Successor Determinations Accuracy
53. Inactivating Employer Accounts Accuracy
54. Posting Inactivations Accuracy
55. Employer Reports Processing Accuracy
56. Contributory Employer Debits/Billings Accuracy
57. Reimbursing Employer Debits/Billings Accuracy
58. Employer Credits/Refunds Accuracy
59. Benefit Charging Accuracy
60. Experience Rating Accuracy

Benefit Payment Control Measures

61. Benefit Payment Control, Establishment Effectiveness [under development]
62. Benefit Payment Control, Collection Effectiveness [under development]

[FR Doc. 99–17895 Filed 7–13–99; 8:45 am]

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federal register

Wednesday
July 14, 1999

Part IV

The President

Memorandum of July 9, 1999—Delegation of Authority To Conclude an Agreement With the Russian Federation Concerning the Importation of Certain Steel Products

Federal Register
Vol. 64, No. 134
Wednesday, July 14, 1999

Presidential Documents

Title 3—

The President

Memorandum of July 9, 1999

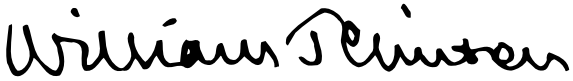
Delegation of Authority To Conclude an Agreement With the Russian Federation Concerning the Importation of Certain Steel Products

Memorandum for the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the power to conclude an agreement between the United States and the Russian Federation regarding restrictions on the importation of certain steel products into the United States in accordance with Article XI of the 1990 Agreement on Trade Relations Between the United States of America and the Russian Federation and Title IV of the Trade Act of 1974.

As you may direct, the Assistant Secretary for Import Administration is authorized to exercise the authority vested in you by this delegation of authority.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 9, 1999.

[FR Doc. 99–18156
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H.R. 435/P.L. 106–36

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