7–26–99
Vol. 64 No. 142
Pages 40281–40504

federal register

Monday
July 26, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper.

Contents

Federal Register

Vol. 64, No. 142

Monday, July 26, 1999

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service

Air Force Department
NOTICES
Environmental statements; notice of intent:
Enchanted Skies Park and Observatory, Grants, NM; construction, 40355–40356

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Mexican fruit fly, 40281–40282

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
African Americans; health promotion and disease prevention initiative program, 40374–40376
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 40376
Injury Prevention and Control Advisory Committee, 40376–40377

Children and Families Administration
RULES
Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation:
Temporary Assistance for Needy Families Program Correction, 40290–40292
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40377

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 40355

Defense Department
See Air Force Department
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Empowerment contracting; withdrawn, 40493–40494
NOTICES
Meetings:
Vieques, PR; special panel on military operations, 40355

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40356
Meetings:
National Assessment Governing Board, 40356–40357

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Electricity export and import authorizations, permis, etc.:
Electric Clearinghouse, Inc., 40357–40358
Sonat Power Marketing, L.P., 40358
Meetings:
Environmental Management Site-Specific Advisory Board—
Pantex Plant, TX, 40359
Rocky Flats, CO, 40358–40359

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Indian, 40287–40290
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Indiana, 40328
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 40328–40331
NOTICES
Meetings:
Cadmium and compounds and IRIS summaries; toxicological review; peer-review panel workshop, 40369–40370
Pesticide registration, cancellation, etc.:
Acetic acid and salts, etc., 40370–40372
Superfund; response and remedial actions, proposed settlements, etc.:
Lakeland Disposal Service, Inc., Site, IN, 40372

Executive Office of the President
See Management and Budget Office
See Presidential Documents

Export Administration Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Technical Advisory Committees; recruitment of private-sector members, 40336

Federal Aviation Administration
RULES
Airworthiness directives:
Alexander Schleicher Segelflugzeugbau, 40283–40285
VOR Federal airways, 40285–40286
PROPOSED RULES
Airworthiness directives:
Airbus, 40319–40321
Aviation safety:
Voluntarily submitted information; confidentiality protection, 40471–40482
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40403
Passenger facility charges; applications, etc.:
Fairbanks International Airport, AK, 40403–40404

Federal Communications Commission
RULES
Radio stations; table of assignments:
California, 40292
Texas, 40292–40293
PROPOSED RULES
Digital television stations; table of assignments:
Washington, 40331
NOTICES
Agency information collection activities:
Proposed collection; comment request, 40372–40373

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Texas-New Mexico Power Co. et al., 40364–40365
Hydroelectric applications, 40365–40367
Meetings; Sunshine Act, 40367–40369
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 40359–40360
Black Marlin Pipeline Co., 40360
CNG Transmission Corp., 40360–40361
Dauphin Island Gathering Partners, 40361
Destin Pipeline Co., L.L.C., 40361
Duke Energy Field Services Inc., 40361–40362
Granite State Gas Transmission, Inc., 40362
Koch Gateway Pipeline Co., 40362
Portland Natural Gas Transmission System, 40362–40363
Texas Eastern Transmission Corp., 40363
Williston Basin Interstate Pipeline Co., 40363–40364

Federal Highway Administration
NOTICES
Motor carrier safety standards:
Driver qualification—
Aldridge, Terry J., et al.; vision requirement waivers, 40404–40408

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 40373

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Southeastern Pennsylvania Transportation Authority, 40409
Traffic control systems; discontinuance or modification:
Burlington Northern & Santa Fe Railway, 40409
CSX Transportation, Inc., 40409–40412
Norfolk Southern Corp., 40412
Red River Valley & Western Railroad Co., 40412

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 40373
Permissable nonbanking activities, 40373–40374

Federal Transit Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Electronic payment system for transit fare collection, parking payment, electronic toll collection, and other applications; operational test, 40465–40469

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds and notes, U.S. Treasury:
U.S. securities; electronic transactions and funds transfers, 40483–40491

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Canada lynx, 40333–40334
NOTICES
Endangered and threatened species permit applications, 40385–40386
Grants and cooperative agreements; availability, etc.:
Sport fish and wildlife restoration; Federal aid administrative project funding cancelled, 40386–40387

Food and Drug Administration
PROPOSED RULES
Animal drugs, feeds, and related products:
Sheep as minor species, 40321–40323
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40377–40380
Grant and cooperative agreement awards:
University of Maryland, College Park; Joint Institute for Food Safety and Applied Nutrition, 40380–40381
Reports and guidance documents; availability, etc.:
Monoclonal antibody products; sameness interpretation under orphan drug regulations; industry guidance, 40381–40382

Forest Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 40335–40336
Environmental statements; notice of intent:
Dixie National Forest, UT, 40336

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Empowerment contracting; withdrawn, 40493–40494

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Housing and Urban Development Department
RULES
Public and Indian housing:
Rental voucher and certificate programs (Section 8)—
Management assessment program; technical amendment, 40495–40499

Indian Affairs Bureau
NOTICES
Irrigation projects; operation and maintenance charges:
Colorado River Irrigation Project, AZ, 40387–40388

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau

See Minerals Management Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Hot-rolled lead and bismuth carbon steel products from—
Germany and United Kingdom, 40336–40351
Live cattle from—
Canada, 40351–40352
Tapered roller bearings from—
China, 40352
Countervailing duties:
Cut-to-length carbon-quality steel plate from—
France, 40430–40438
India, 40438–40445
Indonesia, 40457–40463
Italy, 40415–40430
Korea, 40445–40457

Justice Department
NOTICES
Executive Office for Immigration Review:
Nicaraguan Adjustment and Central American Relief Act; aliens filing abbreviated motion to reopen cases; deportation suspension and removal cancellation, 40389–40390
Pollution control; consent judgments:
Bronson Plating Co. et al., 40390
Continental Airlines, Inc., et al., 40390–40391
Coon Refrigeration et al., 40391
Port Clinton, OH, 40391
Privacy Act:
Systems of records, 40392
Voting Rights Act certification:
Leake County, MS, 40392

Labor Department
See Labor Statistics Bureau

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 40392–40393

Land Management Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40388

Management and Budget Office
NOTICES
Budget rescissions and deferrals
Cumulative reports, 40396–40398

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
Gulf of Mexico—
Leasing maps and protracted diagrams, 40388–40389

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Empowerment contracting; withdrawn, 40493–40494

National Institutes of Health
NOTICES
Agency information collection activities:
Proposed collection; comment request, 40382–40383
Meetings:
National Institute of Dental and Craniofacial Research, 40383
National Institute of Environmental Health Sciences, 40383
National Institute on Deafness and Other Communication Disorders, 40383
National Library of Medicine, 40383–40384
Scientific Review Center, 40384–40385

National Mediation Board
RULES
Practice and procedure:
Administrative corrections, 40286–40287

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Deep-water species, 40293–40294
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 40293
NOTICES
Grants and cooperative agreements; availability, etc.:
Satellite data use for studying local and regional phenomena, 40352–40354
Meetings:
New England Fishery Management Council, 40354
Permits:
Marine mammals, 40354–40355

Nuclear Regulatory Commission
PROPOSED RULES
Byproduct material; domestic licensing:
Industrial devices containing byproduct material, generally licensed; requirements, 40295–40310
NOTICES
Commercial nuclear power plants; safety performance:
Regulatory oversight program; pilot program; comment request, 40394–40395
Meetings:
Reactor Safeguards Advisory Committee, 40395–40396
Applications, hearings, determinations, etc.:
Tennessee Valley Authority, 40393–40394

Office of Management and Budget
See Management and Budget Office

Presidential Documents
ADMINISTRATIVE ORDERS
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; delegation of authority to the Secretary of Defense (Memorandum of July 16, 1999), 40501–40503

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council, 40389

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 40399
Securities:
Suspension of trading—
Uniprime Capital Acceptance, Inc., 40401
Self-regulatory organizations:
Clearing agency registration applications—
Delta Clearing Corp., 40401–40402
Applications, hearings, determinations, etc.:
Public utility holding company filings, 40399–40401

Small Business Administration
RULES
Organization, functions, and authority delegations:
Disaster Area Counsel et al; administrative claims approval, denial, etc., 40282–40283
PROPOSED RULES
Business loans:
Loan loss reserve fund, 40310–40311
Small business size standards:
Freight and cargo transportation arrangement industry, 40314–40319
General building contractors, heavy construction, dredging and surface cleanup, special trade contractors, garbage and refuse collection, and refuse systems, 40311–40314
NOTICES
Disaster loan areas:
Georgia, 40402
North Dakota, 40402
South Dakota, 40402

State Department
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for International Organization Affairs, 40403

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kansas, 40323–40326
Mississippi, 40326–40328

Surface Transportation Board
NOTICES
Railroad services abandonment:
Burlington Northern & Santa Fe Railway Co., 40412–40413

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Federal Transit Administration
See Surface Transportation Board
PROPOSED RULES
Standard time zone boundaries:
Nevada, 40331–40333

Treasury Department
See Fiscal Service

United States Information Agency
RULES
Exchange visitor program:
Return to home country two-year requirement; waiver requests; processing fee, 40286

Separate Parts In This Issue

Part II
Department of Commerce, International Trade Administration, 40415–40463

Part III
Department of Transportation, Federal Transit Administration, 40465–40469

Part IV
Department of Transportation, Federal Aviation Administration, 40471–40482

Part V
Department of Treasury, Forest Service, 40483–40491

Part VI
Department of Defense, General Services Administration, National Aeronautics and Space Administration, 40493–40494

Part VII
Department of Housing and Urban Development, 40495–40499

Part VIII
The President, 40501–40503

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Memorandums:

July 16, 1999 40503

7 CFR

301 40281

10 CFR

Proposed Rules:

30 40295
31 40295
32 40295
170 40295
171 40295

13 CFR

114 40282

Proposed Rules:

120 40310
121 (2 documents) 40311, 40314

14 CFR

39 40283
71 40285

Proposed Rules:

39 40319
193 40472

21 CFR

Proposed Rules:

514 40321

22 CFR

514 40286

24 CFR

985 40496

29 CFR

1203 40286
1205 40286
1209 40286

30 CFR

Proposed Rules:

916 40323
924 40326

31 CFR

315 40484
353 40484
357 40484
370 40484

40 CFR

52 40287

Proposed Rules:

52 40328
300 40328

45 CFR

260 40290
261 40290
262 40290
263 40290
264 40290
265 40290

47 CFR

73 (2 documents) 40292

Proposed Rules:

73 40331

48 CFR

Proposed Rules:

12 40494
14 40494
15 40494
26 40494
36 40494
52 40494

49 CFR

Proposed Rules:

71 40331

50 CFR

660 40293
679 40293

Proposed Rules:

17 40333

Rules and Regulations

Federal Register
Vol. 64, No. 142
Monday, July 26, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–082–5]

Mexican Fruit Fly Regulations; Removal of Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by removing the regulated portion of San Diego County, CA, from the list of regulated areas. We have determined that the Mexican fruit fly has been eradicated from this area and that restrictions on the interstate movement of regulated articles from this area are no longer necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. This action relieves unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area. As a result of this action, there are no longer any areas regulated for the Mexican fruit fly in the State of California.

DATES: This interim rule is effective as of July 25, 1999. We invite you to comment on this docket. We will consider all comments that we receive by September 24, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–082–5, 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. 98–082–5.

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: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247; or e-mail: michael.b.stefan@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is a destructive pest of citrus and other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas. The Mexican fruit fly regulations, contained in 7 CFR 301.64 through 301.64–10 (referred to below as the regulations), quarantine infested States, designate regulated areas, and restrict the interstate movement of specified fruits and other regulated articles from regulated areas in order to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. Quarantined States are listed in § 301.64(a), and regulated areas are listed in § 301.64–3(c).

In an interim rule effective August 10, 1998, and published in the **Federal Register** on August 14, 1998 (63 FR 43603–43604, Docket No. 98–082–1), we amended the Mexican fruit fly regulations by designating a portion of the El Cajon area of San Diego County, CA, as a regulated area. In a second interim rule effective October 16, 1998, and published in the **Federal Register** on October 22, 1998 (63 FR 56537–56539, Docket No. 98–082–2), we designated a portion of the San Diego area of San Diego County, CA, as a regulated areas. In a third interim rule effective November 16, 1998, and published in the **Federal Register** on November 20, 1998 (63 FR 64409–64411, Docket No. 98–082–3), we expanded the regulated area in the San Diego area of San Diego County, CA. In a fourth interim rule effective June 9, 1999, and published in the **Federal Register** on June 15, 1999 (64 FR 31964–31966, Docket No. 98–083–4), we amended the Mexican fruit fly regulations by removing the regulated portion of the El Cajon area in San Diego County, CA, from the list of regulated areas.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, we have determined that the Mexican fruit fly has been eradicated from the San Diego area of San Diego County, CA. The last finding of Mexican fruit fly thought to be associated with the infestation in this area was made on December 21, 1998.

Since then no evidence of Mexican fruit fly infestations has been found in this area. Therefore, we are removing this area from the list of areas in § 301.64–3(c) that are regulated because of the Mexican fruit fly. As a result of this action, there are no longer any areas in California regulated because of the Mexican fruit fly. Because we have determined that the Mexican fruit fly no longer exists in California, we are removing California from the list in § 301.64(a) of States quarantined because of the Mexican fruit fly.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the public. The area in California affected by this document was regulated due to the possibility that the Mexican fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, the continued regulated status of this area would impose unnecessary restrictions.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider comments that are received within 60

days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule removes restrictions on the interstate movement of regulated articles from a portion of San Diego County, CA. Within this regulated area, there are 265 small entities that may be affected by this rule. These include 210 fruit sellers, 12 nurseries, 16 wholesale distributors, 1 grower, 4 mobile fruit vendors, 2 farmer's markets, and 20 farmer's market vendors. These 265 entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

These small entities sell regulated articles primarily for local intrastate, not interstate, movement, and the distribution of these articles was not affected by the regulatory provisions we are removing. Many of these entities also handle other items in addition to the previously regulated articles. The effect on those few entities that move regulated articles interstate was minimized by the availability of various treatments that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost. Therefore, the effect, if any, of this rule on these entities appears to be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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 interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has not retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This 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 Subject in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.64 [Amended]

2. In § 301.64, paragraph (a) is amended by removing the phrase ''the States of California and Texas'' and by adding the phrase ''the State of Texas'' in its place.

§ 301.64–3 [Amended]

3. In § 301.64–3, paragraph (c) is amended by removing the entry for California and the description of the regulated area for San Diego County, CA.

Done in Washington, DC, this 20th day of July 1999.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–18980 Filed 7–23–99; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under the Tort Claims Act and Representations and Indemnification of SBA Employees

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: With this rule, SBA revises a portion of its regulations governing Administrative Claims under the Tort Claims Act. Previously, a claim had to be presented to the SBA District Counsel for the SBA District Office in the same State as the claim. The SBA District Counsel had the authority to deny a tort claim of $5,000 or less or to recommend any other action to the SBA General Counsel. This final rule provides the same authority to Disaster Area Counsel when the claim is based on the acts or omissions of employees of SBA's Disaster Assistance Program. It also vests authority to approve or deny a tort claim of $25,000 or less with SBA's Associate General Counsel for Litigation, rather than the General Counsel.

DATES: This rule is effective July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Timothy C. Treanor, Chief Counsel to the Disaster Assistance Program, Office of General Counsel, at (202) 205–6885.

SUPPLEMENTARY INFORMATION: SBA promulgates, without change, a rule which it proposed on April 29, 1999 (64 FR 23027). SBA received no comments to the proposed rule.

Under the Disaster Assistance Program, SBA makes direct loans to individual and business victims of natural disasters. SBA makes these loans through an organizational structure that is separate and distinct from other SBA lending programs. The Disaster Assistance Program operates from four permanent Area Offices and from temporary local offices that are from time to time established to handle such disasters. SBA's Disaster Area Office employees and local office employees are located in different offices from other SBA employees and report to different managers.

Under the previous regulation, SBA's District Counsels who are not located in disaster offices had exclusive authority to investigate any claim arising within the jurisdiction covered by their Districts, including claims based on acts or omissions of Disaster Assistance employees. District Counsels also had the authority to deny or recommend approval of a claim for $5,000 or less. Under the previous regulation, District Counsels investigated claims exceeding $5,000 but less than $25,000 and forwarded them with a recommendation to SBA's General Counsel.

Under the new regulation, a claimant may file a tort claim against SBA for the acts or omissions of an employee of SBA's Disaster Assistance Program either at the State's District Office (the one closest to the site of the injury if there is more than one District Office) or at the nearest Disaster Area Office. The new regulation provides authority identical to that of the District Counsel to the Disaster Area Counsel to investigate and make recommendations concerning claims arising from a Disaster Assistance employee's acts or omissions. It also vests the Associate

General Counsel for Litigation with the authority to decide claims of $25,000 or less, which is in line with the Agency's current practice.

The new regulation also removes inaccurate language from § 114.105 concerning the requirement that District Counsel consult with the General Counsel before approving claims for less than $5,000 (the District Counsel does not have the authority to approve such claims).

The new regulation also removes unnecessary language from §§ 114.106 and 114.108 which purport to characterize § 114.107, and makes other, minor, technical changes.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this rule does not have a significant economic impact on a substantial number of small entities within the meaning of Executive Order 12866 or the Regulatory Flexibility Act, 5 U.S.C. 601–612. It merely changes SBA's internal procedures and serves to make tort claim resolution more accessible to the general public. It will not have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

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

For purposes of Executive Order 12612, SBA certifies that this rule has no federalism implications warranting the preparation of a federalism assessment.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

List of Subjects in 13 CFR Part 114

Tort claims.

For the reasons stated in the preamble, the SBA amends 13 CFR part 114 as follows:

PART 114—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND REPRESENTATION AND INDEMNIFICATION OF SBA EMPLOYEES

Subpart A—Administrative Tort Claims

1. The authority citation for part 114 continues to read as follows:

Authority: 15 U.S.C. 634 (b)(1), (b)(6); 28 U.S.C. 2672; 28 CFR 14.11.

2. Revise § 114.102 to read as follows:

§ 114.102 When, where and how do I present a claim?

(a) *When.* You must present your claim within 2 years of the date of accrual.

(b) *Where.* You may present your claim at the SBA District Office nearest to the site of the action giving rise to the claim and within the same state as the site. If your claim is based on the acts or omissions of an employee of SBA's Disaster Assistance Program, you may present your claim either to the appropriate SBA District Office or to the Disaster Assistance Office nearest to the site of the action giving rise to the claim.

(c) *How.* You must use an official form which can be obtained from the SBA office where you file the claim or give other written notice of your claim, stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. You may present your claim in person or by mail, but your claim will not be considered presented until SBA receives the written information.

3. In § 114.105, revise paragraphs (b) and (c) to read as follows:

§ 114.105 Who investigates and considers my claim?

* * * * *

(b) In those cases in which SBA investigates your claim, and which arise out of the acts or omissions of employees other than employees of the Disaster Assistance Program, the SBA District Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or determination with respect to your claim. In those cases in which SBA investigates your claim, and which arise out of acts or omissions of Disaster Assistance Program employees, the SBA Disaster Area Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. The District Counsel, or Disaster Area Counsel, where appropriate, may negotiate with you, and is authorized to use alternative dispute resolution mechanisms, which are nonbinding on SBA, when they may promote the prompt, fair and efficient resolution of your claim.

(c) If your claim is for $5,000 or less, the District Counsel or Disaster Area Counsel who investigates your claim may deny the claim, or may recommend approval, compromise, or settlement of the claim to the Associate General Counsel for Litigation, who will in such a case take final action.

4. Revise § 114.106 to read as follows:

§ 114.106 What if my claim exceeds $5,000?

The District Counsel or Disaster Area Counsel, as appropriate, must review and investigate your claim and forward it with a report and recommendation to the Associate General Counsel for Litigation, who may approve or deny an award, compromise, or settlement of claims in excess of $5,000, but not exceeding $25,000.

5. Revise § 114.108 to read as follows:

§ 114.108 What if my claim is approved?

SBA will notify you in writing if it approves your claim. The District Counsel or Disaster Area Counsel investigating your claim will forward to you, your agent or legal representative the forms necessary to indicate satisfaction of your claim and your acceptance of the payment. Acceptance by you, your agent or your legal representative of any award, compromise or settlement releases all your claims against the United States under the Federal Tort Claims Act. This means that it binds you, your agent or your legal representative, and any other person on whose behalf or for whose benefit the claim was presented. It also constitutes a complete release of your claim against the United States and its employees. If you are represented by counsel, SBA will designate you and your counsel as joint payees and will deliver the check to counsel. Payment is contingent upon the waiver of your claim and is subject to the availability of appropriated funds.

Dated: July 20, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–18951 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–06–AD; Amendment 39–11234; AD 99–15–13]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASH 26E Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 98–09–09, which currently requires replacing the internal cooling air fan with a fan that incorporates a white impeller on all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASH 26E sailplanes. This AD requires inspecting the internal cooling air fan for damage, and replacing any fan that does not incorporate a black impeller with a fan that incorporates a black impeller either immediately or at a certain time period, depending on the results of the inspection. 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 failure of the internal cooling system air fan caused by a certain design configuration of the impeller, which could cause the engine to overheat with possible engine failure.

DATES: Effective September 13, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 13, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–06–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) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Alexander Schleicher Model ASH 26E sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 26, 1999 (64 FR 20231). The NPRM proposed to supersede AD 98–09–09, Amendment 39–10489 (63 FR 20308, April 24, 1998). AD 98–09–09 currently requires replacing the internal cooling air fan with a fan that incorporates a white impeller, part number (P/N) R1K059.

The NPRM proposed to require inspecting the internal cooling air fan for damage, and replacing any fan that does not incorporate a black impeller, P/N R1K074, with a fan that incorporates a P/N R1K074 impeller. The replacement would be accomplished either immediately or at a certain time period, depending on the results of the inspection.

Accomplishment of the proposed actions as specified in the NPRM would be required in accordance with Alexander Schleicher Technical Note No. 5 , dated July 23, 1998, and Mid-West Service Bulletin No. 002, dated November 13, 1997.

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.

Differences Between the Service Bulletin, the German AD, and This AD

Alexander Schleicher Technical Note No. 5, dated July 23, 1998, specifies inspecting the internal air cooling air fan prior to further flight, and German AD 1998–391, dated October 8, 1998, requires the inspection prior to further flight on sailplanes registered in Germany.

The FAA does not have justification to require the inspection prior to further flight. The FAA is utilizing the inspection compliance time of ''within the next 30 calendar days after the effective date of the AD.'' The FAA is utilizing the replacement compliance time of ''within the next 9 calendar months after the effective date of the AD'', or if damage is found during the inspection, ''prior to further flight.''

Compliance Time of This AD

Although a damaged impeller blade is only unsafe while the affected sailplanes are in flight, the condition could occur at any time. For example, damage could occur on one sailplane with 25 hours time-in-service (TIS) while not occurring on another until 250 hours TIS. This is due to different usage levels and the various ways sailplanes are operated and utilized. In addition, the average monthly usage of the affected sailplane ranges throughout the fleet. For example, one owner may operate the sailplane 25 hours TIS in one week, while another owner may operate the sailplane 25 hours TIS in one year. In order to assure that the unsafe condition is detected and corrected on all affected sailplanes in a timely manner without inadvertently grounding any affected sailplane, the FAA is utilizing compliance based on calendar time instead of hours TIS.

Cost Impact

The FAA estimates that 9 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 14 workhours per sailplane to accomplish this AD, and that the average labor rate is approximately $60 an hour. Parts are available from the manufacturer at no cost. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $7,560, or $840 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 removing Airworthiness Directive (AD) 98–09–09, Amendment 39–10489 (63 FR 20308, April 24, 1998), and by adding a new airworthiness directive (AD) to read as follows:

99–15–13 Alexander Schleicher Segelflugzeugbau: Amendment 39–11234; Docket No. 99–CE–06–AD; Supersedes AD 98–09–09; Amendment 39–10489.

Applicability: Model ASH 26E sailplanes, all serial numbers, certificated in any category; that are equipped with an internal cooling system air fan that does not incorporate a black impeller, part number (P/N) R1K074.

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

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

To prevent failure of the internal cooling system air fan caused by a certain design configuration of the impeller, which could cause the engine to overheat with possible engine failure, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, inspect the internal cooling air fan for damage in accordance with Alexander Schleicher Technical Note No. 5, dated July 23, 1998.

(b) Replace the internal cooling system air fan with a fan that incorporates a black impeller, P/N R1K074, at whichever of the compliance times below (paragraphs (b)(1) and (b)(2) of this AD) that applies. Accomplish this replacement in accordance with Mid-West Service Bulletin No. 002, dated November 13, 1997:

(1) Prior to further flight if damage is found in the internal cooling air fan during the inspection required by paragraph (a) of this AD; or

(2) Within the next 9 calendar months after the effective date of this AD if damage is not found during the inspection required by paragraph (a) of this AD.

(c) As of the effective date of this AD, no person may install, on any affected sailplane, an internal cooling system air fan that does not incorporate a black impeller, P/N R1K074, as specified in Mid-West Service Bulletin No. 002, dated November 13, 1997; and Alexander Schleicher Technical Note No. 5, dated July 23, 1998.

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

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 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.

(f) Questions or technical information related to Alexander Schleicher Technical Note No. 5 , dated July 23, 1998, and Mid-West Service Bulletin No. 002, dated November 13, 1997, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) The inspection required by this AD shall be done in accordance with Alexander Schleicher GmbH & Co. Technical Note No. 5, dated July 23, 1998. The replacement required by this AD shall be done in accordance with Mid-West Engines Ltd. Service Bulletin No. 002, dated November 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of 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 1998–391, dated October 8, 1998.

(h) This amendment supersedes AD 98–09–09, Amendment 39–10489.

(i) This amendment becomes effective on September 13, 1999.

Issued in Kansas City, Missouri, on July 14, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–18625 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–23]

RIN 2120–AA66

Establishment of VOR Federal Airways; WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; establishment of effective date.

SUMMARY: On July 22, 1998, the FAA published a final rule in the **Federal Register** that revised Federal Airways V–165 and V–287 located in the State of Washington. Federal Airway V–165 was revised to establish a route between the Olympia Very High Frequency Omnidirectional Range/Tactical Air Navigation System (VORTAC) to the Penn Cove VOR, to Bellingham, WA. Federal Airway V–287 was revised to establish a route from the Paine VORTAC to the Penn Cove VOR. On August 14, 1998, the effective date of these airway revisions was delayed to permit the FAA to conduct additional flight inspections. This action establishes the effective date for V–165 and V–287 as September 9, 1999.

EFFECTIVE DATE: The effective date of the final rule published at 63 FR 39234 and delayed at 63 FR 43622 is 0901 UTC, September 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On May 5, 1998, the FAA published a Notice of Proposed Rulemaking in the **Federal Register** inviting comments on a proposal to revise V–165 and V–287 in the State of Washington (63 FR 24764).

The proposed revisions would improve the FAA in management of air traffic operations in the State of Washington. No comments were received in response to the proposal.

On July 22, 1998, the FAA published a final rule amending 14 CFR part 71, revising V–165 and V–287 in the State of Washington (63 FR 39234). However, on August 14, 1998 the FAA delayed the effective date for the revisions to conduct additional flight inspections (63 FR 43622). This final rule establishes an effective date of September 9, 1999, for the implementation of changes to V–165 and V–287 in the State of Washington.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Effective Date

The effective date of the final rule, Airspace Docket No. 97–ANM–23, as published in the **Federal Register** on July 22, 1998 (63 FR 39234), and delayed on August 14, 1998 (63 FR 43622) is 0901 UTC September 9, 1999.

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

Issued in Washington, DC, on July 14, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–18565 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–P

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: By interim rule published June 26, 1998 (63 FR 34808) the Agency adopted a fee sufficient for it to recover the full cost of its administrative processing of request for waiver of the two-year return to the home country requirement set forth in section 212(e) of the Immigration and Naturalization Act (8 U.S.C. 1182(e)). Such interim rule is hereby adopted as final without change.

EFFECTIVE DATE: July 26, 1999.

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

SUPPLEMENTARY INFORMATION: The Agency has determined that its review of and recommendation regarding requests for the waiver of the two-year return to the home country requirement imposed by 8 U.S.C. 1182(e) confers a specific benefit to the requesting individual. Accordingly, a fee sufficient to recoup the costs of conferring this specific benefit is appropriate. The Agency identified all administrative tasks associated with the administrative processing of a waiver application and determined that the per unit cost of processing a waiver application is $136.

In publishing its interim rule the Agency provided a thirty day public comment period and received four comments. All comments were well reasoned and suggested that the fee should vary according to the statutory basis upon which the application was presented. The assumption underlying these comments was that significantly more or less work is involved in the review and recommendation of waiver cases depending upon the basis of the application. The Agency has examined this suggestion and determines that all waiver and recommendations require that the Agency receive the waiver application, record the fee, input the application data, manage assorted records, adjudicate the application, prepare outgoing correspondence, and respond to various inquiries regarding the application. Accordingly, the administrate cost associated with the processing of these various waiver requests varies little if at all and the $136 unit cost is the appropriate fee for all waiver applications.

A second comment theme to the comments received regarded the segregation of the fee monies collected for use by the administrative processing unit responsible for waiver application. As explained in the interim rule, the Government may recoup the full cost of administrative processing, but not more. Pursuant to statute and Executive Branch directive, the fee collected must be used to pay the costs of the administrative unit responsible for the processing of the applications.

Finally, the comments suggested that the Agency clarify that no fee is required for an advisory opinion request. The Agency does not anticipate imposing a fee for advisory opinions and does not consider an advisory opinion to confer a specific and identifiable benefit upon an individual for which a fee may be lawfully imposed.

List of Subjects in 33 CFR Part 514

Cultural Exchange Programs.

Les Jin,

General Counsel.

Accordingly, the interim rule amending 22 CFR part 514, published at 63 FR 34808 on June 26, 1998 is adopted as a final rule without change.

[FR Doc. 99–18987 Filed 7–23–99; 8:45 am]

BILLING CODE 8230–01–M

NATIONAL MEDIATION BOARD

29 CFR Parts 1203, 1205 and 1209

Adminstrative Corrections

AGENCY: National Mediation Board.

ACTION: Final rule.

SUMMARY: The National Mediation Board is making minor administrative corrections at various locations in its regulations. None of the corrections will affect the substance of any provision in the regulations.

DATES: This rule is effective July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Ronald M. Etters, General Counsel, National Mediation Board, Washington, DC 20572, Telephone (202) 692–5040.

SUPPLEMENTARY INFORMATION: Because these changes are minor and do not affect the substance of 29 CFR, we are publishing this rule as a final rule with no opportunity for public comment.

List of Subjects

29 CFR Part 1203

Administrative practice and procedure, Air carriers, Labor management relations.

29 CFR Part 1205

Air carriers, Railroads.

29 CFR Part 1209

National Mediation Board, Sunshine Act.

Accordingly, the National Mediation Board is amending 29 CFR parts 1203, 1205, and 1209 as follows:

PART 1203—APPLICATIONS FOR SERVICE

1. The authority citation for part 1203 continues to read as follows:

Authority: 44 Stat. 577, as amended; 45 U.S.C. 151–163.

§ 1203.1 [Amended]

2. Section 1203.1 is amended in the first sentence by removing the word ''Secretary'' and adding in its place the words ''Chief of Staff's Office or on the Internet at www.nmb.gov''. The last sentence is amended by revising ''Board's officer'' to read ''Board's offices''.

§ 1203.2 [Amended]

3. Section 1203.2 is amended in the first sentence by revising ''Executive Secretary'' to read ''Representation and Legal Department or on the Internet at www.nmb.gov''.

§ 1203.3 [Amended]

4. Section 1203.3 is amended in paragraph (a) by revising ''Secretary'' to read ''Chief of Staff''.

PART 1205—NOTICES IN RE: RAILWAY LABOR ACT

5. The authority citation for part 1205 continues to read as follows:

Authority: 44 Stat. 577, as amended; 45 U.S.C. 151–163.

§ 1205.4 [Amended]

6. Section 1205.4 is amended by removing the ''s'' in ''Acts''.

PART 1209—PUBLIC OBSERVATION OF NATIONAL MEDIATION BOARD MEETINGS

7. The authority citation for part 1209 is revised to read as follows:

Authority: 5 U.S.C. 552(b)(g).

§ 1209.7 [Amended]

8. In § 1209.7(f) remove the words ''Executive Secretary'' and add in their place, the words ''Chief of Staff''.

§ 1209.8 [Amended]

9. In § 1209.8(d) remove the words ''Executive Secretary'' and add in their place, the words ''Chief of Staff''.

Dated: July 19, 1999.

Stephen E. Crable,

Chief of Staff.

[FR Doc. 99–18939 Filed 7–23–99; 8:45 am]

BILLING CODE 7550–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN96–1a; FRL–6401–9]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by the Indiana Department of Environmental Management (IDEM) on December 8, 1998, as amendments to its State Implementation Plan (SIP). ALCOA Warrick Operations is a primary aluminum smelter located in Newburgh, Indiana. The revised limits allow for higher opacity emissions during fluxing operations at two holding furnaces for a period of one year. The temporary limits for the #1 and #8 complexes expire on May 26, 1999, and June 15, 1999, respectively. Mass emissions limits are not being changed.

DATES: This rule is effective on September 24, 1999, unless EPA receives adverse written comments by August 25, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform 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, 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.

Table of Contents

I. What is the EPA approving?
II. What facilities/operations does this action apply to?
III. What are the provisions of the temporary opacity limits?
IV. What are the current limits on these sources?
V. What supporting materials did Indiana provide?
VI. What are the environmental effects of this action?
VII. EPA rulemaking action.
VIII. Administrative requirements.
A. Executive Order 12866
B. Executive Order 12875
C. Executive Order 13045
D. Executive Order 13084
E. Regulatory Flexibility Act
F. Unfunded Mandates
G. Submission to Congress and the Comptroller General
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act
J. Petitions for Judicial Review

I. What Is the EPA Approving?

We are approving as SIP revisions temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by IDEM on December 8, 1998. The revised limits allow for higher opacity emissions during fluxing operations at two holding furnaces for a period of one year. The temporary limits for the #1 and #8 complexes expire on May 26, 1999, and June 15, 1999, respectively.

II. What Facilities/Operations Does This Action Apply to?

We are approving temporary revised opacity limits for two processes at ALCOA Warrick Operations. ALCOA Warrick Operations is a primary aluminum smelter located in Newburgh, Indiana. Molten aluminum is transferred from the melt furnaces into the holding furnaces for final fluxing, then cast into slabs. There are no particulate matter (PM) control devices for these processes. Emissions are exhausted through ventilation hoods to the exhaust stacks for each holding furnace. The revised limits apply to the #1 Complex (the Horizontal Direct Chill Casting, or HDC) and the #8 Complex (the Electromagnetic Casting, or EMC).

III. What Are the Provisions of the Temporary Opacity Limits?

The temporary limits for both the #1 complex and the #8 complex were contained in a variance issued by IDEM on May 8, 1998. The limit on the #8 complex was revised on May 28, 1998. These revised limits became effective in Indiana 18 days after being issued, and are effective for one year. The temporary limits for the #1 and #8 complexes expire on May 26, 1999, and June 15, 1999, respectively.

The revised limits allow emissions with an opacity up to 80 percent during the fluxing portion of the production cycle from the East and West holding furnace exhaust stacks at the #1 Complex (HDC). This opacity is allowed for no more than 6 six-minute averaging periods, and only during fluxing. For all other portions of the production cycle, the limit remains at 40 percent. Fluxing lasts approximately 12–15 minutes of the 5–10 hour production cycle for the HDC.

For the East and West holding furnace exhaust stacks at the #8 Complex (EMC), the revised limit allows opacity during fluxing up to 95 percent for 2 six-minute averaging periods, and up to 90 percent opacity for an additional 4 six-minute averaging periods. During all other portions of the production cycle, the opacity of emissions from the EMC continues to be limited to 40 percent. Fluxing lasts approximately 12–15 minutes of the 3–4 hour production cycle for the EMC.

Mass PM emissions remain the same.

IV. What Are the Current Limits on These Sources?

These processes are currently covered by SIP rule Title 326 Indiana Administrative Code, Article 5, Rule 1, Section 2 (326 IAC 5–1–2), which provides a 40 percent opacity limit.

They are also covered by a SIP mass emission limit contained in 326 IAC 6–3–2. This regulation provides for a limit based on the process rate.

V. What Supporting Materials Did Indiana Provide?

Indiana provided stack test data and opacity readings. Stack tests were conducted by ALCOA to show that the revised opacity limit would still be protective of the SIP mass PM emission limits. ALCOA conducted two rounds of stack tests, and opacity readings were taken during fluxing for many of the runs.

The first round measured emissions of PM over the entire production cycle. (The production cycle lasts 5–10 hours for the HDC and 3–4 hours for the EMC.) Nine test runs were conducted on each exhaust stack. Fluxing was conducted for 35 minutes during each run, to approximate a worst-case scenario. (Fluxing normally lasts only 12–15 minutes.)

These tests showed PM emission rates of 17–32 pounds per hour (lbs/hr) and 1–3 lbs/hr for the HDC East and West holding furnaces, respectively. This compares to SIP limits of 31–44 lbs/hr for the East furnace and 14–28 lbs/hr for the West furnace. (Limits vary because they are based on production rate.)

For the EMC, measured emissions ranged from about 4–7 lbs/hr for the East holding furnace and about 4–10 lbs/hr for the West holding furnace. Limits for the EMC were about 49 lbs/hr for the East furnace and 47–53 lbs/hr for the West furnace.

During fluxing, 6-minute average opacity readings ranged from about 20–95 percent for the EMC, with an average of about 70 percent. For the HDC, 6-minute average opacity readings ranged from about 10–80 percent, with an average of about 50 percent.

The second round of tests was conducted for only one hour of the production cycle each, including the fluxing portion of the cycle. These tests were designed to show compliance with mass PM emissions limits on a one-hour basis. The tests include the fluxing portion of the cycle since fluxing produces the bulk of emissions from the holding furnaces. 3–12 test runs were conducted on each exhaust stack. During these tests, fluxing was also conducted for a ''worst-case'' time of 35 minutes. Opacity readings were taken during many of the runs.

These tests showed PM emission rates of 11–32 pounds per hour (lbs/hr) and 8–13 lbs/hr for the HDC East and West holding furnaces, respectively. This compares to limits of 17–37 lbs/hr for the East furnace and 12–20 lbs/hr for the West furnace. (Limits vary because they are based on production rate.) For the EMC, measured emissions ranged from about 7–15 lbs/hr for the East holding furnace and about 10–15 lbs/hr for the West holding furnace. Limits for the EMC were about 38–44 lbs/hr for the East furnace and 41–44 lbs/hr for the West furnace.

The tests show that ALCOA can meet SIP mass emissions limits at the EMC and HDC holding furnace stacks during fluxing. Even though opacity was often high during fluxing, no violations of the SIP mass PM emissions limits were measured. The tests indicate that the temporary revised opacity limits will not allow violations of the mass limits for these sources.

VI. What Are the Environmental Effects of This Action?

While they are in effect, the temporary revised opacity limits will allow darker smoke to be emitted than does the current SIP rule. However, since no mass limits are being revised, and since the temporary revised opacity limits are protective of the current mass limits, this SIP revision should not jeopardize air quality.

VII. EPA Rulemaking Action

We are approving, through direct final rulemaking, temporary revised opacity limits for two processes at ALCOA Warrick Operations. We are publishing this action 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 adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by August 25, 1999. Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, you are advised that this action will be effective on September 24, 1999.

It should be noted that the applicable period of these temporary opacity limits is wholly in the past. Therefore, we must judge whether the variance warrants inclusion as a codified element of the Indiana SIP. We are undertaking an effort to revise the presentation of SIPs in a manner that more clearly identifies the enforceable elements of each SIP. Part of this effort is to eliminate referencing of temporary limits that have expired. The temporary opacity limits for ALCOA alter the opacity limits to be enforced for approximately one year, but have no effect on the current regulations governing emissions at this facility. Consequently, we are not codifying the temporary opacity limits for ALCOA as part of the Indiana SIP.

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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this rulemaking action under section 801 because this is a rule of particular applicability.

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 24, 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, Particulate matter.

Dated: July 9, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 99–18870 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 260, 261, 262, 263, 264, and 265

Temporary Assistance for Needy Families (TANF) Program

AGENCY: Administration for Children and Families, Office of Family Assistance, HHS.

ACTION: Technical and correcting amendments.

SUMMARY: This document contains technical correcting amendments to the Temporary Assistance for Needy Families final rule published on April 12, 1999 (64 FR 17720). The final rule implements key statutory provisions related to work, penalties, and data collection.

DATES: Effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ann Burek, Office of Family Assistance, 202–401–4528.

SUPPLEMENTARY INFORMATION:

I. Background

We published the final rule on the Temporary Assistance for Needy Families (TANF) program on April 12, 1999 in the **Federal Register** (64 FR 17720). The purpose of the final rule is to implement key provisions of the new welfare block grant program, which was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The effective date of the rule is October 1, 1999.

II. Need for Technical and Correcting Amendments in 45 CFR Parts 260, 261, 262, 263, 264, and 265

This document corrects technical errors and omissions in the preamble and text of the final regulations and refines certain provisions to make them clearer.

A. Regulatory Text

We have made the following changes in the regulatory text:

- In § 260.30, we defined noncustodial parent primarily for the purpose of specifying who must be included under certain reporting provisions in part 265. In fact, although the preamble uses the term in a number of places, part 265 is the only place in the regulation that the term is used. But some readers were assuming that the definition restricted the benefits and services that noncustodial parents might receive. Similarly, the definition created confusion about exactly what needed to be reported if a noncustodial parent was involved. We have refined the definition at § 260.30 to eliminate the confusion and revised the regulatory text at § 265.3 to clearly address the circumstances under which States must report information on noncustodial parents.
- The changes to the heading of § 260.59 correct errors in format.
- In § 261.56, we have inserted a missing quotation mark.
- In § 262.5, we intended to give States that could not meet the reporting deadline for the first two quarters of FY 2000 data, due to Y2K compliance activities, additional time to submit the data and avoid a penalty. While the June 30, 2000, date in the rules gave States an additional 90 days to submit the first quarter's data, it did not give States the intended additional time for the second quarter's data. States that submitted the second quarter's data by June 30 would not have been subject to a reporting penalty under the normal TANF reporting rules and therefore received no additional time for that quarter. This result was inadvertent. In order to provide the additional time that we intended, we should have specified a September 30, 2000, date as the final deadline for States wishing to claim reasonable cause for failing to meet the reporting requirements on a timely basis. Thus, we are making that change as a technical amendment. Corresponding changes should also be made to the preamble references to July 1, 2000, on pages 17804 (column 3) and 17866 (column 1) and the reference to June 30, 2000, on page 17858 (column 3).
- In § 263.2(b)(1)(iii), we have added some statutory language that we had inadvertently omitted from the final rule. It is clear from the statute at section 409(a)(7)(B)(i)(IV) and the preamble discussion on page 17822 (i.e., in the first comment) that the third category of ''eligible families,'' for MOE purposes, includes only ''families of aliens lawfully present in the United States'' that would be eligible for TANF, but for the alien provisions in PRWORA. We have corrected the regulatory text to reflect this limitation.
- We are also refining § 263.2(d). The regulation at § 260.31(c) provides that the definition of assistance does not apply to the use of the term ''assistance'' in subpart A of part 263—the subpart that addresses allowable MOE expenditures. The MOE regulation at § 263.2(d) included a similar provision. However, this latter provision referenced only paragraph (a) of § 263.2. Since paragraph (b)(1)(i) also included the term ''assistance,'' readers were unsure whether the definition of assistance applied in paragraph (b)(1)(i). The effect of applying the definition of assistance in paragraph (b)(1)(i) would have been to substantially narrow the number and type of families for whom benefits and services that were not ''assistance'' would count as MOE.

  The language at § 260.31(c) broadly addressed the issue of the applicability of the definition of assistance under that section to the MOE provisions of the rule. Under that provision, the definition of assistance does not limit what is considered assistance in paragraph (b)(1)(i) of § 263.2. However, because readers found the language at § 263.2(d) confusing, we have refined it to reaffirm that the definition of assistance does not limit paragraph (b)(1)(i). The change is a conforming amendment.
- In § 264.3(b), we had omitted the word ''because'' from the original regulatory text.

• In § 264.10(b), the original regulatory text included a reference to a regulatory section—§ 260.52—that had been repealed. Thus, we corrected the citation for the Income Eligibility and Verification Systems (IEVS) regulations (by replacing this reference with a reference to § 205.60). Corresponding changes should also be made to the references to § 205.62 on page 17849 in both the last paragraph in column one and the first response in column two.

• As already explained, in § 265.3(f), we clarify the circumstances under which States must report information on noncustodial parents.

B. Preamble Language

In addition to the regulatory text changes described above, we note the following correction to the preamble language in the final rule:

In the preamble to § 260.30, we inadvertently omitted some language explaining the new definition of ''expenditures'' in § 260.30. We are removing the first paragraph at the beginning of the third column on page 17752 of the **Federal Register** notice (i.e., immediately following the heading ''(c) Significant Fiscal Terms'') and adding the following:

In the final rule, we have added a definition for the term expenditure and added a new § 260.33 to explain the circumstances under which refundable Earned Income Tax Credits and other refundable tax credits would count as expenditures. We felt it was necessary to include a basic definition of expenditure and add this additional regulatory text because, under the statute, Federal TANF funds and State MOE funds must both be used for ''expenditures.''

We have received many questions from States and other interested parties about whether the costs of State EITC programs and other tax provisions could count as expenditures. The new definition and regulatory text are designed to address these questions.

This subpart also incorporates a number of definitions that have substantial policy significance, which we included for clarification purposes.

For example, it incorporates terms that distinguish among several types of expenditures. These distinctions are critical because the applicability of the TANF requirements varies depending on the source of funds for the expenditures. In particular, it distinguishes between expenditures from the Federal TANF grant and from the State funds expended to meet MOE requirements (either within the TANF program or in separate State programs).

Following is a brief summary of the key fiscal terms:

Expenditure. This term refers to the spending or disbursement of funds. It does not include costs avoided or revenue losses.

Omission of this language had no substantive effect on the policy in the final rule. However, the language is helpful in explaining why we added a definition of expenditure, and the omitted language was referenced in the preamble discussion at § 260.33.

Waiver of Notice and Comment Procedures

The Administrative Procedure Act (5 U.S.C. 55(b)(B)) requires that the Department publish a notice of proposed rulemaking unless the Department finds, for good cause, that such notice is impracticable, unnecessary, or contrary to the public interest. In this instance, the notice affects only technical changes, clarifications, and corrections of text not properly included in the regulations. Accordingly, the Department has determined that it would be unnecessary and contrary to the public interest to use notice and comment procedures in issuing these amendments.

Impact Analysis

No impact analysis is needed for the technical amendments. The impact of the necessary corrections falls within the analysis of the TANF final rule published in the **Federal Register** on April 12, 1999 (64 FR 17873).

List of Subjects in 45 CFR Parts 260, 261, 262, 263, 264, and 265

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements, Vocational education.

(Catalogue of Federal Domestic Assistance Programs: 93.558; TANF programs-State Family Assistance Grants, Assistance grants to Territories, Matching grants to Territories, Supplemental Grants for Population Increases and Contingency Fund; 93.559—Loan Fund; 93.595—Welfare Reform Research, Evaluations and National Studies)

Dated: July 14, 1999.

Kerry Weems,

Acting, Deputy Assistant Secretary for Information Resources Management.

For the reasons set forth in the preamble, 45 CFR parts 260, 261, 262, 263, 264, and 265, published in the **Federal Register** (64 FR 17720) on April 12, 1999, are corrected by making the following technical and correcting amendments:

PART 260—GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROVISIONS

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 601, 601 note, 603, 604, 606, 607, 608, 609, 610, 611, 619, and 1308.

2. In § 260.30, correct the definition of ''noncustodial parent'' to read as follows:

§ 260.30 What definitions apply under the TANF regulations?

* * * * *

Noncustodial parent means a parent of a minor child who:

(1) Lives in the State; and

(2) Does not live in the same household as the minor child.

* * * * *

3. Correct the heading to § 260.59 to read as follows:

§ 260.59 What penalty relief is available to a State that failed to comply with the five-year limit on Federal assistance because it provided federally recognized good cause domestic violence waivers?

PART 261—ENSURING THAT RECIPIENTS WORK

4. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 601, 602, 607, and 609.

§ 261.56 [Corrected]

5. Correct § 261.56(b)(2)(ii) by adding a quotation mark in front of the words ''reasonable distance.''

PART 262—ACCOUNTABILITY PROVISIONS—GENERAL

6. The authority citation for part 262 continues to read as follows:

Authority: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 606, 609, and 610.

§ 262.5 [Corrected]

7. Correct § 262.5(b)(1)(ii) by removing ''June 30, 2000'' and adding ''September 30, 2000'' in its place.

PART 263—EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

8. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 604, 607, 609, and 862a.

9. Correct § 263.2 by revising paragraph (b)(1)(iii) and adding a sentence to the end of paragraph (d) to read as follows:

§ 263.2 What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement?

(b) * * *

(1) * * *

(iii) Are lawfully present in the United States and would be eligible for assistance, but for the application of title IV of PRWORA;

* * * * *

(d) * * * Further, families that meet the criteria in paragraphs (b)(2) and (b)(3) of this section are considered to be eligible for TANF assistance for the purposes of paragraph (b)(1)(i) of this section.

* * * * *

PART 264—OTHER ACCOUNTABILITY PROVISIONS

10. The authority citation for part 264 continues to read as follows:

Authority: 31 U.S.C. 7501 *et. seq.;* 42 U.S.C. 609, 654, 1302, 1308, and 1337.

11. Correct § 264.3(b) to read as follows:

§ 264.3 How can a state avoid a penalty for failure to comply with the five-year limit?

* * * * *

(b) In addition, we will determine a State has reasonable cause if it demonstrates that it failed to comply with the five-year limit on Federal assistance because of federally recognized good cause domestic violence waivers provided to victims of domestic violence in accordance with provisions of subpart B of part 260.

§ 264.10 [Corrected]

12. Correct § 264.10(b) by removing ''205.62'' and inserting ''205.60'' in its place.

PART 265—DATA COLLECTION AND REPORTING REQUIREMENTS

13. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 603, 605, 607, 609, 611, and 613.

14. Correct § 265.3 by redesignating paragraph (f) introductory test as paragraph (f)(1); redesignating paragraphs (f)(1), (2), and (3) as paragraphs (f)(1)(i), (ii), and (iii), respectively; and adding the following paragraph (f)(2) to read as follows:

§ 265.3 What reports must the State file on a quarterly basis?

* * * * *

(f) * * *

(2) *Reporting conditions.* (i) If the noncustodial parent is the only member of the family receiving assistance, the State must report the disaggregated and aggregated information on the entire family under paragraphs (b) and (d) of this section, as applicable.

(ii) If the noncustodial parent is only participating in work activities that do not constitute assistance (as defined in § 260.31 of this chapter) and the other members of the family are not receiving assistance, the State must report only the aggregated information under paragraph (b)(3) of this section on the noncustodial parent.

[FR Doc. 99–18655 Filed 7–23–99; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–46; RM–9470]

Radio Broadcasting Services; Tecopa, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 291A to Tecopa, California, as that community's first local aural transmission service in response to a petition for rule making filed by Hodson Broadcasting. *See* 64 FR 8781 February 23, 1999. Coordinates used for Channel 291A at Tecopa are 35–50–48 NL and 116–13–24 WL. With this action, the proceeding is terminated.

DATES: Effective August 30, 1999. A filing window for Channel 291A at Tecopa, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–46, adopted July 7, 1999, and released July 16, 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.

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 reads 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 California, is amended by adding Tecopa, Channel 291A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–18960 Filed 7–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–131; RM–9333]

Radio Broadcasting Services; Llano, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channels 293A and 275A to Llano, Texas, in response to a petition filed by Elgin FM Limited Partnership (''Elgin'') to resolve the mutual exclusivity between three applicants for Channel 242A at Llano. *See* 64 FR 24566, May 7, 1999. We shall allot Channel 293A to Llano at coordinates 30–42–27 and 98–46–25 and modify Elgin's application for Channel 242A to specify Channel 293A (BPH–970914MI) and cut-off protection. In response to comments filed by BK Radio (''BK'') we shall allot Channel 275A to Llano and modify the application for Channel 242A (BPH–970815MD) to specify Channel 275A with cut-off protection. The coordinates for Channel 275A at Llano are 30–42–24 and 98–46–23. Mexican concurrence has been obtained for the allotment of Channels 293A and 275A at Llano. With this action, this proceeding is terminated.

DATES: Effective August 30, 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. 99–131, adopted July 7, 1999, and released July

16, 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 Channels 275A and 293A at Llano.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–18959 Filed 7–23–99; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 981231333–9127–03; I.D. 071999C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Catcher/Processor Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces closure of the 1999 catcher/processor fishery for whiting at 12 noon local time (l.t.) July 21, 1999, because the allocation for the catcher/processor sector will be reached by that time. This action is intended to keep the harvest of whiting within the 1999 allocation levels.

DATES: Effective from 12 noon l.t. July 21, 1999, until the start of the 2000 primary season for the catcher/processor sector, unless modified, superseded or rescinded. Comments will be accepted through August 10, 1999.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Katherine King at 206–526–6145 or Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 8, 1999 (64 FR 1316), regulations were published announcing the 1999 fishing seasons for Pacific whiting. A new whiting stock assessment was completed in early 1999, and an allowable biological catch (ABC) and optimum yield (OY) of 232,000 metric tons (mt) were recommended for all U.S. harvests. On May 24, 1999, (64 FR 27928), NMFS announced the 1999 whiting ABC and OY of 232,000 mt, the tribal whiting allocation of 32,500 mt, and the commercial OY of 199,500 mt.

Regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for catcher/processors as the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector. Regulations at 50 CFR 660.323(a)(4) divide the commercial allocation into separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. When each sector's allocation is reached, the primary season for that sector is ended. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors. The allocations, which are based on the 1999 commercial harvest guideline for whiting of 199,500 mt, are: 67,800 mt (34 percent) for the catcher/processor sector; 47,900 mt (24 percent) for the mothership sector; and 83,800 mt (42 percent) for the shoreside sector.

The best available information on July 20, 1999, indicated that the 67,800–mt catcher/processor allocation would be reached by 12 noon l.t., July 21, 1999.

NMFS Action

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(A), NMFS herein announces: Effective 12 noon l.t. July 21, 1999, further taking and retaining, receiving or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A) and is exempt from review under E.O. 12866.

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

Dated: July 20, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–18996 Filed 7–21–99; 3:52 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9060–01; I.D. 072199A]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the third seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water

species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 21, 1999, until 1200 hrs, A.l.t., October 1, 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 Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) for the third season, the period July 4, 1999, through September 30, 1999, as 400 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the third seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: rockfish as defined at § 679.2, deep-water flatfish (Dover sole, Greenland turbot, and deepsea sole), rex sole, arrowtooth flounder, and sablefish.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the third seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The third seasonal apportionment of the Pacific halibut bycatch allowance has been caught. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: July 21, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–18997 Filed 7–21–99; 3:52 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 142
Monday, July 26, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 31, 32, 170, and 171

RIN 3150–AG03

Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations governing the use of byproduct material in certain measuring, gauging, or controlling devices. The proposed amendments would include adding explicit requirements for a registration process that the NRC plans to initiate through a related rulemaking, would add a registration fee, and would clarify which provisions of the regulations apply to all general licenses for byproduct material. The proposed rule would also modify the reporting, recordkeeping, and labeling requirements for specific licensees who distribute these generally licensed devices. The proposed rule is intended to allow the NRC to better track certain general licensees and the devices they possess and to further ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material.

DATES: Submit comments by October 12, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Send comments by mail to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site 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 site, contact Ms. Carol Gallagher (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received and the regulatory analysis, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Catherine R. Mattsen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6264, or e-mail at CRM@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1959 (24 FR 1089), the Atomic Energy Commission (AEC) amended its regulations to provide a general license (10 CFR 30.21(c)) for the use of byproduct material contained in certain measuring, gauging, or controlling devices. Under current regulations in 10 CFR 31.5, certain persons may receive and use a device containing byproduct material under this general license if the device has been manufactured and distributed according to a specific license issued by the NRC or by an Agreement State. A specific license authorizing distribution of generally licensed devices is issued if a regulatory authority determines that the safety features of the device and the instructions for its safe operation are adequate and meet regulatory requirements.

The person or firm who receives such a device is a general licensee. These general licensees are subject to requirements for maintaining labels, following instructions for safe use, storing or disposing of the device properly, and reporting transfers and failure of or damage to the device. For some devices, the general licensee must also comply with testing requirements for leakage and for proper operation of on-off mechanisms. General licensees are also subject to the terms and conditions in § 31.2 concerning general license requirements, transfer of byproduct material, reporting and recordkeeping, and inspection. General licensees must comply with the safety instructions contained in or referenced on the label of the device and must have the testing or servicing of the device performed by an individual who is authorized to manufacture, install, or service these devices except as indicated on the label.

A generally licensed device usually consists of radioactive material, contained in a sealed source, within a shielded housing. The device is designed with inherent radiation safety features so that it can be used by persons with no radiation training or experience. The general license simplifies the licensing process so that a case-by-case determination of the adequacy of the radiation training or experience of each user is not necessary.

There are about 45,000 general licensees authorized by § 31.5 to possess about 600,000 devices that contain byproduct material. The NRC has not contacted or inspected these general licensees on a regular basis because of the relatively small radiation risk posed by these devices.

Individuals who possess devices under this general license are not always aware of applicable requirements and thus are not necessarily complying with all of these requirements. The NRC is most concerned about occurrences where generally licensed devices have not been handled or disposed of properly. In some cases, this has resulted in radiation exposure to the public and contamination of property. Some generally licensed devices have been accidentally melted in steel mills causing considerable contamination of the mill, the steel product, and the wastes from the process, the slag and the baghouse dust. Although known exposures have generally not exceeded the public dose limits, there is a potential for significant exposures.

The NRC conducted a 3-year sampling (1984 through 1986) of general licensees to assess the effectiveness of the general license program. The sampling revealed several areas of concern regarding the

use of generally licensed devices. In particular, the NRC concluded that—

(1) Many general licensees are unaware of the regulations that apply to the possession of a generally licensed device; and

(2) Many general licensees are unable to account for their devices.

Approximately 15 percent of the general licensees sampled could not account for all of their generally licensed devices. The NRC concluded that these problems could be resolved by more frequent and timely contact between general licensees and the NRC.

On December 27, 1991 (56 FR 67011), the NRC published a notice of proposed rulemaking concerning the accountability of generally licensed devices. The proposed rule contained a number of provisions, including a requirement under § 31.5 for general licensees to provide information to the NRC upon request, through which a device registry could be developed. The proposed rule also included requirements in §§ 32.51a and 32.52 for specific licensees who manufacture or initially transfer generally licensed devices. Although the public comments received were reviewed and a final rule developed, a final rule was not issued because the resources to fully implement the rule were not available.

The NRC has continued to consider the issues related to the loss of control of generally licensed, as well as specifically licensed, devices. In July 1995, the NRC, with assistance from the Organization of Agreement States, formed a working group to evaluate these issues. The working group consisted of both NRC and Agreement State regulatory personnel and encouraged the involvement of all persons having a stake in the process and its final recommendations. All working group meetings were open to the public. A final report was published in October 1996 as NUREG–1551, ''Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices.''

In considering the recommendations of this working group, the NRC decided, among other things, to again initiate rulemaking to establish an annual registration of devices generally licensed under § 31.5. This registration program would be similar to the program originally proposed in the 1991 proposed rule. However, it would apply only to those devices considered to present a higher risk of potential exposure of the public or property loss in the case of loss of control (compared to other generally licensed devices). Initially, the NRC has been using the criteria developed by the working group for determining which sources should be subject to the registration program. Using these criteria, it is now estimated that the registration requirement would apply to about 5100 general licensees possessing about 20,000 devices. These criteria were based on considerations of relative risk and are limited to radionuclides currently in use in these types of devices. If quantities of other radionuclides that would present a similar risk are used in these devices in the future, the criteria may be revised to include additional radionuclides. The Commission may also consider revising the criteria to include a larger number of devices in the registration requirement for other reasons in future rulemaking.

The Atomic Energy Act of 1954 (AEA), as amended, provides the NRC with the authority to request information from its licensees concerning licensed activities. However, the Commission had not included an explicit provision in its regulations that would require § 31.5 general licensees to provide information on request. On December 2, 1998 (63 FR 66492), the Commission published a proposed rule that would explicitly require general licensees who possess certain measuring, gauging, or controlling devices to provide the NRC with information about the devices. Assuming it becomes a final rule, the NRC intends to use that provision primarily to institute a registration and accounting system for the devices containing certain quantities of specific radionuclides that present a higher risk of exposure to the public or property damage if a device were lost. That rulemaking was not proposed as a matter of compatibility for Agreement States. That proposed rule presented an estimate of 6000 general licensees, based on the estimates made in the working group report. However, this had not accounted for the fact that, in the interim, Massachusetts had become an Agreement State. Using the same criteria, and removing the previously NRC general licensees in Massachusetts, results in an estimate of 5100 NRC general licensees that would be subject to the registration requirement.

This proposed rule would add specific requirements concerning the registration of devices and additional provisions of an enhanced regulatory oversight program for all general licensees to be registered. The proposed rule would also establish levels of compatibility for Agreement State regulations so that an increased level of oversight for general licensees in Agreement States would also be required. Some States have already instituted some form of enhanced oversight for these general licensees. In a few cases, States have instituted a registration program. A few States have a higher level of control on these devices through requiring specific licenses. Under the proposed level of compatibility for § 31.5, the essential objectives of the regulation should be adopted by the State to avoid conflicts, duplications, or gaps. However, the manner in which the essential objectives of the regulation are addressed need not be the same as NRC. Strict compatibility would only be required for revisions to the requirements applicable to distributors because of interjurisdictional distribution.

Discussion

The December 2, 1998, proposed rule would provide one of the key elements in improving the accountability and control over devices of particular concern through the institution of a registration process. However, current regulatory provisions are inadequate to allow for the NRC to track general licensees and the specific devices they possess. The NRC needs to track these general licensees in order that they can be contacted or inspected when appropriate. The NRC also needs to track individual generally licensed devices, so that the responsible party can be identified when a device is found in an inappropriate situation.

Tracking devices would also allow the NRC to contact the appropriate general licensees if a generic defect in a group of devices is identified. As noted, that proposed rule would not require Agreement State regulations to be compatible.

There are other means for reducing the likelihood of incidents of lost sources. The Commission has reconsidered the provisions in its 1991 proposed rule, evaluated the recommendations of the NRC-Agreement State Working Group, and identified additional issues concerning these devices in developing this proposed rule.

Summary and Discussion of Proposed Requirements

Revisions to the Requirements for General Licensees Under § 31.5

Registration

This proposed rule would add explicit provisions delineating an annual registration requirement, as well as a registration fee. The registration process would be initiated under § 31.5(c)(11), proposed on December 2,

1998, if that requirement is adopted in a final rule. Proposed § 31.5(c)(11) would require licensees to respond to requests for information from NRC within 30 days or as otherwise specified. The provisions proposed in this document (new § 31.5(c)(13)) are essentially consistent with the Commission's plans for the registration process discussed in the December 2, 1998, proposed rule. This proposed rule would specifically require that the information about devices be verified by the licensee through a physical inventory and by checking label information. The advantage of including more explicit requirements in the regulation is that information about the registration process will be more clearly defined and more available. When the distributor of a device supplies copies of § 31.5 to its customers (under § 32.51a(a)), the potential general licensees would be made aware of the registration requirement, the devices to which it applies, the nature of the registration information, and the registration fee.

An organization which uses generally licensed devices at numerous locations is considered a separate general licensee at each location. Different facilities at the same complex or campus are not, however, considered separate locations. In the case of portable devices that are routinely used at multiple field sites, there is one general licensee for each primary place of storage, not for each place of use. Thus, an organization would be required to complete more than one registration, if it possess devices subject to registration at multiple distinct locations.

The proposed rule would add a fee to § 170.31 to be assessed in conjunction with the annual registration process. This registration fee would be for each general licensee filing a registration under § 31.5(c)(13) regardless of the number of devices. As noted above, an organization is considered to be a separate general licensee at each separate address at which devices are used, and would be assessed a registration fee for each location of use.

The NRC is required by the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90), to recover approximately 100 percent of its budget through fees. Since OBRA–90 was enacted, all costs of the general license program have been recovered through annual fees paid by specific licensees. The proposed registration fees would recover the cost of the general license program associated with this group of general licensees in an equitable way, as required by law. Those who are allowed to use devices under the general license would now bear the operational cost of the program instead of those who hold specific licenses. However, it should be noted that the initial program startup costs would be recovered from the annual fee paid by current holders of specific licenses.

The costs to be recovered through the registration fee include the costs for obtaining and maintaining information associated with the devices subject to the registration requirement, the costs of processing and reviewing the registrations, and the costs for inspections and follow-up efforts expected to be made as a result of the registration process identifying noncompliance with existing regulations. The fee would be based on the average cost of the program for each of the licensees registering devices. Some of the general licensees, such as non-profit educational institutions, will be exempt from the fee under § 170.11. Costs not recovered from this small segment of the general licensees registering devices would continue to be recovered from annual fees paid by current holders of specific licenses.

It is expected that the overall cost will decline after the initial years of implementation of the registration process, due to increased compliance leading to reduced inspection and follow-up. However, the number of generally licensed devices in NRC jurisdiction is reduced when a State becomes an Agreement State and takes over responsibility for the general licensees in that State. Although a large part of the cost of the program is proportional to the number of general licensees, a portion of the cost is fixed. Thus, the cost per general licensee could increase if the number of general licensees subject to registration decreases. The proposed registration fee is $420 based on the current estimated cost of the program and the current number of general licensees with devices that would be subject to registration. If additional States become Agreement States before this rule is made final, the fee could be somewhat higher in the final rule.

The Commission considered other approaches to the proposed fee structure, such as a fee per device or a sliding scale, i. e., fees set for a few ranges of numbers of devices. However, basing fees on the number of devices or a sliding scale would not necessarily meet the intent of the Independent Offices Appropriation Act of 1952 (IOAA), which is the authority under which 10 CFR part 170 fees are established. The IOAA provides that fees recover the agency's cost in providing the service. The agency's costs to register generally licensed devices at each location is projected to be nearly the same regardless of the number of sources/devices possessed by the licensee. Costs of follow-up and inspection do not go up substantially with increased numbers of devices. In addition, these alternative methods would complicate the determination of the proper fee and the fee recovery process, not only for NRC but for the registrants as well. With the uncertainty of the licensees' status from one year to the next, the additional administrative effort related to the reconciliation of the fee based on the number of devices possessed from year to year, would not be cost effective, considering the total amount projected to be recovered for the registration program. Additionally, under these alternative methods a large diversified firm that owns one device would pay a reduced fee, while a small entity whose business may depend solely on the use of the devices might pay a disproportionate fee because it has more than one device. The NRC believes that basing the fee on a per device basis or a sliding scale would not result in a fair and equitable allocation of its regulatory costs, and would not achieve the goal of the Regulatory Flexibility Act to reduce the impact of fees on small entities. The NRC believes that the proposed approach of assessing a fee for each licensee subject to registration—

(1) Better reflects the costs to administer the program,

(2) Is most consistent with existing NRC fee assessment practices,

(3) Would simplify fee collection,

(4) Would be fair and equitable, and

(5) Would minimize impacts to small entities.

The planned registration process will be somewhat different from that used in the Commission's other registration programs, in which blank forms are filled out by registrants. Instead, it is planned to send a registration request containing the information recorded in the Commission's database, which would ask the general licensee to verify, correct, and/or add to the information provided. This would be similar to the approach typically used by States for the renewal of automobile registrations. This is intended to be more efficient for the general licensees and the Commission.

The first registration that would be carried out under § 31.5(c)(11) would depend on the NRC's ability to contact general licensees because the NRC must request the information. This proposed rule also specifies that the general licensee would complete registration by verifying, correcting, and/or adding to the information in a request for

registration received from the Commission. It is silent on when or how general licensees should register if the Commission fails to contact the general licensee. Thus, it might be interpreted that, if the Commission fails to contact a general licensee, the registration requirement would not apply. The Commission seeks comment on whether the registration requirement should include a provision that would require the general licensee to complete registration by a certain time, such as 15 months after—

(1) The date of the previous registration certificate;

(2) The receipt of a device subject to registration; or

(3) The effective date of this rule for an unregistered device possessed at the time of the effective date of a final rule enacted in response to this proposed rule.

This would put the burden of registering on general licensees who have not been notified by the NRC of the requirement. The intent would be for general licensees who find out about the new requirements, for example, from a distributor, to contact the NRC to begin the registration process. If this approach were taken, the Commission would likely exercise enforcement discretion in cases where the Commission locates a general licensee who has not previously registered devices, if the general licensee was unaware of the requirement. It is recognized that some general licensees who have received devices in the past may never be located.

The time of year for registration would vary for licensees. However, requests for renewal of registration would be made approximately 1 year after the previous registration request for that licensee. Although registration would not be required before the receipt of a device, the Commission plans to send requests for registration to new general licensees subject to registration that are identified in distributors' quarterly transfer reports submitted under § 32.52 shortly after this information is received and recorded. If a general licensee has previously registered devices and receives additional devices requiring registration, the new devices would be registered when the annual reregistration is carried out. The Commission requests comment on whether the NRC should have earlier contact with previous registrants who receive additional devices, either by an acknowledgment by NRC to the user or by a required response from the general licensee that accounts for the additional device(s). The effective date of the registration fee will be set to apply after the initial registration requests have been sent for response under § 31.5(c)(11) so that the first round of annual registration will be complete prior to this effective date and the fee will be imposed with the first reregistration for all devices currently in use.

Other Revisions for § 31.5 General Licensees.

The proposed rule would establish additional requirements for all general licensees under § 31.5. These proposed requirements include—

(1) An explicit requirement for the general licensee to appoint an individual assigned responsibility for knowing what regulatory requirements are applicable and having authority to take required actions to comply with the applicable regulations and through whom the general licensee carries out its responsibilities to comply with the applicable regulations (new § 31.5(c)(12));

(2) A provision that limits the amount of time a general licensee can keep an unused device in storage and allows the deferment of testing during the period of storage (new § 31.5(c)(15));

(3) A provision to allow transfers to specific licensees authorized under part 30, or equivalent Agreement State regulations, as waste collectors, in addition to currently allowed transfers to part 32 (and Agreement State) licensees; to allow transfers to other specific licensees but only with prior written NRC approval; and to add the recipient's license number, the serial number of the device, and the date of transfer to the information required to be provided to NRC upon transfer of a device (revision of § 31.5(c)(8));

(4) A provision to notify NRC of address changes, including name changes (new § 31.5(c)(14));

(5) For device damage or failures that are likely to or are known to have resulted in contamination, the addition of a plan for ensuring that premises and environs are suitable for unrestricted access, to the information that must be sent to NRC in the case of a failure; a change to the addressee for reporting information concerning a failure; and a note that the criteria in § 20.1402, ''Radiological criteria for unrestricted use,'' may be applied by the Commission in the case of contamination in spite of the exemption in § 31.5(c)(10) (revision to § 31.5(c)(5)); and

(6) A revision of the reporting requirement, in the case of a transfer to a general licensee taking over possession of a device at the same location, to provide the serial number of the device and the name and phone number for the person designated as the responsible individual, rather than simply a contact name (revision to § 31.5(c)(9)(i)).

The rationale for each of these proposed amendments is:

(1) New § 31.5(c)(12)—Responsible person. The ''person'' who holds a general license is usually a corporation, or public or private institution, rather than an individual. In practice, in order for the general licensee to comply with existing regulations, an individual in the corporation or institution must be aware of the requirements and be authorized to take the required actions. Appointing a specific individual to be responsible for knowing about and taking actions to comply with regulations is an appropriate operational practice, which, unfortunately, is not always followed. If a device is not subject to testing under § 31.5(c)(2), there are no routine actions required to be taken, because the requirements are generally restrictions on actions, such as not abandoning the device, or actions to be taken only in the case of particular, non-routine events, such as notification of NRC of the transfer or failure of the device. It is this type of situation, where knowledge of the nature of the device, the general license, and the associated regulations is unlikely to be maintained and passed on to individuals using the device. Requiring the assignment of the responsibility for knowing and having authority to take required actions for complying with regulations to a specific individual would improve the probability that the general licensees will do what they are already required to do. The impact of this should be minimal, somewhat limiting operational flexibility with regard to the assignment of duties. This individual does not have to work on site at the place of use of the device and does not have to conduct all required actions, but would be responsible to ensure that the general licensee is aware of required actions to be taken. This assignment does not relieve the general licensee of responsibility.

The NRC/Agreement State Working Group recommended that general licensees assign a backup responsible individual (BRI) as well. The proposed rule does not include this requirement, but the Commission solicits comment on this issue and will consider adding it to the final rule. A BRI would add some assurance that there is a continuation of knowledge of the requirements in the event of the person assigned to be the responsible individual leaves his assigned duties.

However, even without a BRI, the general licensee would have the responsibility under the proposed rule to replace the responsible individual to maintain compliance with proposed § 31.5(c)(12).

(2) New § 31.5(c)(15)—Timeliness of disposition and deferral of testing while in storage. When a device is not in use for a prolonged time, it is particularly susceptible to being forgotten and ultimately disposed of or transferred inappropriately. General licensees are unlikely to keep a device unused for more than 2 years and subsequently use it. If a device is being held in storage indefinitely, it is likely that it is being stored to avoid the costs of proper disposal. If a general licensee intends to use a device after a period of more than 2 years of nonuse, the device could be sent back to the supplier to be held under the distributor's specific license until later use, or the general licensee could request an exemption from § 31.5(c)(15) indicating the reason(s) why the licensee intends to use the device after 2 years and prefers to keep it on site in the interim.

If a period of storage exceeds the normal interval for testing, testing would not need to be done until the device is to be put back into use again. This would relieve the burden of unnecessary testing during the period of storage as well as eliminate any unnecessary exposure that could occur during testing for that period.

(3) Revision to § 31.5(c)(8)—Provisions for transfers to specific licensees. This proposed revision would provide some flexibility to the general licensee in transferring a device while ensuring that it is transferred appropriately. It would allow a general licensee to transfer a device directly to a waste collector for disposal, rather than going through a distributor. It would also allow the transfer of a device to other specific licensees, but would require NRC approval in these cases so that NRC can ensure that the recipient is authorized to receive the device.

The inclusion of a recipient's license number in the report of transfer would better ensure that the general licensee has verified that the recipient is a part 32 licensee, a part 30 waste collection licensee, or a specific licensee under equivalent Agreement State regulations authorized to receive it. It would also supply an additional means for NRC to identify the recipient, because company names and addresses sometimes change. The addition of the date of transfer will make the transfer easier to track and help to ensure that the general licensee makes the report in a timely manner (required within 30 days of transfer).

(4) New § 31.5(c)(14)—Change of address notification (including change in name of general licensee). The quarterly reports required of distributors under § 32.52(a) and (b) are intended to provide NRC and the Agreement State regulatory agencies with the identity of general licensees in their jurisdictions and addresses at which these general licensees can be contacted (proposed to now be specifically the mailing address for the location of use of the generally licensed device). These general licensees can then be contacted or inspected. If general licensees move their operations without notifying the NRC, or appropriate Agreement State agency, they may be difficult to locate. Even a change of name can cause mail to be returned. This proposed requirement to report address changes would only apply to previously supplied mailing addresses and, for portable devices, the mailing address for the primary place of storage, although the devices may be used at multiple field sites. For those registering devices, other changes in addresses, if different from the mailing address for the location of use, will be provided at the time of the next registration.

Note: Changes to the general licensee, other than a simple name change, such as in the case of a sale of a company, require reporting of additional information under § 31.5(c)(9)(i).

This simple change of address notification is intended to track moves into and within NRC jurisdiction and to maintain current mailing address information. The general license in § 31.5 only applies to persons within NRC jurisdiction. If a general licensee intends to move from one jurisdiction to another, it should contact the applicable regulatory authority, NRC or the particular Agreement State, before doing so to determine the applicable, current regulations in that jurisdiction. All jurisdictions do not have a comparable general license and specific provisions of the general license may vary among jurisdictions. If a general licensee has obtained a portable device in an Agreement State and wishes to use the device within NRC jurisdiction, it must do so under § 31.5, because there is no reciprocity provision applicable to general licenses. In this case, they would be subject to the provisions of § 31.5.

(5) Revision to § 31.5(c)(5)—Reports of device failures. General licensees are not subject to decommissioning requirements. A general license is granted by regulation and, under normal circumstances, does not involve any termination of license process. If a generally licensed device fails or is seriously damaged so as to cause significant contamination of the premises or environs, the NRC may need to respond to the notification of an incident made under § 31.5(c)(5) to ensure that a facility is properly decontaminated. Following such an incident, the NRC would determine what actions are necessary on a case-by-case basis and, if necessary, would apply the criteria set out in § 20.1402, ''Radiological criteria for unrestricted use.'' The general licensee is exempt from this section of part 20 when in possession of an intact generally licensed device. However, when a device has been damaged, the material in the device may no longer be fully contained within the device, i.e., it may also be unsealed radioactive material. Action can be taken by the NRC under § 30.61, ''Modification and revocation of licenses,'' which is applicable to general licensees. The provision proposed in this action would require that the general licensee propose to the Commission how it will be shown that the premises are or will be adequately cleaned up. Depending on the nature of the event, the remedial action taken (and reported under existing requirements) along with any confirmatory surveys may be sufficient to complete action on the event.

The addressee for submitting information under § 31.5(c)(5) would be changed from Regional Administrator to Director of Nuclear Material Safety and Safeguards so that all NRC addressees specified in § 31.5 for reports by these licensees are the same and to eliminate the need for the general licensee to refer to part 20 to determine the appropriate addressee. The addressee and address for registration will be specified in the registration request. Adding a note concerning the possible applicability of § 20.1402 is a clarification.

(6) Revision to § 31.5(c)(9)(i)—Reporting new general licensee's responsible individual. Consistent with the provision for appointing an individual through whom the general licensee will ensure compliance with the applicable regulations and requirements, and other reporting requirements being proposed, it is more effective for the general licensee to provide the name of the new responsible individual when another general licensee takes over the facility and responsibility for the device.

An additional proposed amendment to § 31.5 would clarify the status of a person who receives a device through an unauthorized transfer and would remove a restriction on devices. Paragraph (b) would be revised to (1)

limit the applicability of the general license to those who receive a device through an authorized transfer and (2) expand the applicability of the general license to devices authorized for distribution by an Agreement State that has no general license covering the use of such devices within that State.

Concerning the first of these issues, the NRC has generally, although not consistently, interpreted the general license to apply to any recipient within the group identified in § 31.5(a), i.e., ''* * * commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and Federal, State or local government agencies * * *'', even if the device is received through an unauthorized transfer. The proposed language would clearly provide that the general license does not apply if the device is obtained through an unauthorized transfer. In the case of an unauthorized transfer, the recipient would possess the device without a license.

Section 31.5(b) currently restricts applicability of the general license in the case of devices from distributors in Agreement States, to those devices from Agreement States that authorize the devices to be used under a general license within their respective States. However, the NRC practice is to allow a device to be used under the general license in § 31.5, that is distributed in accordance with a license issued under equivalent regulations to § 32.51 by an Agreement State that does not authorize devices to be used under a general license within their State. This approach reserved for NRC the right to require distributors in this situation to obtain an NRC distribution license in order to transfer devices into NRC jurisdiction, but did not require them to do so as long as the State issued acceptably equivalent licenses. Through NRC's oversight of Agreement State programs, NRC ensures the safety of these devices. Given this fact and the experience to date with these few States, the Commission believes that this restriction is no longer necessary.

In addition to the proposed changes to § 31.5, other amendments are proposed that would clarify which sections of the regulations in part 30 apply to all of the general licensees under part 31. Section 31.1, ''Purpose and scope,'' would be amended to clarify that only those paragraphs in part 30 specified in § 31.2 or the particular general license apply to part 31 general licensees. Section 31.2, ''Terms and conditions,'' would be amended to reference the sections of part 30 that are applicable to all of the part 31 general licensees, including § 30.7, ''Employee protection,'' § 30.9, ''Completeness and accuracy of information,'' and § 30.10, ''Deliberate misconduct.'' The proposed clarification would make it easier for general licensees to be aware of applicable regulations. In addition, future amendments to part 30 that would apply to part 31 general licensees would include a conforming amendment to part 31. Note, however, that while § 31.2 would specify sections of part 30 generally applicable to general licenses, it would not eliminate the applicability of other parts of the Commission's regulations that may apply.

The applicability of § 30.34(h) on bankruptcy notification to general licensees also needs to be clarified. Under the existing regulations, this requirement appears to apply to all licensees. However, its application to general licensees is not clear because it is not referenced in § 31.2 or § 31.5. This proposed rule would make the bankruptcy notification requirement applicable only to those general licensees subject to the registration requirement. These licensees possess devices for which the Commission believes a higher level of oversight is appropriate. Thus, notification that such a general licensee is filing for bankruptcy may be important to allow the Commission to intervene to ensure that the financial status of the licensee does not lead to the improper disposal or abandonment of a device.

Requirements for Manufacturers and Initial Distributors of Devices

The proposed rule would modify the quarterly transfer reporting, recordkeeping, and labeling requirements for specific licensees who distribute these generally licensed devices, and the requirement for providing information to users. The existing requirements in these areas are a matter of strict compatibility of Agreement State regulation, that is, the State regulations are essentially identical. The proposed amendments would also be a matter of strict compatibility so that revisions to Agreement State regulations would be necessary and distributors in Agreement States would be affected. The basis of this compatibility requirement is significant direct transboundary implications. This results from the fact that devices are distributed under various Agreement State and NRC authorities into other jurisdictions where different regulatory agencies regulate the possession and use of the devices. Currently, there are 28 NRC licensed distributors and approximately 61 licensed distributors in Agreement States.

Reporting

The following information would be added to the existing quarterly transfer reporting requirement: The serial number and model number of the device; the date of transfer; indication if the device is a replacement, and if so, the type, model number, and serial number of the one returned; name and license number of reporting company; and the specific reporting period. The model number of the device is already required in reports to Agreement States. The general licensee address would be specified as the mailing address for the location of use of the generally licensed device.

The name and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements would replace the name and/or position of a simple contact between the Commission and the general licensee.

A form will be provided for use in making these reports. However, the use of the form would not be required as long as the report is clear and legible and includes all of the required information. Proposed amendments would be made to § 32.52(a) and (b).

The existing reporting requirement is intended to provide NRC and the Agreement State regulatory agencies with the identity of general licensees in their jurisdictions, addresses at which the general licensees can be contacted (which are usually the location of use of the devices), the particulars of the type of device possessed, and the name (or position) of an individual who constitutes a point of contact between the NRC or the Agreement State and the general licensee. These general licensees can then be contacted or inspected. Including the serial number would allow the NRC and Agreement States to track individual devices. The existing reporting requirement in § 31.5(c)(8) does not require the general licensee to report a transfer if it is for the purpose of obtaining a replacement. This is consistent with the original intent of this regulation in that the status of the general licensee is unchanged, only the specific device is changed. In order for individual devices to be tracked, the NRC or Agreement State needs to be informed of such a transfer. The proposed rule would require that the distributor provide this information either to NRC or the appropriate Agreement State. Under existing requirements, quarterly reports are

required to include specifics on any new device transferred but not on the devices returned. The NRC believes that the distributor could include this additional information in the quarterly reports without a significant burden and that the distributor is likely to be more reliable than the general licensee in providing this information. The name and license number of the reporting company and the specific reporting period are typically included in the reports in order to show compliance with the reporting requirement. However, this information is not always readily identifiable.

The individual who acts as contact with the NRC or the Agreement State concerning the general license should have knowledge of the device, the general license, and the regulations pertaining to the general license, or at least know who in the organization does. This is the intent of the existing requirement. However, in practice, the name given to the distributor and reported to the NRC (or the Agreement State) frequently is not an individual with this type of knowledge. The proposed rule would specify that the contact designated be the person (1) assigned responsibility for ensuring that the general licensee is aware of its regulatory responsibilities and (2) who has authority to take required actions for complying with the applicable regulations.

Recordkeeping

The proposed rule would add to the recordkeeping requirements information on final disposition of devices. The recordkeeping requirements concerning transfers would have the period of retention extended from 5 years from the date of the recorded event, to 3 years after the expected useful life of the device or the final disposition, if known. Proposed amendments would be made to § 32.52(c).

It is important that information about the general licensees and the specific devices in their possession be available until the device is disposed of permanently. Requiring the distributor to keep these records for an extended time provides a backup to the recordkeeping of NRC and State regulatory agencies. The records include information on final disposition that may not have been included in reports to NRC and the Agreement States. It is NRC's understanding that these distributors generally keep these records indefinitely. Thus, this regulatory requirement should have little, if any, impact.

In addition, distributors would be required to make available records of final disposition of devices to the various regulatory agencies in the case of bankruptcy or termination of license (new § 32.51a(d)). When a distributor goes out of business and terminates its license, the distributor can no longer be required to retain these records. This requirement would give NRC, as well as State regulatory agencies, the opportunity to obtain and retain records of this type previously kept by the distributor. These records could be helpful in verifying information used to keep track of devices relative to the final disposition of devices. This provision would not require distributors to automatically provide these records unless the NRC or the Agreement State in which the device was distributed makes a request for these records. In the case of bankruptcy, NRC or the Agreement State may want to secure these records early in the process, in case financial difficulties interfere with the licensee fulfilling its responsibilities.

Labeling

The proposed rule would amend the existing labeling requirements to require an additional label on any separable source housing and a permanent label on devices meeting the criteria for registration (new § 32.51(a)(4) and (5) and § 32.51a(c)). The NRC would consider a label ''permanent,'' if, for example, it were embossed, etched, stamped, or engraved in metal. Under these requirements, new distributors would have labels approved as part of obtaining a license; distributors, including existing licensees, would have the new labeling requirements as conditions of license in § 32.51(a)(4) and (5). Approval of the new labels by NRC for existing distributors would not be required. However, distributors may voluntarily submit information for NRC review on how they plan to comply with the new labeling requirements. In any case, labeling is subject to inspection. To the extent necessary, the new labeling requirements would supercede anything contradictory in individual license conditions. The individual license conditions would be updated to include specifics related to the new requirements during the first license renewal or amendment following the effective date of those paragraphs of the rule.

The first change simply carries out the initial intent of the existing requirement for devices where the source may be separable in a housing that does not include the label. It is important that this housing, if separated from the remainder of the device, can also be identified. The impact of this requirement should be minimal. The permanent label for devices requiring registration would provide better assurance that even when a device has been exposed to other than normal use conditions, for example, when a building has been refurbished or demolished with the device in place, the label will be intact and the device may be identified and proper actions can be taken. This may result in a more significant change to the production of devices. Distributors would have 1 year after the effective date of the rule to implement these changes to minimize any impact to the manufacturing and distributing process.

Information To Be Provided to General Licensees

The proposed rule would amend the requirements pertaining to the information distributors must provide to the general licensee (§ 32.51a(a) and (b)). Distributors are now required to provide general licensees with a copy of § 31.5 when the device is transferred. The proposed rule would require that a copy of § 31.5 be provided before transfer. The distributor would also be required to provide copies of additional applicable sections of the regulations, a listing of the services that can only be performed by a specific licensee, and information regarding disposal options for the devices being transferred. The disposal options would include the estimated cost for disposal of the device at the end of its useful life to the extent that the cost information is available to the distributor at the time of the sale of the device. For transfers to general licensees in Agreement States, the distributor may furnish either the applicable NRC regulations or the comparable ones of the Agreement State. In addition, the distributor would furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained.

The general licensee should be aware of the specific requirements before purchasing a generally licensed device, rather than afterward. While the Commission does not want to get involved with details of licensees' business practices, it is the Commission's intent that ''prior to transfer'' would be before a final decision to purchase so that the information can be considered in making that decision. The Commission seeks comment on how best to achieve and enforce this intent. For example: What are the advantages/disadvantages of using the words, ''prior to purchase'' in the regulatory text?

While § 31.5 contains the primary requirements related to the general license, it does not reference the applicable sections of part 30. The general licensee should have copies of at least those regulations that may require an action on his part. The sections of the regulation that would be included in this requirement are believed to be the most important for the general licensee to be aware of. The inclusion of a listing of services that can only be performed by a specific licensee would clarify the services that can and cannot be performed by the general licensee. These services vary depending on the nature and design of the particular device and so are not specified in the regulations. Information on the estimated cost for disposal of the device at the end of its useful life may be a significant factor in a decision to purchase a device because of the high costs of disposing of radioactive materials. In some cases, the cost of disposal could exceed the purchase price of the device.

Additional clarifying amendments would be made in §§ 30.31, 30.34(h), and 31.5(c)(9)(ii). The wording of § 30.31 would provide a similar clarification as that in the Suggested State Regulations with respect to general licenses. The amendment to § 30.34(h) would be consistent with the previously discussed change concerning reporting bankruptcy.

The revision of § 31.5(c)(9)(ii) to include the term, ''intermediate person,'' is intended to provide clarification about intermediate persons holding devices. Specifically, intermediate persons holding devices in their original shipping containers at their intended location of use are general licensees. Distributors licensed under § 32.51, or equivalent Agreement State regulations, must provide information about both intermediate persons and intended users in their quarterly reports submitted under § 32.52(a). Transfers from intermediate persons to intended users under § 31.5(c)(9)(ii) do not need to be reported to NRC because information about the intended user must be reported by the distributor under § 32.52(a).

Minor conforming amendments would also be made to §§ 170.2, 170.3, 171.5, and 171.16.

Public Comments on the Original Proposed Rule

The NRC reviewed the comments received on the December 27, 1991, proposed rule in developing both the proposed rule published on December 2, 1998 (63 FR 66492), and this proposed rule. There were 26 comment letters received from a variety of sources including private and publicly held corporations, private citizens, citizens groups, the Armed Forces, and State governments. These comments have been considered to the extent applicable to each rule. A detailed analysis of the comments received on the December 27, 1991, proposed rule, which was withdrawn by the notice of proposed rulemaking on December 2, 1998, is not presented in either of the subsequent proposed rules because many of the specific comments pertain to specific provisions that have been withdrawn, a great deal of time has passed since these comments were made, and additional opportunity for comment is being provided.

Early State and Public Input

These proposed amendments were provided to the Agreement States twice during its development via the use of the NRC Technical Conference Website and notification to the States of its availability. Input was received following the first posting through discussions at an All Agreement State meeting in October of 1998. The second posting was also available to the public. A notice of availability was published December 31, 1998 (63 FR 72216). The States and the distributors were notified of its availability directly, as well. Two comments were received. One from a State and one from industry. They were generally supportive and indicated points needing clarification.

Summary of Proposed Provisions by Paragraph

Section 30.31—Revision would reconcile the apparent conflict between the description of a general license and a registration requirement.

Section 30.34, paragraph (h)(1)—Revision would make the bankruptcy notification requirement applicable only to those general licensees subject to the registration requirement.

Section 31.1—Revision would clarify that only those paragraphs in part 30 specified in § 31.2 or the particular general license apply to part 31 general licensees.

Section 31.2—Revision would clarify references to the sections of part 30 that are applicable to all of the part 31 general licensees.

Section 31.5, paragraph (b)—Revision would clarify the status of a person who receives a device through an unauthorized transfer by limiting the applicability of the general license to those who receive a device through an authorized transfer; and would remove the restriction on devices distributed by Agreement State licensees in Agreement States without a general license.

Section 31.5, paragraph (c)(5)—Revision would add a plan for ensuring that premises and environs are suitable for unrestricted access, to the information that must be sent to NRC in the case of a failure, when device damage or failure is likely to or known to have resulted in contamination; would change the addressee for reporting information concerning a failure; and would clarify that the criteria in § 20.1402 may be applied in spite of the exemption in § 31.5(c)(10).

Section 31.5, paragraph (c)(8)—Revision would allow transfers to specific licensees authorized under part 30, or equivalent Agreement State regulations, as waste collectors, in addition to currently allowed transfers to part 32 (and Agreement State) licensees; would allow transfers to other specific licensees but only with prior written NRC approval; and would add the recipient's license number, the serial number of the device, and the date of transfer to the information required to be provided to NRC upon transfer of a device.

Section 31.5, paragraph (c)(9)(i)—Revision would add to the reporting requirement, in the case of a transfer to a general licensee taking over possession of a device at the same location, to provide the serial number of the device and the name and phone number of the person identified as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements, rather than simply a contact name.

Section 31.5, paragraph (c)(9)(ii)—Revision would add the term, ''intermediate person,'' to clarify that a report of transfer is not required only when the information on both an intermediate person and an intended user was provided through the distributor in a quarterly material transfer report.

Section 31.5, paragraph (c)(12)—Would add an explicit requirement for the general licensee to appoint an individual assigned responsibility for knowing what regulatory requirements are applicable to the general licensee and having authority to take required actions to comply with the applicable regulations.

Section 31.5, paragraph (c)(13)—Would add an explicit requirement for the general licensee to register devices meeting certain criteria, which specifies the information to be provided and references the fee requirement in § 170.31.

Section 31.5, paragraph (c)(14)—Would add requirement for general licensees to notify NRC of address changes.

Section 31.5, paragraph (c)(15)—Would limit to 2 years the amount of time a general licensee can keep an unused device in storage and allow the deferment of testing during the period of storage.

Section 32.51, paragraphs (a)(4) and (5)—Would add requirement for an additional label on any separable source housing and a permanent label on devices meeting the criteria for registration.

Section 32.51a, paragraphs (a) and (b)—Revision would amend the requirements pertaining to the information distributors must provide to the general licensee. Distributors are now required to provide general licensees with a copy of § 31.5 when the device is transferred. The proposed rule would require that § 31.5 be provided before transfer. The distributor would also be required to provide copies of additional applicable sections of the regulations, a listing of the services that can only be performed by a specific licensee, and information regarding disposal options for the devices being transferred, including estimated costs of disposal. For transfers to general licensees in Agreement States, the distributor may furnish either the applicable NRC regulations or the comparable ones of the Agreement State. In addition, the distributor would furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained.

Section 32.51a, paragraph (c)—Would make labeling requirements a condition of license 1 year after effective date of rule.

Section 32.51a, paragraph (d)—Would add requirement for distributors to make available records of final disposition of devices to the various regulatory agencies in the case of bankruptcy or termination of the distributor's license.

Section 32.52, paragraphs (a) and (b)—Revision would add the following information to the existing quarterly transfer reporting requirement: the serial number and model number of the device; the date of transfer; indication if device is a replacement, and if so, the type, model number, and serial number of the one returned; name and license number of reporting company; and the specific reporting period. Also, the general licensee address would be specified as the mailing address for the location of use of the generally licensed device.

The name and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements would replace the name and/or position of a simple contact between the Commission and the general licensee. Also, a form will be provided for use in making these reports. However, the use of the form would not be required as long as the report is clear and legible and includes all of the required information.

Section 32.52, paragraph (c)—Revision would add to the recordkeeping requirements information on final disposition of devices. The recordkeeping requirements concerning transfers would have the period of retention extended from 5 years from the date of the recorded event to 3 years after the expected useful life of the device or the final disposition, if known.

Section 170.2—Would conform the scope of part 170 to include a general licensee registrant.

Section 170.3—Would revise definition of ''Materials License'' to include part 31 and the words, ''or granted'' as general licenses are granted by regulation rather than individually issued to licensees.

Section 170.31—Revision would add $420 registration fee for general licensees subject to § 31.5(c)(13).

Section 171.5—Would revise definition of ''Materials License'' to include part 31 and the words, ''or granted'' as general licenses are granted by regulation rather than individually issued to licensees.

Section 171.16—Would add category for part 31 general license registration for consistency with the Table in § 170.31.

National Database

The Commission is in the process of developing a new computer database to handle information about general licensees and generally licensed devices. Among other improvements from the currently used system, it will be designed to handle the registration process efficiently with automated features. In doing so, the Commission has given some consideration to whether a national database should be established in which information on the identity of general licensees and device information for all jurisdictions would be maintained, making this information accessible to all Agreement States and the NRC. There are variations on the exact approach that might be taken particularly with respect to access and update authority. At this time, the Commission has not yet found it practical to resolve all the issues related to having broad access to the database.

The Commission would like to give further consideration to establishing such a database. It would not require rulemaking. However, if it were to be established, one option would be to change the material transfer reporting requirements so that distributors would report all transfers to the NRC rather than reporting to all jurisdictions into which transfers of devices are made.

A primary advantage of a national database would be the ease of tracing a ''found'' device back to the general licensee owner responsible for the device. A ''found'' generally licensed device would be considered an orphan source until such time as the responsible general licensee is identified and it is returned to the licensee. The Commission is in the process of modifying the Nuclear Materials Events Database (NMED) to accept and track information on orphan sources nationally (i.e. all States). Access to the NMED will be available to the NRC and all the States. The Commission will encourage the States to use NMED for this purpose so that this category of information will be shared nationally. However, NMED would rely on reporting of events for its data. In order for a device to be traced back to the responsible general licensee, each jurisdiction would need to search its own files. In addition, information in a national general license database would be immediately available, and would contain the most complete information about general licensees and generally licensed devices.

The primary disadvantage to a national database would be the difficulty of maintaining the security of the data, which is primarily made up of proprietary information. A national database would also present more risk to the integrity of the data, because there would be a higher potential for illicit corruption of data.

In considering whether or not to implement a national database and, if so, what the particular approach would be used, there are a number of aspects to be considered including—

(1) Who will maintain the database (the NRC, an independent third party, or each agency maintaining its own data)?

(2) How access to the data would be controlled.

(3) Potential changes to the reporting requirements for transfers.

(4) The ability for the NRC and the Agreement States to protect information of other agencies.

(5) Costs to implement and maintain the system or systems (including training).

The Commission seeks comment on the advantages and disadvantages of implementing a national database and on these related issues.

Specific Questions for Public Comment

The Commission welcomes comments on all aspects of this proposed rule, and is especially interested in receiving comments on the specific questions summarized here:

1. The Commission seeks comment on whether the registration requirement should include a provision that would require the general licensee to complete registration by a certain time, whether or not the NRC requests registration.

2. The Commission requests comment on whether it is appropriate for new devices obtained by registrants to be registered when the annual reregistration is carried out without the NRC having earlier contact after additional devices are received. Earlier contact could be made either by an acknowledgment by NRC to the user or by a required response from the general licensee to account for the additional device(s).

3. The Commission solicits comment on whether general licensees should be required to assign a backup responsible individual (BRI).

4. The Commission seeks comment on how best to achieve and enforce the intent that full disclosure of information required to be provided to general licensee customers by distributors be made early enough to be considered in a decision to purchase. For example: Would it be better to use the words, ''prior to purchase'' in the regulatory text?

5. The Commission seeks comment on the advantages and disadvantages of implementing a national database of general licensees and their devices.

Enforcement

On March 9, 1999 (64 FR 11508), the Commission established an interim enforcement policy for violations of § 31.5 that licensees discover and report during the initial cycle of the registration program. This policy supplements the normal NRC Enforcement Policy in NUREG–1600, Rev. 1. It will remain in effect through one complete cycle of the registration program.

Under this interim enforcement policy, enforcement action normally will not be taken for violations of § 31.5 that are identified by the general licensee, and reported to the NRC if reporting is required, provided that the general licensee takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems and otherwise has undertaken good faith efforts to respond to NRC notices and provide requested information. This change from the Commission's normal enforcement policy is to remove the potential for the threat of enforcement action to be a disincentive for the licensee to identify deficiencies. This approach is warranted given the limited NRC inspections of general licensees. This approach is intended to encourage general licensees to determine if applicable requirements have been met, to search their facilities to ensure sources are located, and to develop appropriate corrective action when deficiencies are found. Under the interim enforcement policy, enforcement action, including issuance of civil penalties and Orders, may be taken where there is—

(a) Failure to take appropriate corrective action to prevent recurrence of similar violations;

(b) Failure to respond and provide the information required by regulation;

(c) Willful failure to provide complete and accurate information to the NRC; or

(d) Other willful violations, such as willfully disposing of generally licensed material in an unauthorized manner.

As noted in the December 2, 1998, proposed rule, the Commission also plans to increase the civil penalty amounts specified in its Enforcement Policy in NUREG–1600, Rev. 1, for violations involving lost or improperly disposed sources or devices. This increase will better relate the civil penalty amount to the costs avoided by the failure to properly dispose of the source or device. Due to the diversity of the types of sources and devices, the Commission is considering the establishment of three levels of base civil penalty for loss or improper disposal. The three levels of base civil penalty would be $5500, $15,000, and $45,000. The higher tiers would be for sources that are relatively costly to dispose of and would be based on approximately three times the average cost of proper transfer or disposal of the source or device.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' published on September 3, 1997 (62 FR 46517), the proposed rule would be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. The revisions to part 32 would be classified as Category B and the revisions to § 31.5 would be classified as Category C. Through this action, existing provisions of § 31.5 would also be reclassified from Category D to Category C. Although changes are being made to §§ 30.31, 30.34(h)(1), 31.1, and 31.2, and parts 170 and 171 as part of this rulemaking, the existing compatibility designations for these regulations will not be affected.

Category B means the provisions affect a program element with significant direct transboundary implications. The State program element should be essentially identical to that of NRC. Category C means the provisions affect a program element, the essential objectives of which should be adopted by the State to avoid conflicts, duplications, or gaps in the national program. The manner in which the essential objectives are addressed need not be the same as NRC provided the essential objectives are met.

Specific information about the compatibility or health and safety components assigned to this rule may be found at Office of State Programs website, http://www.hsrd.ornl.gov/nrc/home.html.

As discussed above, revised § 32.52(a) and (b) would add the following information to the existing distributors' quarterly transfer reporting requirements: the serial number and model number of the device, the date of transfer, indication if the device is a replacement (and if so, the type, model number, and serial number of the device returned), the name and license number of the reporting company, and the specific reporting period. The proposed revisions would also require the name and phone number of a general licensee's ''responsible individual'' rather than simply a contact and would specify that the address of the general licensee be the mailing address for the location of use. According to NRC Management Directive (MD) 5.9, ''Adequacy and Compatibility of Agreement State Programs,'' NRC regulations that should be adopted by an Agreement State for purposes of compatibility should be adopted in a time frame such that the effective date of the State requirement is no later than 3 years after the effective date of NRC's final rule. MD 5.9 also provides that some circumstances may warrant that the States adopt certain regulations in less than the recommended 3-year time frame or that the effective dates for both NRC licensees and Agreement State licensees be the same. The Commission believes it is important to the implementation of this program, and to Agreement State programs, to begin receiving the additional information in

the distributors' quarterly transfer reports as soon as possible. The Commission requests comments on whether NRC and the Agreement States should establish a single implementation date for this provision which would be earlier than is usually allowed for revision of Agreement State rules for compatibility. One approach would be to request Agreement States to require distributors to provide all the information consistent with this rule (proposed § 32.52(a) and (b)) either coincident with the effective date of the Commission's final action on this rulemaking or within 1 year of that effective date. Agreement States would have the flexibility to adopt this provision through rulemaking, license conditions, or other legally binding requirements.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the government's writing be in plain language. This memorandum was published June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in the proposed revisions to improve the organization and readability of the existing language of paragraphs being revised. These types of changes are not discussed further in this notice. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading: **ADDRESSES** above.

Environmental Impact: Categorical Exclusion

The NRC has determined that the revisions proposed in this rule are the types of actions described in the categorical exclusions in § 51.22(c)(1) through (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

The public reporting burden for this information collection is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The time involved is small because most of the proposals are minor revisions to existing information collection requirements. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0016), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by August 25, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis for this proposed regulation. The analysis examines the cost and benefits of the alternatives considered by the NRC. The comments received on the draft regulatory analysis associated with the proposed rule of December 27, 1991, have been considered to the extent that they apply to this action. The regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained by calling Catherine R. Mattsen, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555–0001; telephone (301) 415–6264; or e-mail at CRM@nrc.gov.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission has evaluated the impact of this rule on small entities. The NRC has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.810). The Commission certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The most significant cost of this proposed rule would be the proposed $420 fee to be assessed for each registration. Portions of the proposed rule would apply to the approximately 45,000 persons possessing products under an NRC general license, many of whom may be classified as small entities. However, the annual registration requirement and associated fee would apply to about 5100 of these general licensees. Based on input received previously from small entities who hold specific materials licenses, the NRC believes that the proposed $420 part 170 registration fee would not have a significant economic impact on a substantial number of small entities. The NRC believes that the economic impact of the other proposed requirements on any general licensee would be a negligible increase in administrative burden. The NRC is soliciting comment from the general licensees who meet the NRC's small entity size standards and would be required to register their devices pursuant to part 31 on whether the proposed part 170 fee for their annual registration would have a significant economic impact on their business.

The proposed rule would also revise requirements for specifically licensed distributors of certain generally licensed devices. Currently, there are 28 NRC licensed distributors and approximately 61 Agreement State licensed distributors. Many of these licensees are not small entities and the impact to any of these distributors is not expected to be significant in any case. Distributors who are small entities are also invited to comment on whether they believe the economic impact would be significant.

Those small entities that offer comments on the potential impact on small entities and how that might be minimized should specifically include information on the type and size of their business and how the proposed

regulations would result in a significant economic impact on them as compared to larger organizations in the same business community. To the extent possible, the commenter should provide relevant economic data, such as the licensee's gross annual receipts, as well as number of employees.

Backfit Analysis

The NRC has determined that the backfit rule, § 50.109, does not apply to this proposed rule and, therefore, a backfit analysis is not required because these amendments would not involve any provisions that would impose backfits as defined in § 50.109(a)(1).

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30, 31, 32, 170, and 171.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83, Stat. 444, as amended, (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Sec. 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486; sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 30.31 is revised to read as follows:

§ 30.31 Types of licenses.

Licenses for byproduct material are of two types: General and specific.

(a) The Commission issues a specific license to a named person who has filed an application for the license under the provisions of this part and parts 32–36, and 39 of this chapter.

(b) A general license is provided by regulation, grants authority to a person for certain activities involving byproduct material, and is effective without the filing of an application with the Commission or the issuance of a licensing document to a particular person. However, registration with the Commission may be required by the particular general license.

3. In § 30.34, paragraph (h)(1) is revised to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(h)(1) Each general licensee that is required to register by § 31.5(c)(13) of this chapter and each specific licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code by or against:

(i) The licensee;

(ii) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(iii) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

4. The authority citation for part 31 continues to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

5. Section 31.1 is revised to read as follows:

§ 31.1 Purpose and scope.

This part establishes general licenses for the possession and use of byproduct material and a general license for ownership of byproduct material. Specific provisions of 10 CFR part 30 are applicable to general licenses established by this part. These provisions are specified in § 31.2 or in the particular general license.

6. Section 31.2 is revised to read as follows:

§ 31.2 Terms and conditions.

The general licenses provided in this part are subject to the general provisions of Part 30 of this chapter (§§ 30.1 through 30.10), the provisions of §§ 30.14(d), 30.34(a) to (e), 30.41, 30.50 to 30.53, 30.61 to 30.63, and parts 19, 20, and 21, of this chapter [1] unless indicated otherwise in the specific provision of the general license.

7. In § 31.5, paragraphs (b), (c)(5), (c)(8), and (c)(9) are revised and paragraphs (c)(12), (13), (14), and (15) are added to read as follows:

§ 31.5 Certain measuring, gauging, or controlling devices.[2]

* * * * *

(b)(1) The general license in paragraph (a) of this section applies only to byproduct material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in—

(i) A specific license issued under § 32.51 of this chapter; or

(ii) An equivalent specific license issued by an Agreement State.

(2) The devices must have been received from one of the specific licensees described in paragraph (b)(1)

[1] Attention is directed particularly to the provisions of part 20 of this chapter concerning labeling of containers.

[2] Persons possessing byproduct material in devices under a general license in § 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of § 31.5 in effect on January 14, 1975.

of this section or through a transfer made under paragraph (c)(9) of this section.

(c) * * *

* * * * *

(5) Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair such devices that was issued under parts 30 and 32 of this chapter or by an Agreement State. The device may be disposed of by transfer to a person authorized by a specific license to receive the byproduct material contained in the device. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days. Under these circumstances, the criteria set out in § 20.1402, ''Radiological criteria for unrestricted use.'' may be applicable, as determined by the Commission on a case-by-case basis;

* * * * *

(8)(i) Shall transfer or dispose of the device containing byproduct material only by transfer to another general licensee as authorized in paragraph (c)(9) of this section or to a person authorized to receive the device by a specific license issued under parts 30 and 32 of this chapter, part 30 of this chapter that authorizes waste collection, or equivalent regulations of an Agreement State, or as approved under paragraph (c)(8)(iii) of this section.

(ii) Shall furnish a report to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days after the transfer of a device to a specific licensee. A report is not required if the device is transferred to the specific licensee in order to obtain a replacement device from the same specific licensee. The report must contain—

(A) The identification of the device by manufacturer's name, model number, and serial number;

(B) The name, address, and license number of the person receiving the device; and

(C) The date of the transfer.

(iii) Shall obtain written NRC approval before transferring the device to any other specific licensee.

(9) Shall transfer the device to another general licensee only if—

(i) The device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of this section and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report the manufacturer's name and the model number and the serial number of the device transferred, the name and address of the transferee, and the name and phone number of the responsible individual identified by the transferee in accordance with paragraph (c)(12) of this section to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or

(ii) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee.

* * * * *

(12) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of responsibility in this regard.

(13)(i) Shall register, in accordance with paragraphs (c)(13)(ii) and (iii) of this section, devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, or 37 MBq (1 mCi) of americium-241 or any other transuranic, i.e., element with atomic number greater than uranium (92), based on the activity indicated on the label.

(ii) If in possession of a device meeting the criteria of paragraph (c)(13)(i) of this section, shall register these devices annually with the Commission and shall pay the fee required by § 170.31 of this chapter. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the Commission. The registration information must be submitted to the NRC within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of paragraph (c)(13)(i) of this section is subject to the bankruptcy notification requirement in § 30.34(h) of this chapter.

(iii) In registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Commission—

(A) Name and mailing address of the general licensee.

(B) Information about each device: The manufacturer, model number, serial number, the radioisotope and activity (as indicated on the label).

(C) Name and telephone number of the responsible person designated as a representative of the general licensee under paragraph (c)(12) of this section.

(D) Address at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(14) Shall report changes of address (including change in name of general licensee) to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days of the effective date of the change. If it is a portable device, a report of address change is only required for a change in the device's primary place of storage.

(15) May not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by paragraph (c)(2) of this section need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before

use or transfer and the shutter tested before use.

* * * * *

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

8. The authority citation for part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

9. In § 32.51, paragraphs (a)(4) and (5) are added to read as follows:

§ 32.51 Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer.

(a) * * *

(4) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, ''Caution—Radioactive Material,'' the radiation symbol described in § 20.1901 of this chapter, and the name of the manufacturer or initial distributor.

(5) Each device meeting the criteria of § 31.5(c)(13)(i) of this chapter, bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, ''Caution—Radioactive Material,'' and, if practicable, the radiation symbol described in § 20.1901 of this chapter.

* * * * *

10. Section 32.51a is revised to read as follows:

§ 32.51a Same: Conditions of licenses.

(a) If a device containing byproduct material is to be transferred for use under the general license contained in § 31.5 of this chapter, each person that is licensed under § 32.51 shall provide the information specified in this paragraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes—

(1) A copy of the general license contained in § 31.5 of this chapter;

(2) A copy of §§ 31.2, 30.51, 20.2201, and 20.2202 of this chapter;

(3) A list of the services that can only be performed by a specific licensee; and (4) Information on acceptable disposal options including estimated costs of disposal.

(b) If byproduct material is to be transferred in a device for use under an equivalent general license of an Agreement State, each person that is licensed under § 32.51 shall provide the information specified in this paragraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes —

(1) A copy of the Agreement State's regulations equivalent to §§ 31.5, 31.2, 30.51, 20.2201, and 20.2202 of this chapter or a copy of §§ 31.5, 31.2, 30.51, 20.2201, and 20.2202 of this chapter. If a copy of the NRC regulations is provided to a prospective general licensee, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State;

(2) A list of the services that can only be performed by a specific licensee;

(3) Information on acceptable disposal options including estimated costs of disposal; and (4) The name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained.

(c) Each device that is transferred after (insert date 1 year after the effective date of this rule) must meet the labeling requirements in § 32.51(a)(3) through (5).

(d) If a notification of bankruptcy has been made under § 30.34(h) or the license is to be terminated, each person licensed under § 32.51 shall provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under § 32.52(c).

11. Section 32.52 is revised to read as follows:

§ 32.52 Same: Material transfer reports and records.

Each person licensed under § 32.51 to initially transfer devices to generally licensed persons shall comply with the requirements of this section.

(a) The person shall report all transfers of devices to persons for use under the general license in § 31.5 of this chapter to the Director of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The report must be submitted on a quarterly basis on Form 653—''Transfers of Industrial Devices Report'' or in a clear and legible report containing all of the data required by the form.

(1) The required information includes—

(i) The identity of each general licensee by name and mailing address for the location of use;

(ii) The name and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(iii) The date of transfer;

(iv) The type, model number, and serial number of the device transferred; and

(v) The quantity and type of byproduct material contained in the device.

(2) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(3) If a device transferred replaced another returned by the general licensee, the report must also include the type, model number, and serial number of the one returned.

(4) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(5) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(6) If no transfers have been made to persons generally licensed under § 31.5 of this chapter during the reporting period, the report must so indicate.

(b) The person shall report all transfers of devices to persons for use under a general license in an Agreement State's regulations that are equivalent to § 31.5 of this chapter to the responsible Agreement State agency. The report must be submitted on Form 653—''Transfers of Industrial Devices Report'' or in a clear and legible report containing all of the data required by the form.

(1) The required information includes—

(i) The identity of each general licensee by name and mailing address for the location of use;

(ii) The name and phone number of the person identified by the general licensee as having knowledge of and

authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(iii) The date of transfer;

(iv) The type, model number, and serial number of the device transferred; and

(v) The quantity and type of byproduct material contained in the device.

(2) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(3) If a device transferred replaced another returned by the general licensee, the report must also include the type, model number, and serial number of the one returned.

(4) The report must be submitted within 30 days after the end of each calendar quarter in which such a device is transferred to the generally licensed person and clearly indicate the period covered by the report.

(5) The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

(6) If no transfers have been made to a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency.

(c) The person shall keep records of all transfers of devices for each general licensee including all the information in the reports required by this section and records of final disposition. Records required by this paragraph must be maintained for a period of 3 years following the estimated useful life of the device or the date of final disposition, if known.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

12. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 9701; sec. 301, Pub. L. 92—314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205, Pub. L. 101–576, 104 Stat. 2842, (31 U.S.C. 9012).

13. Section 170.2 is amended by adding a paragraph (r) to read as follows:

§ 170.2 Scope.

* * * * *

(r) A holder of a general license granted by 10 CFR part 31 who is required to register a device(s).

14. In § 170.3, the definition of *Materials License* is revised to read as follows:

§ 170.3 Definitions.

* * * * *

Materials License means a license, certificate, approval, registration, or other form of permission issued or granted by the NRC pursuant to the regulations in 10 CFR parts 30, 31 through 36, 39, 40, 61, 70, 71 and 72.

* * * * *

15. Section 170.31 is amended by adding a fee category, 3. Q. to the schedule of materials fees and amending footnote 1 to add a paragraph (f).

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2,3]
* * * * *	
3. * * *	
Q. Registration of a device(s) generally licensed pursuant to Part 31	$420
* * * * *	

[1] Types of fees.

* * *

(f) Generally licensed device registrations under 10 CFR 31.5. Submittals of registration information must be accompanied by the prescribed fee.

* * * * *

PART 171—ANNUAL FEES FOR REACTOR OPERATING LICENSES, AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

16. The authority citation for part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2106 as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388 (42 U.S.C. 2213); sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 88 Stat. 1242 as amended (42 U.S.C. 5841; sec. 2903, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2214 note).

17. In § 171.5, the definition of Materials License is revised to read as follows:

§ 171.5 Definitions.

* * * * *

Materials License means a license, certificate, approval, registration, or other form of permission issued or granted by the NRC pursuant to the regulations in 10 CFR parts 30, 31 through 36, 39, 40, 61, 70, 71, and 72.

* * * * *

18. In § 171.16, paragraph (d) is amended by adding a fee category, 3. Q. to the schedule of annual fees.

§ 171.16 Annual fees: Material Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

* * * * *

(d) * * *

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials license	Annual fees [1,2,3]
* * * * *	
3. * * *	
Q. Registration of devices generally licensed pursuant to part 31	[11]N/A
* * * * *	

[11] No annual fee is charged for this category since the cost of the general license registration program will be recovered through 10 CFR part 170 fees.

Dated at Rockville, MD., this 19th day of July, 1999.

For the Nuclear Regulatory Commission.

J. Samuel Walker,

Acting Secretary of the Commission.

[FR Doc. 99–18981 Filed 7–23–99; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement Public Law 106–22, enacted on April 27, 1999, which establishes new rules for the loan loss reserve fund which an intermediary must maintain to participate in SBA's microloan program.

DATES: Comments must be submitted on or before August 25, 1999.

ADDRESSES: Comments should be mailed to Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street, SW., Washington, DC. 20416.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, 202–205–6497.

SUPPLEMENTARY INFORMATION: Public Law 106–22, enacted on April 27, 1999, amended section 7(m) of the Small Business Act (15 U.S.C. 636(7)(m)) in order to change the requirements for the loan loss reserve fund (LLRF) which each intermediary in the SBA's microloan program must maintain. The LLRF is an interest-bearing deposit account at a bank. An intermediary must establish an LLRF to pay any shortage in its day-to-day revolving account caused by delinquencies or losses on microloans it makes to qualified small business borrowers. An intermediary must maintain the LLRF until it repays all obligations it owes to the SBA.

Under the present rule, an intermediary, during its first year in the microloan program, must maintain its LLRF at a level equal to at least 15 percent of the total outstanding balance of notes receivable owed to it by its microloan borrowers (Portfolio). Thereafter, the minimum balance that an intermediary must maintain in its LLRF must be the percent of its Portfolio equal to its actual average loan loss rate after its first year in the microloan program. The maximum level of the LLRF, under the present rule, cannot exceed 15 percent of the Portfolio. There is no prescribed minimum level.

Under the proposed rule, until the intermediary is in the microloan program for at least five years, it would be required to maintain a balance on deposit in its LLRF equal to 15 percent of its Portfolio. After an intermediary is in the microloan program for five years, it may request SBA's Associate Administrator for Financial Assistance (AA/FA) to grant the intermediary's request to reduce the percentage of its Portfolio which it must maintain in its LLRF to an amount equal to its actual average loan loss rate during the preceding five year period. The AA/FA would review the intermediary's annual loss rate for that five year period and determine whether he or she should grant the intermediary's request. The AA/FA could not reduce the loan loss reserve to under ten percent of the Portfolio.

Under the proposed rule, to get a reduction in its loan loss reserve, an intermediary must demonstrate to the satisfaction of the AA/FA that (1) its average annual loss rate during the preceding five years is under fifteen percent, and (2) no other factors exist that might impair its ability to repay all obligations which it may owe to SBA under the microloan program.

Compliance With Executive Orders 12612, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule does not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

SBA certifies that this proposed rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this proposed rule is drafted, to the extent practicable, to accord with the standards set forth in section 3 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs-business.

For the reasons stated in the preamble, under the authority in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6), the Small Business Administration proposes to amend 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. Amend § 120.710 by revising paragraphs (b) and (c) and by adding paragraphs (d) and (e) to read as follows:

§ 120.710 What is the Loan Loss Reserve Fund?

* * * * *

(b) *Level of Loan Loss Reserve Fund.* Until it is in the Microloan program for at least five years, an Intermediary must maintain a balance on deposit in its LLRF equal to 15 percent of the outstanding balance of the notes receivable owed to it by its Microloan borrowers (''Portfolio'').

(c) *SBA Review of Loan Loss Reserve.* After an Intermediary has been in the Microloan program for five years, it may request the SBA's AA/FA to reduce the percentage of its Portfolio which it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five year period. Upon receipt of such request, the AA/FA will review the Intermediary's annual loss rate for the most recent five-year period preceding the request.

(d) *Reduction of Loan Loss Reserve.* The AA/FA has the authority to reduce the percentage of an Intermediary's Portfolio which it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five year period. The AA/FA can not reduce the loan loss reserve to less than ten percent of the Portfolio.

(e) *What Intermediary Must Demonstrate to Get a Reduction in Loan Loss Reserve.* To get a reduction in its loan loss reserve, an Intermediary must demonstrate to the satisfaction of the AA/FA that

(1) Its average annual loss rate during the preceding five years is less than fifteen percent, and

(2) No other factors exist that may impair the Intermediary's ability to repay all obligations which it owes to the SBA under the Microloan program.

Dated: July 20, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–18956 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; General Building Contractors, Heavy Construction, Dredging and Surface Cleanup Activities, Special Trade Contractors, Garbage and Refuse Collection, and Refuse Systems

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes a size standard of $25.0 million in average annual receipts for all industries in General Building Contractors (Standard Industrial Classification (SIC) Major Group 15) and for all industries except Dredging and Surface Cleanup Activities in Heavy Construction Other Than Building Construction (SIC Major Group 16); $20.0 million for Dredging and Surface Cleanup Activities (part of SIC 1629, Heavy Construction, Not Elsewhere Classified (NEC)); $10.5 million for all Special Trade Contractors industries (SIC Major Group 17); and $9.0 million for Garbage and Refuse Collection, Without Disposal (part of SIC 4212, Local Trucking Without Storage), and Refuse Systems (SIC 4953). The proposed revisions are being made to adjust these industries' size standards for the effects of inflation since the time they were established in the mid-1980s.

DATES: Comments must be submitted on or before September 24, 1999.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW, Mail Code 6880, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: SBA proposes revisions to its size standards in two industry groups—Construction and Refuse Systems and Related Services. For Construction, SBA proposes an increase to the size standards for all industries in General Building Contractors and Heavy Construction (except Dredging and Surface Cleanup Activities), Major Groups 15 and 16, respectively, from $17 million in average annual receipts to $25 million; for Dredging and Surface Cleanup Activities (a component of SIC 1629, Heavy Construction, NEC), from $13.5 million to $20 million; and for all industries in Special Trade Contractors, Major Group 17, from $7 million to $10.5 million. For the two industries comprising Refuse Systems and Related Services, SBA proposes an increase to the size standard from $6 million to $9 million for Garbage and Refuse Collection, part of SIC 4212 (Local Trucking Without Storage) and for Refuse Systems, SIC 4953.

These proposed revisions adjust the current size standards for inflation that has occurred since 1984, when all but one of these size standards became effective. The size standard for Dredging and Surface Cleanup Activities became effective on December 9, 1985 (50 FR 46418, November 8, 1985), based on a special study of the industrial structure of the Dredging industry. That study essentially verified that the inflation adjustment of 40% which applied to all other Construction industries in 1984 was also appropriate for Dredging. Thus, SBA believes it is appropriate to apply the 1994 inflation adjustment to the Dredging industry without any adjustment for the later date when the Dredging size standard actually took effect.

From September 30, 1988 until September 30, 1996, SBA was prohibited by statute from changing the size standards for the Construction and Refuse Systems and Related Services industries. These industries are subject to the special procurement procedures of the Small Business Competitiveness Demonstration Program (Program) (Title VII of Pub. L. 100–656, 102 Stat. 3853, 3889). This Program specifies special procedures on the use of small business set-aside contracting for the procurement of services within four designated industry groups. The designated groups are: Construction (SIC codes 1521–1542, SIC codes 1611–1629 and SIC codes 1711–1799); Engineering Services (SIC code 8711), Architectural Services (SIC code 8712), and Surveying and Mapping Services (SIC codes 8713 and part of SIC code 7389); Refuse Systems and Related Services (SIC code 4953 and part of SIC code 4212); and Non-nuclear Ship Repair (part of SIC code 3731, Ship Building and Repairing).

Between 1988 and 1996, the Program included a provision that prohibited any change to the size standards for any industry in the designated industry groups that were in effect as of September 30, 1988. However, the Small Business Act of 1996 included an amendment to the Program that repealed this prohibition (Omnibus Consolidated Appropriations Act, 1997, Division D, Title I, section 108 of Pub. L. 104–208, 110 Stat. 3009–733.) In the accompanying legislative history, Congress indicated that SBA should take appropriate action to adjust the size standards for the designated industry groups, although no specific guidance was provided on how these size standards should be adjusted by SBA.

SBA's preliminary assessment of the industries covered by the Program indicated that the size standards for the Engineering Services, Architectural Services, and Surveying and Mapping Services industries, among the lowest of SBA's size standards, were more in need of adjustment than the other size standards. Further review of those industries led to a proposed rule to increase their size standards published

on February 3, 1998 (63 FR 5480) and a final rule adopting new size standards published on May 14, 1999 (64 FR 26275). At this time, SBA is proposing only an inflation adjustment to the remaining industries covered by the Program which have a receipts-based size standard. A decision will be made at a later time on whether to propose a change to the 1,000-employee size standard for Non-nuclear Ship Repair.

The inflation adjustment proposed for the Construction and Refuse Systems and Related Services industries' size standards is identical to the percentage SBA made to most of its receipts-based size standards in 1994 (see 59 FR 16513, April 7, 1994) to account for the effects of inflation that had occurred since 1984, the year of SBA's previous inflationary adjustment (49 FR 5024, February 9, 1984). SBA is choosing to adjust these size standards to the levels that would have occurred in 1994, if they could have been adjusted at that time, so that all receipts-based size standards will be adjusted for inflation to the same point in time. All of SBA's receipts-based size standards will have been adjusted to the same time period if this rule becomes final (except for the agricultural production size standards which are statutorily set). SBA recognizes that inflation has occurred since 1994, but not to a sufficient amount to warrant further adjustment at this time to these or other receipts-based size standards. SBA will make a consistent inflation adjustment to all receipts-based size standards when data suggest the need for such an inflation adjustment.

Inflation Adjustment Methodology

On April 7, 1994, SBA adjusted most of its receipt-based size standards to account for the effects of inflation that had occurred since SBA's previous inflationary adjustment in 1984 (59 FR 16513, April 7, 1994). In that rule, SBA applied an inflation adjustment of 48.2% to each receipts-based size standard and then rounded that level to the nearest half million dollar increment. This rounding method produces increases to most industry size standards that are slightly above or below the calculated inflation rate of 48.2%.

In determining the rate of inflation, SBA used the U.S. Department of Commerce's Gross Domestic Product (GDP) Implicit Price Deflator. The 1994 adjustment calculated inflation from the third quarter of 1982 (the ending period for the previous inflation adjustment in 1984) to the fourth quarter of 1993 (the latest data available at the time of the 1994 final rule). SBA proposes to make the same adjustments to the industries addressed in this notice of proposed rulemaking.

Dominant in Field of Operation

Section 3(a) of the Small Business Act defines a small concern as one that is:

1. Independently owned and operated,
2. Not dominant in its field of operation, and
3. Meets detailed definitions or standards established by the Administrator of SBA.

In lieu of a separate small business eligibility criterion, SBA includes as part of its evaluation of a size standard whether a concern at or below a recommended size standard would be considered dominant in its field of operation. This assessment generally takes into consideration the market share of firms at a recommended size standard, or other factors that may reveal if a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

SBA has determined that at the recommended size standards of $25.0 million for General Building Contractors and Heavy Construction, $20 million for Dredging and Surface Cleanup Activities, $10.5 million for Special Trade Contractors and $9.0 million for Garbage and Refuse Collection and for Refuse Systems, no firm at or below those levels would be of a sufficient size to be dominant in its field of operation. Firms at the proposed size standards generate less than one percent of total industry sales for each industry reviewed in this proposed rule. This low level of market share for the largest firm covered by SBA's proposed size standards effectively precludes any ability by a firm to exert a controlling effect on the industry in which it operates.

Alternative Size Standards

SBA considered adjusting the Construction and Refuse Systems and Related Services size standards by the amount of inflation that has been reported by the latest available GDP deflator (first quarter of 1999). The GDP deflator records an inflation rate of 60.6% from the third quarter of 1982 through the first quarter of 1999. As discussed earlier, if this adjustment were applied to the Construction and Refuse Systems and Related Services size standards it would result in receipts-based size standards being adjusted at different time periods.

SBA is closely monitoring the amount of inflation that has occurred since the 1994 adjustment and will propose an inflation adjustment to all receipts-based size standards when it has determined that a significant amount of inflation has occurred to warrant such an adjustment. Thus far, inflation has only increased 9.6% since the 1994 adjustment—an amount too small to warrant an inflation adjustment at this time. Furthermore, industry data from the U.S. Bureau of the Census' 1997 Economic Census will be available next year upon which to reassess these industries' size standards.

SBA welcomes public comments on the proposed size standards for the Construction and Refuse Systems and Related Services industries. Comments on alternative size standards should explain the reasons why they are preferable to the proposed size standards.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.***, and the Paperwork Reduction Act, 44 U.S.C. 3501** *et seq.*

SBA certifies that this rule, if adopted, would be a significant regulatory action within the meaning of Executive Order 12866 since it is expected to have an annual economic impact of over $100 million. For purposes of the Regulatory Flexibility Act, this rule would have a significant impact on a substantial number of small businesses if adopted. Immediately below, SBA has set forth an initial regulatory flexibility analysis and economic impact analysis of this proposed rule.

1. Description of Entities to Which the Rule Applies

SBA estimates that 2,279 additional firms would be considered small as a result of this rule, if adopted. These firms would be eligible to seek available SBA assistance provided they meet other program requirements. Many of these firms (if in existence at the time) probably had small business status in 1984 when the size standards for these industries were established, but have since lost eligibility because of inflationary increases.

Of the additional firms gaining eligibility, 621 operate in General Building Contractors, 375 operate in Heavy Construction, 1,153 operate in the Special Trade Construction industries, while 130 operate in Refuse Systems and Related Services.

Firms becoming eligible for SBA assistance as a result of this rule cumulatively generate $28.9 billion in annual sales, while total sales in these industries are $564 billion. Of the $28.9 billion in annual sales for newly eligible firms, $11.7 billion are in the General

Building Contractors industry, $7.2 billion are in Heavy Construction, $9.1 billion are in the Special Trades and $0.9 billion are in Refuse Systems and Related Services.

SBA estimates that out of the approximately $7.85 billion in total initial Federal contracts per year, an additional $400 million worth of contracts could be awarded to firms designated as small firms in the four industry groups affected by this rule. Of these contracts, $378 million could be awarded to the newly defined firms and $22 million to current small firms. These contracts could be obtained through awards under the small business set-aside Program, the 8(a) Program, the Small Disadvantaged Business (SDB) Program, the HUBZone Empowerment Contracting Program, or on an unrestricted basis.

Also, these newly defined small businesses would be eligible for SBA's financial assistance programs and could potentially receive an estimated $21.2 million in loans under the 7(a) Guaranteed Loan Program and $3.9 million in loans under the Certified Development Company (504) Program.

2. Description of Potential Benefits of the Rule

This rule will result in an increase in the number of firms eligible for small business set-aside contracts, the 8(a) Program, the HUBZone Program, and SDB and HUBZone price preferences. For Federal contracts set aside for small business or competed under the 8(a) and HUBZone Programs, this rule will lead to an increase in competition for these contracts and thus lower overall costs to the government.

When an SDB or HUBZone firm competes for an unrestricted contract, the Federal government generally allows them a price preference of up to 10%. This rule may increase the number of firms competing for these contracts in two ways. First, the number of SDB and HUBZone firms will increase. Second, with more small firms competing on unrestricted contracts, the government may decide to set aside more contracts for competition among all small businesses where they had previously awarded price preferences. Any increase in competition that results in a more efficient or competitive firm winning a contract will result in a benefit.

3. Description of Potential Costs of the Rule

In areas where the rule acts to decrease competition for contacts, it may lead to an increase in costs. This may occur in areas where small businesses are currently not present or are not bidding on Federal contracts. If, after issuance of this rule, small businesses bid on these contracts and require the government to provide a price preference or this rule causes a decision to set aside a contract under one of the procurement preference programs, it may increase costs to the Federal government on some contracts. These additional costs will be relatively minor since, as a matter of policy, procurements may be set aside for small businesses or under the 8(a) and HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

4. Transfers

The primary effect of the rule will be transfers among the four parties involved—Federal government, large firms, firms gaining small business status under this rule, and firms that are currently small firms. SBA estimates that, of the $400 million in Federal contracts expected to be awarded to the small firms, approximately 11.3%, or $45.2 million, may be reallocated from large firms to current small firms and the newly defined small firms.

The remaining $354.8 million of contacts will not change hands, rather, the firms holding the contracts will be reclassified as small under the rule. In addition, of $3.9 billion of initial contracts awarded to small firms, SBA estimates that $43.8 million could be transferred from current small firms to larger, more efficient or competitive, newly defined small firms.

5. Description of Reasons Why This Action Is Being Taken and Objectives of Rule

SBA has provided in the supplementary information a statement of the reasons why these new size standards should be established and a statement of the reasons for and the objectives of this rule.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, SBA certifies that this rule would not impose new reporting or record keeping requirements. For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs-business, Loan programs-business, Small business.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: Pub. L. 105–135 sec. 601 *et. seq.*, 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

§ 121.201 [Amended]

2. In § 121.201, the table ''SIZE STANDARDS BY SIC INDUSTRY,'' is amended as follows:

a. Revise DIVISION C—CONSTRUCTION:

b. Under DIVISION E—TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES, MAJOR GROUP 42–MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING, revise the entry 4212 (Part):

c. Under DIVISION E—TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES, MAJOR GROUP 49–ELECTRIC, GAS, AND SANITARY SERVICES, revise the entry 4953 to read as follows:

SIZE STANDARDS BY SIC INDUSTRY

SIC code and description	Size standards in number of employees or millions of dollars
* * * * * * *	
DIVISION C—CONSTRUCTION	
MAJOR GROUP 15–GENERAL BUILDING CONTRACTORS	$25.0

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
MAJOR GROUP 16–HEAVY CONSTRUCTION, NON BUILDING	$25.0
EXCEPT:	
1629 (Part) Dredging and Surface Cleanup Activities	$20.01 [1]
MAJOR GROUP 17—CONSTRUCTION-SPECIAL TRADE CONTRACTORS	$10.5
* * * * * * *	
DIVISION E—TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	
* * * * * * *	
4212 (Part) Garbage and Refuse Collection, Without Disposal	9.0
* * * * * * *	
4953 Refuse Systems	9.0

[1] SIC code 1629–Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

Dated: May 28, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–18955 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Arrangement of Transportation of Freight and Cargo

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to modify the way average annual receipts are calculated for firms in the Arrangement of Transportation of Freight and Cargo industry (Standard Industrial Classification (SIC) code 4731). This rule would exclude funds received in trust for unaffiliated third parties from calculation of a firm's receipts. The current size standard for this industry, $18.5 million, is based on gross billings and is equivalent to a firm size of $1.85 million in income from commissions and fees. SBA also proposes a size standard of $5 million in average annual receipts (after excluding funds received in trust for unaffiliated third parties). The revisions are proposed to better define the size of business in this industry that SBA believes should be eligible for Federal small business assistance programs.

DATES: Submit comments on or before September 24, 1999.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, S.W., Mail Code 6880, Washington D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Patricia B. Holden, Office of Size Standards, (202) 205–6618 or (202) 205–6385.

SUPPLEMENTARY INFORMATION: SBA received requests from the public to review the size standard for the Arrangement of Transportation of Freight and Cargo industry (SIC 4731). These requests express concern about the way average annual receipts are calculated for freight forwarders and customs brokers in this industry.

Under SBA's Small Business Size Regulations (13 CFR 121.104), the size of a firm for a receipts-based size standard is based on information reported on a firm's Federal tax returns. Generally, receipts reported to the Internal Revenue Service (IRS) include a firm's gross receipts or sales from provision of goods or services. The requesters believe that receipts collected for payment of charges imposed by the actual transportation provider or shipper should not be included in the calculation of a freight forwarder and customs broker's average annual receipts for size determination purposes.

SBA evaluated this issue and agrees that certain types of receipts should be excluded from the calculation of size for firms in this industry. Related to this issue is whether the current size standard is appropriate if a significant proportion of receipts is excluded from a firm's gross receipts. In reviewing the size standard for this industry, SBA believes the current $18.5 million size standard is not appropriate if size is not measured by gross receipts.

Accordingly, SBA proposes a revision to the size standard for the Arrangement of Transportation of Freight and Cargo industry by excluding funds received in trust for unaffiliated third parties and by changing the size standard from $18.5 million in average annual receipts (gross receipts) to $5 million (excluding funds received in trust for unaffiliated third parties). The following discussion explains the reasons for these two proposed revisions.

Calculation of Average Annual Receipts

Although SBA reviews requests to exclude receipts of certain business activities on a case-by-case basis, the structure of the reviews is consistent with past proposed rules on this issue (e.g., advertising agencies, 57 FR 38452, and conference management planners, 60 FR 57982). The reviews identify and evaluate five industry characteristics under which it might be appropriate to exclude certain funds received and later transmitted to an unaffiliated third party:

1. A broker or agent-like relationship exists between a firm and a third party provider which is a dominant or crucial activity of firms in the industry;
2. The pass-through funds associated with the broker or agent-like relationship are a significant portion of the firm's total receipts;
3. Consistent with the normal business practice of firms in the industry, a firm's income remaining after the pass-through funds are remitted to a third party is typically derived from a standard commission or fee;
4. Firms in this industry do not usually consider billings that are reimbursed to other firms as their own income, preferring instead to count only

receipts that are retained for their own use; and,

5. Federal government agencies which engage in the collection of statistics and other industry analysts typically represent receipts of the industry firms on an adjusted receipts basis.

SBA's review of information obtained on the Arrangement of Transportation of Freight and Cargo industry finds that these characteristics exist in the industry. These characteristics support the proposal to exclude funds received in trust for unaffiliated third parties from the calculation of a freight forwarder's or customs broker's receipts-size. The following discussion summarizes these findings.

1. Agent-Like Relationship

The Standard Industrial Classification Manual (1987) states that this industry encompasses ''establishments primarily engaged in furnishing shipping information and acting as agents in arranging transportation for freight and cargo'' (See SIC 4731, page 280). About half of the establishments in this industry are freight forwarders and customs brokers who advise customers on the options for transporting cargo and coordinate the actual shipment of cargo. These firms act as agents, ensuring that customs, shippers and others for whom the funds are collected get paid. The remaining establishments are other types of agents and brokers and establishments that provide shipping information. Therefore, the dominant activity in this industry is carried out in a broker or agent-like relationship.

2. Pass-Through Funds Are a Significant Portion of Total Receipts

It is common practice in the industry, although not mandatory, for the client's bill from the freight forwarder and customs broker to include charges of transportation providers, duties, etc., which are temporarily held in trust by the firm for remittance to the transportation provider, government agency, or other parties. The charges by other providers are stated on the bill. Moreover, these remitted funds are typically much larger in magnitude than the firm's own earnings for arranging the transportation. It is not unusual for the remitted funds to be over 90% of the total billing.

3. Remaining Income Is Derived From Standard Commission or Fee

The freight forwarder or customs broker earns income as a commission from the transportation provider or as a fee for services from their customers. Only six percent to ten percent of the billings are income from commissions and fees.

4. Firms in This Industry Only Count Receipts Retained for Their Own Use

Firms in this industry do not consider funds collected for unaffiliated third parties as their own funds. As discussed above, the role of freight forwarders and customs brokers is to facilitate the transportation of goods, not to act as the actual shipper. Their income is largely derived from commissions and fees provided by the underlying transporter from the payment of shipping charges paid on behalf of the customer. This payment structure shows that charges for shipping costs are not those of the freight forwarder or customs broker. This point is also reinforced by the fifth and final characteristic.

5. Federal Agencies and Industry Analysts Typically Represent Receipts of These Firms on an Adjusted Receipts Basis

Finally, data from the U.S. Bureau of the Census (Census Bureau) on this industry that SBA uses to evaluate size standards show firm receipts on a commission or fee basis. The survey form used by the Census Bureau (UT 4700) when surveying freight forwarders, customs brokers, shipping agents, and other freight brokers or arrangers specifically instructs them to only report ''Agency or brokerage commissions or fees for arranging transportation of freight and cargo'' and ''Freight Forwarding (net)'' (UT 4700, Page 2, items 1 and 2).

Thus, the Census Bureau recognizes that the normal arrangement in this industry is to handle money for others, retaining a small fraction as commission or fee income. Similarly, the credit reporting firm of Dun and Bradstreet also reports receipts for firms in this industry by using income derived from commission and fees, not gross billings.

Based on these findings, SBA believes it is appropriate to exclude amounts collected on behalf of a third party when calculating receipts for firms in the Arrangement of Transportation of Freight and Cargo industry, as it presently does for real estate agencies, travel agencies, conference planners and advertising agencies. More specifically, charges by the shipper for transporting cargo, customs duties, and other direct fees associated with the cost of shipping cargo which the firm holds in trust for an unaffiliated third party and to which it does not have a claim of right would be excluded from gross receipts. Receipts from fees, commissions, and income derived from other activities would be attributable to the firm.

Size Standard for the Arrangement of Transportation of Freight and Cargo

The above proposal effectively increases the current $18.5 million size standard. A firm with receipts exclusive of pass-throughs to third parties of $18.5 million would be equivalent to a firm with gross billings between $185 million to $308 million.

Accordingly, SBA believes it is appropriate to re-evaluate the size standard along with its proposal to allow exclusions for certain types of pass-through funds. Based on that evaluation, SBA proposes a $5 million size standard for this industry—net of pass-through funds. The following discussion describes SBA's size standards methodology and the evaluation of data on the Arrangement of Transportation of Freight and Cargo industry supporting a revision to the current size standard.

Size Standards Methodology

Congress granted SBA discretion to establish detailed size standards. SBA's Standard Operating Procedure (SOP) 90 01 3 ''Size Determination Program'' sets out four categories for establishing and evaluating size standards:

(1) The structure of the industry and its various economic characteristics.

(2) SBA program objectives and the impact of different size standards on these programs.

(3) Whether a size standard successfully excludes those businesses which are dominant in the industry, and

(4) Other factors, if applicable.

Other factors may come to SBA's attention during the public comment period or from SBA's own research on the industry. The reason SBA has not adopted a general formula or uniform weighting system is to ensure that the factors will be evaluated in context of a specific industry. Below is a discussion of SBA's analysis of the economic characteristics of an industry, the impact of a size standard on SBA programs, and the evaluation of whether a firm at or below a size standard could be considered dominant in the industry.

Industry Analysis

In 13 CFR part 121.102 (a) and (b), evaluation factors are listed which are the primary factors describing the structural characteristics of an industry—average firm size, distribution of firms by size, start-up costs and entry barriers, and degree of industry competition. While these evaluation factors are generally considered the most important indicators of industry structure, SBA will consider and evaluate all relevant information that

would assist it in assessing an industry's size standard. Below is a brief description of the industry structure evaluation factors.

1. *Average firm size* is simply total industry revenues (or number of employees) divided by the total number of firms. If an industry has an average firm size significantly higher than the average firm size of a group of comparative industries (in this case, industries with the anchor size standard of $5 million in receipts), this fact may support establishing a higher size standard than the one in effect for the group of related industries. Conversely, data showing an industry with a significantly lower average firm size relative to the related group of industries tends to support a lower size standard.

2. *The distribution of firms* by size examines the proportion of industry sales, employment, or other economic activity accounted for by firms of different sizes within an industry. If the preponderance of an industry's output is by large firms, this would tend to support a higher size standard than the anchor. The opposite is true for an industry in which the distribution of firms by size indicates that output is concentrated among the smaller firms in an industry.

3. *Start-up costs* affect a firm's initial size because entrants into an industry must have sufficient capital to start a viable business. To the extent that firms in an industry have greater start-up capital requirements than firms in other industries, SBA is justified in considering a higher size standard. As a proxy measure for start-up costs, SBA examines the average level of assets for firms in an industry. An industry with a relatively high level of average assets per firm as compared with the average assets per firm of the group of comparative industries with a $5.0 million size standard is likely to be a capital intensive industry in which start-up costs tend to be higher for firms entering the industry. For those types of industries, that circumstance may support the need for a relatively higher size standard than the anchor size standard.

4. SBA assesses the *degree of industry competition* by measuring the proportion or share of industry sales obtained by firms above a relatively large firm size. In this proposed rule, SBA analyzes the proportion of industry sales generated by the four largest firms in an industry—generally referred to as the ''four-firm concentration ratio.'' If a significant proportion of revenue from sales within an industry is concentrated among a few relatively large producers, SBA tends to set a higher size standard to assist a broader range of firms to compete with firms that are clearly dominant in the industry. If this factor shows the industry to be highly competitive, SBA tends to apply the anchor.

5. *Competition for Federal procurements and SBA financial assistance.* SBA also evaluates the impact of a size standard on its programs and other applications of size standards to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment mainly focuses on the proportion or share of Federal contract dollars awarded to small businesses. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater is the justification for a size standard higher than the existing one.

As another factor to evaluate the impact of a proposed size standard on SBA programs, the volume of guaranteed loans within an industry and the size of firms in that industry obtaining loans in SBA's financial assistance programs is considered when determining whether or not the current size standard may inappropriately restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, a change to the size standard (especially if it is already above the anchor size) may not be appropriate.

SBA established a size standard of 500 employees for the manufacturing and mining industries at SBA's inception in 1953 and shortly thereafter established a $1 million size standard for the nonmanufacturing industries. These two size standards are generally referred to as ''a base or anchor size standards.'' The revenue-based size standards were adjusted for inflation so that, currently, the anchor size for the nonmanufacturing industries is $5 million.

If the structural characteristics of an industry are significantly different from the average characteristics of industries with the anchor size standard, a size standard higher or, in rare cases, lower than the anchor size standard may be supportable. Only when all or most of the industry data are significantly smaller than the average characteristics of the anchor group industries, or other industry considerations suggest the anchor standard is an unreasonably high size standard, will SBA adopt a size standard below the anchor size standard.

Excluding agriculture and subsistence categories which for the most part have size standards established by statute, only seven industries in the revenue-based size standards are below the $5.0 million anchor and none in the manufacturing or mining industries is below the 500 employee-based size standards.

For the Arrangement of Transportation of Freight and Cargo industry under review in this proposed rule, SBA begins by comparing the characteristics of the five evaluation factors for this industry to the average characteristics of the nonmanufacturing industries which have the anchor size standard of $5 million (hereafter referred to as the nonmanufacturing anchor group). If the characteristics of the industry are similar to the average characteristics of the nonmanufacturing anchor group, then the anchor size standard of $5 million is considered an appropriate size standard for that industry. If, however, the industry characteristics significantly differ from the average characteristics of the nonmanufacturing anchor group, then a size standard above or below $5 million may be appropriate.

Evaluation of Industry Size Standard

SBA analyzed the size standard for the Arrangement of Transportation of Freight and Cargo industry by comparing the industry's characteristics with the average characteristics of the nonmanufacturing group discussed above. SBA examined economic data on the industry using:

- A special tabulation of the 1992 Economic Census prepared on contract by the U.S. Bureau of the Census (which for the Arrangement of Transportation of Freight and Cargo industry collects revenue data based on commissions and fees, not gross billings);
- Asset data from Dun and Bradstreet's 1998 Industry Norms and Key Business Ratios (revenue data are also reported based on commissions and fees); and
- Federal contract award data for fiscal years 1997 and 1998 from the U.S. General Services Administration's Federal Procurement Data Center.
- 7(a) Business Loans from SBA's database.

The table below shows the characteristics for the Arrangement of Transportation of Freight and Cargo industry compared to the average characteristics for the nonmanufacturing anchor group. A review of these factors leads to a proposed size standard of $5 million for this industry.

INDUSTRY CHARACTERISTICS OF SIC 4731 COMPARED TO THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size ($ mil.)	Percent of industry-sales by firms of			Average assets per firm ($ mil.)	Four-firm concentration ration	Percent of gov't procurement dollars to small business
		<$5mil.	<$10mil.	<$25mil.			
Nonmanufacturing Anchor Group	$0.85	51.0	61.0	67.0	$0.5	15.0	21.0
Arrangement of Transportation of Freight & Cargo	0.94	52.5	61.8	70.9	0.2	5.7	50.1

The average firm size in the Arrangement of Transportation of Freight and Cargo industry is very close to the average firm size of the nonmanufacturing anchor group, and supports a size standard at the $5 million anchor size standard. Similarly, the distribution of sales by firm size also supports a size standard for this industry at the anchor size standard. Under this factor, the proportion of industry sales obtained by firms of $5 million and less in sales, $10 million and less in sales, and $25 million and less in sales, is nearly identical with that of firms of the same size class found for the anchor nonmanufacturing group.

The average assets per firm and the four-firm concentration ratio support a size standard no higher than $5 million. The average assets for firms in the Arrangement of Transportation of Freight and Cargo industry is less than half the average assets of the comparable nonmanufacturing industries in the anchor group. This factor indicates that the industry is not as capital intensive as those in the anchor group, and thus, would support a size standard moderately below the anchor of $5 million.

The four-firm concentration ratio shows that the four largest firms in the Arrangement of Transportation of Freight and Cargo industry account for only about one-third of the proportion accounted for by the four-firm concentration of the anchor group. This factor shows the industry is already highly competitive. If a few large firms were controlling a large portion of the industry revenues, then raising the size standard above the anchor size standard might help smaller firms compete. However, when the industry is already competitive, as this one is, nothing would be gained in competitiveness by lowering the size standard. Therefore, we conclude that the four-firm concentration ratio does not support a standard higher than the anchor, but do not make the parallel argument supporting a size standard lower than the anchor.

Purpose of and Impact on SBA Programs

The percent of Federal contract dollars awarded to small firms in the Arrangement of Transportation of Freight and Cargo industry during fiscal years 1997 and 1998 is more than twice as large as the share of Federal contracting going to small firms within the nonmanufacturing anchor group and does not seem to support an increase to the current size standard. In fiscal years 1997 and 1998, of the 208 actions reported by the Federal Procurement Data System, 97 went to small firms. While the 97 actions were 46.6% of the total actions, they were 50.1% of the total contract dollars awarded, when the two years are combined. Assuming small businesses used gross billings (as required under the current size standard) when they identify themselves as ''small,'' they had obtained a reasonable share of Federal procurements.

However, SBA's review of preliminary data reveals that there may have been inconsistencies on how firms were self-certifying as small business that significantly affects how this factor should be assessed and the conclusions regarding an appropriate size standard. An industry association informed us that there is no standard way for firms to report revenues to the Internal Revenue Service. Whether they report gross billings and deduct pass-through funds as ''cost-of goods sold'' to arrive at gross or total income, or whether they report commissions and fees as gross or total income, the tax consequences are the same.

For SBA size standard purposes, the different methods have different results. SBA procedures changed effective March 1996 making the Federal tax returns forms the predominant documentation for determining annual receipts. Historically, SBA has interpreted the size standard for SIC 4731 to be based on $18.5 million in gross billings without any deductions for pass-through funds. The proportion of contracts reported to small businesses in this SIC has doubled since SBA started using Federal tax returns for self-certifying to a revenue-based size. When the procurement data are reviewed before and after that procedural change, it shows a big difference in proportion of contract dollars going to small businesses. The 50% share reported above is a two-year average for FY 1997 and 1998. In FY 1994 small businesses in SIC 4731 obtained 26.3%, 21.6% in FY 1995, 39.9% in FY 1996.

The procurement data suggests that the proportion of contracts reported to small business may have been overstated over the last two years as compared to how SBA prefers to define a small business in this industry. When considering that there is some evidence that awards reported to small businesses were likely made to businesses exceeding $18.5 million in gross revenues, it leads to some uncertainty about how to suitably evaluate this factor. If the small business awards were made only to firms with $18.5 million in gross billings (equivalent to $1.85 million in commissions and fees), the current size standard would be appropriate.

However, SBA believes that some of the reported small business awards have been made to firms exceeding $18.5 million in gross billing (although these firms earned commissions and fees less than $18.5 million). If so, a size standard higher than $18.5 million in gross billings or $1.85 million in commissions and fees would be supportable. Based on these considerations, SBA believes that a $5 million size standard measured in adjusted gross receipts (i.e., adjusted to exclude funds held in trust for unaffiliated third-parties) indicated by most of the industry factors would be a reasonable size standard in terms of its impact on Federal procurement. That size standard would likely result in a small business share no higher than currently shown, but would not return to the lower 1994–1995 levels either.

Also, an increase to the size standard for this industry appears reasonable based on the distribution of SBA guaranteed loans under the 7(a) program. In fiscal years 1997 and 1998,

small businesses in the Arrangement of Transportation of Freight and Cargo industry received approximately $14.5 million in loans per year. About 92% of the loans went to firms with 50 or fewer employees (equivalent to firms with less than $4 million in receipts) and they received $12 million per year in loans, or 83% of the value of 7(a) loans made to all firms in this industry.

The percentage of firms and 7(a) loans to firms in this industry with less than 50 employees is similar but somewhat below the comparable percentages for all industries combined (96% of firms and 93% of loans made to firms with less than 50 employees). A size standard of $5 million (equivalent to approximately 60 employees) could moderately expand the level of financial assistance SBA is currently providing to firms in this industry. Almost all new loans would likely go to firms in the 20 to 50 employee range, thereby raising the share of loans to firms with less than 50 employees in this industry closer to the average percentage for all industries combined. As with the Federal procurement data, the same size reporting uncertainties as discussed above may exist here. However, only a very few loans could have been made to firms exceeding the current size standard. Thus, the potential increase in 7(a) loans in this industry is expected to be modest and would support a $5 million size standard as one providing a reasonable level of assistance to small businesses in this industry.

Considering these industry structure factors and the impact on SBA programs in the aggregate, SBA believes that the $5 million anchor size standard is reasonable and would provide assistance to firms we believe should be eligible as small business for this industry. Three of the industry factors support a size standard in-line with the nonmanufacturing anchor group and one industry factor supports a size standard lower than the anchor size standard. As discussed above, there exists some uncertainly on how to fully assess the program factor, especially for the Federal procurement data. However, $5 million appears to be a reasonable size standard for SBA programs. Without more of the factors pointing to a size standard lower than the anchor standard, and with no factor pointing to a higher size standard, we believe the anchor standard is a reasonable standard for this industry.

Dominant in Field of Operation

Section 3(a) of the Small Business Act defines a small concern as one that is independently owned and operated, not dominant in its field of operation, and within detailed definitions or standards established by the SBA Administrator. SBA considers as part of its evaluation of a size standard whether a business concern at or below a recommended size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at a proposed size standard as well as other factors that may reveal if a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

SBA has determined that at the recommended size standard of $5 million for the Arrangement of Transportation of Freight and Cargo industry no firm at or below that level would be of a sufficient size to be dominant in its field of operation. A firm at the proposed size standard of $5 million accounts for less than 0.1% of industry total industry sales. This level of market share effectively precludes any firm from exerting a controlling effect on an industry. This is the third of four evaluations and all three support a size like the anchor. As for ''other factors'', everything we have obtained from the industry association or otherwise, has been considered in the first three evaluations, industry structure, dominance in the industry, or purpose of or impact on SBA programs. However, during the public comment period, we may obtain other information and will consider it before going forward with a final rule.

Alternative Size Standards

SBA considered two alternative size standards for this industry. One alternative considered was modifying the average annual receipts method to allow for pass-through funds received in trust for third parties without adjusting the current $18.5 million size standard. Assuming that firms in this industry normally earn receipts of six percent to ten percent of gross billings, $18.5 million is equivalent to $185 million to $308 million in gross billings. Had SBA only modified the receipts calculation method and retained the current size standard, it would define all but 158 out of 9,631 firms in the industry as small. Further, small businesses with $18.5 million or less in commissions and fees cumulatively account for two-thirds of total industry sales. SBA considers a size standard that defines that large of a proportion of an industry as small businesses to be undesirable.

A second alternative considered was to select a size standard between $1.1 million and $1.8 million to conform to the six percent to ten percent of gross billings that firms in the industry with gross billings of $18.5 million report as receipts. However, the industry characteristics of the Arrangement of Transportation of Freight and Cargo industry, as compared with the average characteristics of the nonmanufacturing anchor group, support a higher size standard than one simply based on an arithmetic conversion of the existing size standard.

SBA welcomes public comments on the proposed size standards for the Arrangement of Transportation of Freight and Cargo industry. Comments addressing the basis for allowing an exclusion of funds held in trust for third parties from the calculation of average annual receipts, as well as the types of receipts held in trust for others would be especially helpful to SBA in making its final decision.

Also, SBA solicits comments on;

1. whether or not six percent to ten percent of gross billings typically represents the commissions and fees earned by firms in this industry, and

2. whether a size standard between the anchor size of $5 million and the current effective size of $ 1.8 million would be more appropriate. In your comments on any of these alternatives, or alternatives not yet discussed, please present the reasons why it is preferable to the proposed size standard.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

SBA certifies that this rule, if adopted, would not be a significant rule within the meaning of Executive Order 12866. The total amount of Federal procurement and SBA guaranteed loans combined is less than $50 million to this industry annually. It is unlikely that these programs would be significantly affected by a change to the size standard.

For purposes of the Regulatory Flexibility Act, this rule would not have a substantial impact on a significant number of small entities. Although potentially 1,000 additional firms could gain small business status as a result of this rule, only a very small percentage of firms in the industry compete for Federal procurements or obtain guaranteed loans through SBA's financial assistance programs.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, SBA certifies that this rule would not impose new reporting or record-keeping requirements other than those already required of SBA.

For purposes of Executive Order 12612, SBA certifies that this rule does

not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs-business, Loan programs-business, Small business.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation of Part 121 continues to read as follows:

Authority: Pub. L. 105–135 Sec. 601 *et. seq.*, 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Revise § 121.104 (a) (1) to read as follows:

§ 121.104 How does SBA calculate annual receipts?

(a) * * *

Receipts means ''total income'' (or in the case of a sole proprietorship, ''gross income'') plus the ''cost of goods sold'' as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms (Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for other sole proprietorships). However, the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker.

* * * * *

§ 121.201 [Amended]

3. In § 121.201, the table ''SIZE STANDARDS BY SIC INDUSTRY,'' is amended as follows:

a. Under Division E-Transportation, Communications, Electric, Gas, and Sanitary Services, Major Group 42—Motor Freight Transportation and Warehousing, revise the entry 4731:

b. Revise, in the table ''SIZE STANDARDS BY SIC INDUSTRY,'' Footnote 6 to read as follows:

SIZE STANDARDS BY SIC INDUSTRY

SIC code and description	Size standards in number of employees or millions of dollars
* * * * *	
Division E—Transportation, Communications, Electric, Gas, and Sanitary Services	
* * * * *	
4731 Arrangement of Transportation of Freight and Cargo	[6] $5.0
* * * * *	

[6] SIC codes 4724, 4731, 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

Dated: July 20, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–19022 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–94–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 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 Airbus Model A320 series airplanes. This proposal would require modification of the autopilot mode engagement/disengagement lever of the rudder artificial feel unit. 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 reduced controllability of the airplane due to the failure of the rudder artificial feel unit to properly disengage from autopilot mode during approach and landing.

DATES: Comments must be received by August 25, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–94–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, Customer Services Directorate, 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–94–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–94–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, has notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that several cases of stiff rudder pedals have been reported. The stiffness is due to the rudder artificial feel unit being in autopilot mode while the autopilot is disengaged; this is due to jamming of the artificial feel autopilot mode disengagement lever. Investigations have shown that the radial play of the lever bearing together with low temperature could cause an increased operating force. In this case, the back driving force is not able to get the autopilot mode disengaged. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus Industrie has issued Service Bulletin A320–27–1042, Revision 3, dated April 7, 1999, which describes procedures for the modification of the autopilot mode engagement/disengagement lever of the rudder artificial feel unit. This service bulletin introduces a new modified lever with a larger radial play of the bearing. The modification ensures that the correct operating force exists at the pedals during approach and landing. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–075–128(B), dated February 24, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 17 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 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 $6,120, or $360 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:

Airbus Industrie: Docket 99–NM–94–AD.

Applicability: Model A320 series airplanes, certificated in any category, except airplanes on which Airbus Industrie Modification 22624 has been accomplished or on which Modification 21999 was accomplished in production.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane due to the failure of the rudder artificial feel unit to properly disengage from autopilot mode, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, modify the rudder artificial feel unit in accordance with Airbus Industrie Service Bulletin A320–27–1042, Revision 3, dated April 7, 1999.

Note 2: Accomplishment of the modification, prior to the effective date of this AD, in accordance with Airbus Industrie Service Bulletin A320–27–1042, dated March 21, 1992, or Revision 1, dated June 6, 1998, or Revision 2, dated November 4, 1998, is considered acceptable for compliance with the requirements of this AD.

Spares

(b) As of the effective date of this AD, no person shall install an artificial feel unit having part number D2727040000600, D2727040000651, D2727040000800, or D2727040000851 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, 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 sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–075–128(B), dated February 24, 1999.

Issued in Renton, Washington, on July 20, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19016 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. 99N–2151]

RIN 0910–AB69

New Animal Drug Applications; Sheep as a Minor Species

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations to reclassify sheep as a minor species for all data collection purposes. This would allow sponsors of supplemental new animal drug applications (NADA's) to extrapolate human food safety data from a major species such as cattle to sheep. In particular, this will allow the extrapolation of the tolerances for residues of new animal drugs in cattle to sheep.

DATES: Written comments must be submitted by October 25, 1999.

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

FOR FURTHER INFORMATION CONTACT: Meg Oeller, Center For Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7581.

SUPPLEMENTARY INFORMATION:

I. Minor Use and Minor Species

Since 1983 (48 FR 1922, January 14, 1983 (hereinafter referred to as the January 1983 final rule)), FDA has permitted some flexibility in the means to meet the data requirements to support the approval of new animal drugs intended for ''minor uses'' and ''minor species.'' Specifically, these classifications permit data extrapolation from a major use or major species to support the safety and effectiveness of a new animal drug for a minor use or minor species. The requirements were codified in § 514.1(d) (21 CFR 514.1(d)) by the January 1983 final rule (effective February 14, 1983).

''Minor use'' is defined as use of new animal drugs in a minor animal species, or use of new animal drugs in any animal species for control of a disease that occurs infrequently or in limited geographic areas. ''Minor species'' are defined by exclusion as any species other than horses, cattle, swine, dogs, cats, chickens, and turkeys. Sheep are classified as a minor species for the purposes of target animal safety and effectiveness studies. However, they are considered a major species for the purpose of determining the human food safety of edible products.

II. The Minor Species Designation and Safety and Effectiveness

The current minor use regulations (§ 514.1(d)) do not negate or alter the legal requirement that sponsors must provide data from ''adequate and well-controlled investigations'' to show effectiveness and ''adequate tests by all methods reasonably applicable'' to demonstrate safety. The agency has guidance that lays out its interpretation of what data for minor use/minor species drugs will be sufficient to meet these legal standards (Ref. 1). The regulations permit data provided in support of a drug approved for use in a major species to be used in support of an approval for the same drug for use in a minor species where scientifically appropriate.

III. The Minor Species Designation and Human food safety

The preamble of the January 1983 final rule (48 FR 1922 at 1923) described the toxicology, residue evaluation, and analytical methodology standards that are components of the human food safety evaluation for minor use drugs. For minor species, sufficient toxicology and metabolism data must be available within the residue evaluation data package in the application, or by reference, to establish a tolerance for new animal drug residues in animal-derived food. The tolerance is a limit on the amount of drug residue in edible tissue, as measured by the approved analytical method, that will not render the edible tissue adulterated under section 402(a)(2)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(2)(D)).

The agency may require the residue evaluation data package to contain additional information on metabolism beyond that used for the approval in major species, if available information raises human food safety concerns about the level or toxicity of metabolic transformation products in edible tissues of the minor target species. In addition, if the conditions of safe use of the product require withholding of animals from slaughter for a prescribed period of time following treatment, a regulatory analytical method will be necessary. The sponsor of the minor use application must then demonstrate that the approved analytical methodology is suitable for monitoring compliance with the approved conditions of use.

IV. The Status of Sheep

In the preamble of the January 1983 final rule, the agency set out the justification for the determination that sheep are a major species for human food safety purposes. The agency's concern centered on consumers in the United States who eat a large proportion of lamb and mutton in their diets. In its evaluations, FDA used data from consumers who had reported eating sheep products during the previous 2 weeks. Using these values, FDA calculated that those consumers eat 24 percent as much lamb as beef. The agency determined that this was enough to categorize sheep as a major species for human food safety purposes. The agency stated in the preamble that it would be willing to reevaluate this conclusion if new data became available.

V. The Evidence to Support a Change in the Designation of Sheep

New data have become available since publication of the January 1983 final rule. These data allow the agency to conclude that sheep should be a minor species with respect to all data requirements. The new data concern the similarity of drug metabolism between sheep and cattle rather than consumption levels. The agency now believes that the body of evidence concerning drug metabolism is more significant in determining the major/minor status of species than consumption data because it demonstrates the reliability of data extrapolated from a major species. C. R. Short (Ref. 2) reviewed a collection of studies demonstrating that cattle and sheep metabolize drugs similarly. He documented the similarity in both major and minor pathways of drug metabolism between cattle and sheep, and found no differences of a qualitative nature.

These findings are further supported by a comparison of products that have been approved for use in both cattle and sheep under the current regulations. If sheep were considered a minor species for human food safety, the tolerance approved in cattle would be applied to sheep. A tissue residue depletion study would be conducted in sheep to establish the withdrawal period. To evaluate the impact of such an extrapolation, the agency reviewed the codified tolerances for cattle and sheep for those products with existing approvals in both species.

In most cases, the codified tolerances for cattle and sheep already are the same (e.g., ceftiofur, 21 CFR 556.113; chlortetracycline, 21 CFR 556.150; levamisole hydrochloride, 21 CFR 556.350; neomycin, 21 CFR 556.430; oxytetracycline, 21 CFR 556.500; tetracycline, 21 CFR 556.720; and thiabendazole, 21 CFR 556.730).

In two instances, the codified tolerances for cattle and sheep are different: Albendazole, 21 CFR 556.34 and ivermectin, 21 CFR 556.344. In the case of albendazole, the tolerance in cattle is lower than the tolerance in sheep (i.e., 200 parts per billion (ppb) for cattle and 250 ppb in sheep). In this case, application of the cattle tolerance to sheep would result in a longer withdrawal time than the application of the approved sheep tolerance. For ivermectin, the currently approved cattle tolerance of 100 ppb is higher than the approved sheep tolerance of 30 ppb. However, the original tolerance for cattle was 15 ppb (51 FR 27021, July 29, 1986). Following the original approvals in cattle and sheep, a revised acceptable daily intake (ADI) was calculated for ivermectin based on additional toxicological data (59 FR 50829, October 6, 1994). However, the revised ADI was used only to support a revision in the cattle tolerance to 100 ppb. The sheep tolerance was not similarly revised and remained at 30 ppb. Thus, the sheep tolerance of 30 ppb should be compared to the cattle tolerance of 15 ppb. In this circumstance, application of the cattle tolerance to sheep would also result in a longer withdrawal time. Thus, codified tolerances for existing approvals for cattle and sheep demonstrate that extrapolation of the tolerance is scientifically justified.

VI. Proposed Action

The proposed rule would amend § 514.1(d)(1)(ii) to designate sheep as a minor species with respect to all data collection purposes under NADA's. The effect of the change would be to permit the extrapolation of the tolerance from other closely related species, such as cattle, to sheep.

VII. Environmental Impact

The designation of sheep as a minor species means that most new animal drugs to be used in sheep fall within a category of actions which FDA considers to not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment nor an environmental impact statement is required (40 CFR 1508.4). The categorical exclusion is in § 25.33(d)(4) (21 CFR 25.33(d)(4)) of FDA's environmental regulations. Categorical exclusion under § 25.33(d)(4) for drugs for minor species applies to those new animal drugs that have been previously approved for use in another or the same species when similar animal management practices are used in the minor species.

VIII. Analysis of Economic Impacts

FDA has examined the impact of the proposed rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to examine regulatory alternatives for small entities, if the rule may have a significant impact on a substantial number of small entities. The Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before enacting any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any one year.

FDA concludes that this proposed rule is consistent with the principles set forth in the Executive Order and in these two statutes. FDA estimates that the proposed rule will not impose any compliance costs on the animal drug industry, but rather expects it to provide a small cost savings for any company submitting an NADA for an animal drug to be used on sheep. As a result, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order. FDA has further determined, as described in the following paragraph, that the proposed rule will not have a significant economic impact on a substantial number of small entities. Further, since this proposed rule makes no mandates on other government entities and is not expected to result in expenditures of $100 million in any one year, FDA need not prepare additional analyses under the Unfunded Mandates Reform Act.

FDA is proposing to amend the new animal drug regulations to reclassify sheep as a minor species for all data collection purposes, thereby allowing extrapolation from major species data to be used in conjunction with a total residue depletion study in sheep to meet the human food safety data standard for NADA's. Currently, FDA considers sheep a minor species for the purpose of the data necessary to demonstrate animal safety and effectiveness only. It considers sheep a major species for the purpose of human food safety requirements. This division in the classifications for sheep was originally based on expectations of consumption levels of sheep, especially among certain consumer groups. Since the original classification was made, new data demonstrating the similarity of drug metabolism between ruminant species has become available. Since there are not significant differences in the metabolism of most drugs between ruminant species, FDA believes most data packages supporting an NADA for use in sheep should be able to rely on the tolerance calculated for cattle.

The benefit of this proposed rule would be to permit the tolerance calculated for major species, including cattle, to be used with a tissue residue study in sheep to determine a

withdrawal time for new animal drugs to be used in sheep. The proposed rule is therefore expected to lower research expenses and provide an impetus for sponsors to submit supplemental NADA's for sheep. More specifically, it would eliminate the need for a total residue metabolism study that can be costly and prohibitive for sponsors of new animal drugs for small markets such as sheep. FDA believes this study is unnecessary in this instance due to the similarities in the metabolism of most drugs in cattle and sheep. Adopting the approach that allows for interspecies data extrapolation, along with the tissue residue depletion studies, would encourage NADA submissions by decreasing research costs while continuing to protect human food safety. Apart from these cost savings, FDA does not expect this proposal to impose any other compliance burdens on sponsors of new animal drugs.

IX. Regulatory Flexibility Analysis

The proposed rule is intended to reduce research costs for sponsors of NADA's for animal drugs used in sheep while maintaining the necessary safeguards concerning animal drug residues in human food. FDA estimates that this rule will not result in any compliance costs on the affected industry, regardless of the size of the companies involved. Further, FDA estimates that the rule will result in cost savings to sponsors of NADA's for animal drugs for use in sheep. In addition, most NADA sponsors would not be considered small businesses according to the standards of the Small Business Administration. Thus, in accordance with the Regulatory Flexibility Act, FDA certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities.

X. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation) in any one year. The publication of the proposal to reclassify sheep as a minor species for all data collection purposes is not expected to result in expenditures of funds by State, local, and tribal governments or the private sector in excess of $100 million in any one year. Because the agency estimates no compliance costs and modest cost savings due to the proposed rule, FDA is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

XI. The Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

XII. Comments

Interested persons may, on or before October 25, 1999, submit to the Dockets Management Branch (address above), written comments regarding this proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

XIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. U.S. Food and Drug Administration, ''Guidance for Industry: FDA Approval of New Animal Drugs for Minor Uses and for Minor Species,'' Guidance No. 61, January 1999.

2. Short, C. R., ''Consideration of Sheep as a Minor Species: Comparison of Drug Metabolism and Disposition with Other Domestic Ruminants,'' *Veterinary and Human Toxicology*, vol. 36, No. 1, pp. 24–40, February 1994.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 514 be amended as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

1. The authority citation for 21 CFR part 514 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 360b, 371, 379e, 381.

2. Revise § 514.1 in paragraph (d)(1)(ii) to read as follows:

§ 514.1 Applications.

* * * * *

(d) * * *

(1) * * *

(ii) *Minor species* means animals other than cattle, horses, swine, chickens, turkeys, dogs, and cats.

* * * * *

Dated: July 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–18926 Filed 7–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS–021–FOR]

Kansas Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to the Kansas regulatory program (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kansas is proposing to condense and revise its previously approved revegetation success guidelines. The amendment is intended to revise the Kansas program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Kansas program and the amendment to that program are available for public inspection, the comment period during which you may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.d.t., August 25, 1999. If requested, we will hold a public hearing on the amendment on August 20, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on August 10, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to John Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Kansas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response

to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

John Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463–6460.

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 66763, Telephone (316) 231–8540.

FOR FURTHER INFORMATION CONTACT: John Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463–6460. Internet: jcoleman@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. You can find general background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5892). You can find later actions concerning the Kansas program at 30 CFR 916.10, 916.12, 916.15, and 916.16.

II. Description of the Proposed Amendment

By letter dated July 12, 1999 (Administrative Record No. KS–616), the Kansas Department of Health and Environment, Surface Mining Section (SMS) sent us an amendment to the Kansas program under SMCRA. The SMS sent the amendment in response to deficiencies that we identified in Kansas' revegetation success guidelines in a final rule decision on August 19, 1992 (57 FR 37430). The amendment also includes changes made at the SMS's own initiative. The SMS proposes to amend the Kansas revegetation success guidelines entitled ''Revegetation Standards for Success and Statistically Valid Sampling Techniques for Measuring Revegetation Success.'' A brief summary of the changes are discussed below. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

1. Preface

Kansas revised the preface to reflect the current revisions to its revegetation success guidelines. Kansas also removed language from the preface that was not approved by us in the August 19, 1992, final rule decision. The removed language appeared to exempt specific permits from possible revisions to reflect the success standards and sampling techniques in Kansas' revegetation success guidelines.

2. Introduction

Kansas made minor revisions to the existing language and added the following new paragraph:

> In adopting the aforementioned references, the operator is required to use a statistically valid sampling technique at a 90% or greater statistical confidence as approved by the SMS in consultation with the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS). Furthermore, success standards for each permit will be based on the most current county survey in place at the time of the permit's issuance.

3. Definitions

Kansas defined the following terms that are used throughout the Kansas revegetation success guidelines: A.U.M.; Cropland; Diverse; Effective; Forage; Historically Cropped; KDWP; KSU; NRCS; Permanent; Previously Mined; Prime Farmland; and SMS.

4. Tables

Kansas added four new tables. Table 1 contains productivity and ground cover vegetation requirements for Phase II and Phase III bond release of pasture land and grazing land; wildlife habitat, recreation, shelter belts, and forest products; and industrial, commercial, or residential land uses. Table 2 lists productivity and ground cover vegetation requirements for Phase II and Phase III bond release of prime farmland. Table 3 contains productivity and ground cover vegetation requirements for Phase II and Phase II bond release of cropland. Table 4 provides the suggested minimum number of samples by size of area being evaluated for corn, soybeans, wheat/oats, sorghum, and forage crops.

5. Chapter I. Ground Cover Success

Kansas consolidated the substantive provisions of its currently approved ground cover success standards for all land uses in this chapter. Section A covers the standard for ground cover on topsoiled areas. Section B discusses the standard for ground cover on previously mined areas. Section C provides the standard for ground cover on wildlife habitat areas. Section D contains standards for ground cover on industrial, commercial, or residential areas with topsoil. Sections E and F provide general information on ground cover sampling criteria and techniques. Section G contains specific pre-mining ground cover sampling techniques. Section H provides specific post-mining ground cover sampling criteria. Finally, Section I covers specific post-mining ground cover sampling techniques.

6. Chapter II. Forage Production Success Standard

Kansas revised and consolidated the substantive provisions of its currently approved forage production success standards for all applicable land uses in this chapter. Kansas also added whole field harvest to the methods of data collection for forage. Section A discusses the use of the USDA–NRCS crop yield database that is listed by soil mapping units in the published county soil surveys for Kansas and the USDA–NRCS database in the Technical Guide Notice KS–145 (Appendix B). Section B contains information on methods of calculation using the Animal Unit Month (A.U.M.) values listed in the USDA–NRCS soil surveys for Kansas. Section C provides productivity standards for prime farmland forage crops. Section D covers the productivity standard for previously mined lands reconstructed to pasture and grazing land. Section E contains information on the productivity standard for pasture and grazing land. Section F discusses the use of representative areas, with test plots, or whole field harvesting as methods for data collection. Section G contains forage crop production sampling criteria. Finally, Section H provides forage crop production sampling techniques.

7. Chapter III. Productivity Standard Databases for Row Crops

Kansas revised and consolidated the substantive provisions of its currently approved row crop production success standards for prime and non-prime farmland in this chapter. Kansas also added corn as an acceptable row crop. Section A discusses the acceptable row crops for revegetation productivity. Section B contains information on the method of row crop production success standard calculations. Section C provides row crop sampling criteria. Section D contains methods for data collection involving representative areas, with test plots, and whole field harvesting. Section E provides productivity sampling criteria for prime farmland row crops. Section F discusses productivity sampling criteria for non-prime farmland cropland row crops. Finally, Section G contains row crop sampling techniques involving test plots and whole field harvest for grain sorghum (milo), wheat, soybeans, and corn. In response to deficiencies that we identified in the August 19, 1992, final rule decision on Kansas' current

revegetation success guidelines, Kansas revised its row crop sampling techniques for grain sorghum and wheat to require a determination of statistical sample adequacy based on sample weights corrected to a standard moisture content.

8. Chapter IV. Stem Density

Kansas consolidated its productivity success standards for trees and shrubs in this chapter. Section A discusses the general success standards for fish and wildlife habitat, recreation, shelter belts, and forest products land uses. Section B contains the Phase II and Phase III productivity success standards for these land uses. Section C provides information on productivity sampling criteria. Section D contains stem density sampling techniques. Section E discusses previously mined areas that are reclaimed to fish and wildlife habitat, recreation, shelter belts, or forest products land uses.

9. References

Kansas listed the technical reports, studies and other documents used in developing its revegetation success guidelines.

10. Appendix A, Plant Species List

This appendix lists plant species, tree species, shrub and vine species, and legume species. It lists the plant species that are unacceptable for all land uses, with the following exception. All plant species listed are acceptable for the fish and wildlife habitat land use unless they are marked with an asterisk (*). It lists the acceptable tree species for fish and wildlife habitat, recreation, shelter belts, and forest products land uses. It also lists the acceptable shrub and vine species for fish and wildlife habitat, recreation, and shelter belt land uses. Finally, Appendix A lists the acceptable legume species based on land use for revegetation productivity and ground cover.

11. Appendix B, Methods of Production Success Standard Calculations

Kansas is proposing a new Animal Unit Month (A.U.M.) value for use in calculating forage production. Kansas defines the A.U.M. as the monthly average pounds of forage needed to support each 1,000 pounds of cattle. Kansas submitted calculations and documentation to support an A.U.M. equal to 760 pounds. The documentation included two methods of calculating forage production based on A.U.M. per soil type for cool season grass seed mixtures and warm season grass seed mixtures. Appendix B also contains tables showing two methods of calculating the success standard for grain sorghum by soil type and soybeans by soil type.

12. Appendix C, Planting Reports

This appendix contains the following reports: Mining Section Planting Report; Cropland Seeding Report; Forage/Pastureland Seeding Report; Woodland/Wildlife Seeding and Planting Report; Wildlife Seeding Mixture Report; and Annual Production and Ground Cover Survey.

13. Appendix D, Reference Area Criteria

Kansas moved its previously approved provisions for reference areas to Appendix D.

14. Appendix E, Representative Sample Field Area Definition and Test Plot Criteria

This appendix discusses the use of data from representative sample field areas to prove row crop production success. This data is obtained from individual row crop test plots.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Kansas program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Mid-Continent Regional Coordinating Center.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 10, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodation to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C)

of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 19, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–18946 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS–015–FOR]

Mississippi Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to the Mississippi regulatory program (Mississippi program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Mississippi proposes revisions to regulations concerning formal hearings; bond release; hydrologic balance; cessation orders; formal review of citations; definitions; areas where mining is prohibited or limited; performance bonds; pre-blasting surveys; permitting; inspections; coal exploration; qualified laboratories; disposal of excess spoil; coal mine waste impounding structures; backfilling and grading; roads; and coal preparation plant performance standards. The State also proposes to correct typographical errors and make other non-substantive revisions. Mississippi intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Mississippi program and the amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.d.t., August 25, 1999. If requested, we will hold a public hearing on the amendment on August 20, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on August 10, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

You may review copies of the Mississippi program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289–1307, Telephone: (601) 961–5500.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet: aabbs@balgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior approved the Mississippi program. You can find background information on the Mississippi program, including the Secretary's findings and the disposition of comments, in the September 4, 1980, **Federal Register** (45 FR 58520). You can find later actions on the program at 30 CFR 924.10, 924.15, 924.16, and 924.17.

II. Description of the Proposed Amendment

By letter dated July 1, 1999 (Administrative Record No. MS–0373), Mississippi sent us an amendment to its program pursuant to SMCRA. Mississippi sent the amendment in response to required program amendments at 30 CFR 924.16(f)–(h), (j), (k), (m), and (n). The amendment also includes changes made at Mississippi's own initiative. Mississippi proposes to amend the Mississippi Surface Coal Mining Regulations. Below is a summary of the changes proposed by Mississippi. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Revisions required by 30 CFR 924.16(f)–(n)

1. Section 3301. Formal Hearing

Mississippi proposes to revise paragraph (b) to read as follows:

> Any party may file a petition for temporary relief from the Permit Board's action in conjunction with the filing of the request for a formal hearing or at any time before a final decision is issued by the Permit Board after a formal hearing.

2. Section 4501. Procedures for Seeking Release of Performance Bond

Mississippi proposes to revise paragraph (c) to clarify that Federal, State, and local governmental agencies which have special expertise with respect to any environmental, social, or economic impact involved in the coal mining operation are allowed to file written objections to the proposed bond release and to request public hearings.

3. Section 5333. Hydrologic Balance: Surface- and Ground-Water Monitoring

Mississippi proposes to revise paragraph (b)(3)(A) to require the operator to demonstrate that the coal mining operation has minimized

disturbance to the hydrologic balance in the permit and adjacent areas.

4. Section 6501. Cessation Orders

Mississippi proposes to revise paragraph (c)(4) to replace a reference to § 53–9–69 with a reference to § 6509.

5. Section 6511. Formal Review of Citations

a. Mississippi proposes to revise paragraph (a) to require interested parties to request formal reviews within 30 days of the date the Commission, the Executive Director, or the Executive Director's authorized representative took the action that is being contested during the formal review. Mississippi also proposes to add a requirement that the Commission notify parties in writing of the time and place of the hearing at least five working days before the hearing date.

b. Mississippi proposes to revise paragraph (l)(1) by changing the reference from § 6511(e) to § 6511(a).

c. Mississippi proposes to revise paragraph (n)(9) to read as follows:

(9) Any party desiring to appeal a decision of the Commission granting or denying an application for expedited review may appeal to and seek relief from the appropriate chancery court pursuant to § 53–9–77.

B. Revisions Made at Mississippi's Own Initiative

1. Section 105. Definitions

Mississippi proposes to revise the definition for performance bond to read as follows:

Performance Bond—a surety bond, collateral bond, letter or letters of credit, or self-bond, or a combination thereof, by which a permittee assures faithful performance of all the requirements of the act, these regulations, this program and the requirements of the permit and reclamation plan.

2. Section 1105. Areas Where Mining is Prohibited or Limited

Mississippi proposes to revise paragraph (c) to read as follows:

(c) on any lands which will adversely affect any publicly owned park or any place included on the National Register of Historic Places, unless approved jointly by the Permit Board and the federal, state or local agency with jurisdiction over the park or place;

3. Section 4301. Form of the Performance Bond

Mississippi proposes to add ''a letter or letters of credit'' to the list of acceptable forms of performance bond.

4. Section 4303. Terms and Conditions of the Bond

Mississippi proposes to revise paragraph (g)(6) by placing the term ''indemnity agreement'' with the term ''letter of credit.''

5. Section 4701. General

Mississippi proposes to revise paragraph (a) to read as follows:

(a) Except as in compliance with § 4701(b), the Commission shall proceed to cause the forfeiture of all or part of a bond or other collateral accepted pursuant to Chapter 43 for any permit where required or authorized by § 4705.

6. Correction of Typographical Errors

a. Mississippi assigned an incorrect section number (Section 5343) to its regulatory provisions for ''Use of Explosives: Pre-blasting Survey.'' Mississippi proposes to change this incorrect section number to Section 5349.

b. Mississippi proposes to correct typographical errors and other non-substantive revisions in the following sections: Section 105. Definitions; Section 407. Contents of Application for Exemption; Section 413. Conditions of Exemption and Right of Inspection and Entry; Section 1105. Areas Where Mining is Prohibited or Limited; Section 2103. Permit Requirements for Exploration Removing More Than 250 Tons of Coal, or Occurring on Lands Designated as Unsuitable for Surface Coal Mining Operations; Section 2105. Coal Exploration Compliance Duties; Section 2313. Permit Term Information; 3113. Review of Permit Applications; Section 3119. Permit Approval or Denial Actions; Section 3121. Permit Terms; Section 3509. Permit Renewals: Completed Applications; Section 3713. Qualified Laboratories; Section 5359. Disposal of Excess Spoil: General Requirements; Section 5377. Coal mine waste: Impounding structures; Section 5391. Backfilling and Grading: General Grading Requirements; Section 5393. Backfilling and grading: Thin Overburden; Section 53111. Roads: General; Section 5703. Steep Slopes: Backfilling and grading: Steep slopes; and Section 5903.

Coal Preparation Plants: Performance Standards.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Mississippi program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 10, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable

standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 15, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–18947 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN96–1b; FRL–6402–1]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by the Indiana Department of Environmental Management (IDEM) on December 8, 1998. ALCOA Warrick Operations is a primary aluminum smelter located in Newburgh, Indiana. The revised limits allow for higher opacity emissions during fluxing operations at two holding furnaces for a period of one year, ending May 1999. Mass emissions limits are not being changed.

DATES: EPA must receive written comments on this proposed rule by August 25, 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.

Table of Contents

I. What action is EPA taking today?
II. Where can I find more information about this proposal and the corresponding direct final rule?

I. What Action Is EPA Taking Today?

We are proposing to approve temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by IDEM on December 8, 1998. The revised limits allow for higher opacity emissions during fluxing operations at two holding furnaces for a period of one year, ending May 1999.

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: July 9, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 99–18871 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6401–7]

National Oil and Hazardous, Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Mason County Landfill Superfund Site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Mason County Landfill Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Michigan, has determined that no further response is appropriate. It should be noted,

however, long-term maintenance of the landfill cap and monitoring of the groundwater at the Site will continue to ensure that the effectiveness of the remedy is sustained. U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before August 25, 1999.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Ludington Public Library 217 E. Ludington, Ludington, MI 49431. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Jeffrey Gore at (312) 886–6552 (SR–6J), Remedial Project Manager or Gladys Beard (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-7253 or Stuart Hill (P–19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–0689.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Mason County Landfill Site from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA considers, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial Investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** document, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The Mason County Landfill Site is located three miles south of the city of Ludington, Michigan and one mile east of Lake Michigan. The Site occupies approximately eighteen acres of a predominantly rural area in Pere Marquette Township; approximately ten acres of the Site is landfilled. During its active life, Industrial, commercial and municipal waste was placed in the landfill.

The Site property was originally owned by Edward Dains when it was selected for use as a sanitary landfill by the Mason County Department of Public Works (DPW). In 1971, Mason County DPW leased the property from Mr. Dains and subsequently entered into an agreement with Acme Disposal to operate the landfill. Mr. Dains was hired by Acme Disposal as a Sanitation Engineer to oversee the daily operations of the landfill from 1972 until 1978. The Michigan Department of Public Health (MDPH) approved Acme's Solid Waste Disposal Area License in 1971 with the stipulations that no refuse be disposed of below the 710 foot elevation (mean sea level) that the final cover contained at least twenty percent clay, and that monitoring wells be installed. In 1973, landfill licensing and oversight were transferred from the MDPH to the Michigan Department of Natural Resources (MDNR). During its oversight, the MDNR documented that slurry and sludge wastes from local industries were being dumped at the landfill, allowed to dry, and then covered. The Site's license was renewed annually through 1977. It was closed in August of 1978 when it reached capacity. Public concerns over the water quality in nearby Iris Creek prompted the Mason County DPW and the MDNR to review closure activities at the site.

In 1983, the Mason County DPW received a grant from the State of Michigan for improvements to the landfill. A clay cap was completed and berms and storm drains were constructed to improve Site drainage. Two surface aerators were installed in Babbin Pond to help aerate the pond and facilitate biodegradation of organic matter. Fifteen gas vents were placed into the top of the landfill.

Ludington, Michigan has a population of about 9,500. The population of Mason County has been estimated at 26,400 based on the 1980 census. The population within a three mile radius of the Site has been estimated at 1,112.

Just north of the Site are heavily wooded areas and orchards are located to the east and south of the Site. The topography varies from relatively level upland areas south and east of the landfill to steep valleys north of the landfill. The landfill is generally a valley fill with a maximum depth estimated to be 40 to 50 feet.

Surface waters which the Site affected included Iris Creek, the Pere Marquette River, Pere Marquette Lake, and Lake Michigan. The headwaters of Iris Creek are located less than 500 feet from the landfill and consist of a wet, marshy area southwest of Babbin Road. Water from the marshy area drains into Babbin Pond, which discharges directly into Iris Creek. Iris Creek discharges into Pere Marquette River, which discharges into Lake Michigan. A pumped-storage power reservoir operated by Consumers Energy Company is located approximately one half mile south of the Site. Lake Michigan is the main drinking water source in the area and is the City of Ludington's water supply. In rural Pere Marquette Township, residents generally depend on small domestic wells screened in sand and gravel aquifers for potable water supplies. Fourteen residential wells are within about a half mile radius of the landfill that vary in depth from 30 to 150 feet below ground surface.

Other water uses in the area include large capacity wells that produce salt brine for industrial use. A salt brine well about 1,000 feet west of the landfill is screened in an aquifer at a depth of 450 feet. The brine aquifer is separated from the overlying aquifers used for potable water by more than 300 feet of low permeability glacial till.

Mason County is undelain by bedrock formations at depths from 300 to 700 feet. The Mississippi Age Coldwater Shale lies beneath the landfill Site at a depth of 650 feet. The formation is predominantly shale with occasional interbeds of sandstone and limestone.

A U.S. EPA Field Investigation Team (FIT) inspected the landfill Site in May 1982. The team sampled and analyzed the existing monitoring wells at the site. Based on this investigation, the Site was assigned a hazard ranking system score of 34.18, a score high enough to qualify it for inclusion on the National Priority List (NPL). This score was arrived at based primarily on the presence in groundwater of ethyl-benzene, pentachlorophenol, trichloroethene, 1,2 trans-dichloroethene, and 1,1-dichloroethene. The Site was proposed for the Federal National Priorities List (NPL) on December 30, 1982. The listing was finalized on September 8, 1983.

U.S. EPA conducted a Remedial Investigation (RI) at the Site through the use of a its contractor, CH2MHill. The RI included two phases of sampling events. Phase I of the RI fieldwork was conducted from September to November 1986 and Phase II was conducted between October 1987 and January 1988. The RI at the Site included the following:

1. Review and evaluation of past investigations as well as historical practices and other records relating to the Site. (RI Phase I)
2. Extensive aquifer sampling and water level measurements (in both the upper and lower aquifers) to determine groundwater quality, flow directions, and gradients. (RI Phase I and II)
3. Evaluation through an electromagnetic geophysical survey to determine whether existing landfill monitoring wells were properly positioned to interpret potential plumes originating from the Site. (RI Phase II)
4. Sampling within the wetland, Babbin Pond, and Iris Creek to define the Site's impact on surface waters and sediment. The base flow in Iris Creek was determined to help estimate groundwater discharge rates into the creek. (RI Phase I and II)
5. Soil borings and the gamma logging of existing monitoring wells were conducted to help define the geology of the Site. (RI Phase I and II)
6. Sampling of the Site's gas vents and ambient air accrued to determine the Site's impact on air quality. (RI Phase I and II)
7. Surface soil samples were taken to determine if erosion along the northern side of the Site presented a pathway of contaminant migration.
8. Samples from a drainage pipe leading from the Site to Iris Creek were taken to determine if groundwater and/or leachate were infiltrating into the pipe and therefore presenting a possible pathway of contaminant migration.

The Remedial Investigation (RI) for the site was completed in July 1988. A Feasibility Study (FS) was prepared for the site to evaluate potential remediations for the site. The FS also was completed in July 1988.

Based on the exposure pathways of the Feasibility Study (FS), two operable units or pathways were selected to be addressed: (1) Landfill contents, and (2) groundwater. The landfill contents operable unit addressed all materials contained beneath the existing Site cap, such as general refuse, sludges, possible buried drums and the underlying soil contaminated by leachate. The landfill contents operable unit also addressed gas generated by the decomposing buried waste. The general remedial action goals for the landfill contents operable unit were to prevent direct contact with contaminant sources and to minimize future release of contaminants. The selected remedy for the landfill operable unit consisted of properly capping the landfill. The operable unit that directly addressed groundwater contamination and other potential off-site contamination was completed after more investigation had been done. These investigations included an assessment of the effectiveness of the new landfill cap called for in the September 28, 1988 ROD. The specific components of the selected remedy include: a RCRA subtitle C compliant soil/clay cap, a fence around the site, deed restrictions on and near the site to prohibit use of the shallow aquifer, and continued monitoring to assess the quality of groundwater and to monitor the effectiveness of the new cap. The Record of Decision (ROD) for the first operable unit was signed on September 28, 1988.

The results of on-site groundwater monitoring indicated that the landfill cap was effective in reducing the amount of contamination reaching the groundwater, resulting in a reduction of the number and levels of chemicals present in the groundwater. Prior to the construction of the upgraded cap a variety of chemicals including volatile, semivolatile and inorganic compounds were detected in several site wells, some at levels exceeding the Maximum Contaminant Level (MCL) set by U. S. EPA under the Safe Drinking Water Act, (benzene, antimony, cadmium, chromium, lead and nickel). After the landfill cap was repaired and upgraded however, many contaminants were no longer detected in the groundwater.

The groundwater operable unit addressed the shallow and deep aquifers. The general remedial action goals for the groundwater operable unit were to minimize migration of contaminants in groundwater and to prevent exposure to contaminants in residential wells. The ROD for this operable unit was signed September 27, 1993. The selected remedy was continued groundwater monitoring. The ROD documented that no further remedial action was necessary at this site beyond continuation of a monitoring program.

Construction of a RCRA subtitle C compliant soil/clay cap began on November 13, 1990 and was completed

on September 23, 1991. Institutional controls along with deed restrictions were put in place late 1991 at the Site.

A five-year review pursuant to OSWER Directive 9355.7–02 (''Structure and Components of Five-Year Reviews'') was conducted at the Site. The Five-Year review was signed November 13, 1997.

EPA, with concurrence from the State of Michigan, has determined that all appropriate Fund-financed responses under CERCLA at the Mason County Landfill Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. The long-term maintenance of the landfill cap and monitoring of the groundwater will continue to ensure that the effectiveness of the remedy is sustained. Therefore, EPA proposes to delete the Site from the NPL.

Dated: July 14, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 99–18720 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–262, RM–9659]

Digital Television Broadcast Service; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Spokane School District #81, licensee of station KSPS(TV), NTSC Channel *7, Spokane, Washington, proposing the substitution of DTV Channel *8 for station KSPS(TV)'s assigned DTV Channel *39. DTV Channel *8 can be allotted to Spokane, Washington, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 47–34–34 N. and 117–17–58 W. However, since the community of Spokane is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this allotment. As requested, we propose to modify station KSPS(TV)'s authorization to specify operation on DTV Channel *8 at Spokane, Washington, with a power of 21.6 (kW) and a height above average terrain (HAAT) of 558.

DATES: Comments must be filed on or before September 13, 1999, and reply comments on or before September 28, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, 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: John Crigler, Esq., Haley, Bader & Potts P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, Virginia 22203–1633 (Counsel for Spokane School District #).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–262, adopted July 19, 1999, and released July 21, 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

Digital television broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 99–18958 Filed 7–23–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. OST–99–5947]

RIN 2105–AC82

Standard Time Zone Boundary in the State of Nevada: Proposed Relocation

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the City of West Wendover, Nevada, DOT proposes to relocate the boundary between Pacific time and mountain time in the State of Nevada. DOT proposes to relocate the boundary in order to move West Wendover, Nevada from the Pacific Time Zone to the Mountain Time Zone.

DATES: Comments should be received by September 24, 1999 to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be 2:00 a.m. PDT Sunday, October 31, 1999.

ADDRESSES: You may submit your comments and related material by one of the following methods:

(1) By mail to the Docket Management Facility (OST–1999–5947), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets,

Department of Transportation, telephone 202–366–9329.

Public Hearing: A public hearing will be chaired by a representative of DOT at the West Wendover Library, Pilot Peak Room, 590 Camper Drive, West Wendover, Nevada, on Tuesday, August 10, 1999, at 6:00 p.m. MDT/5:00 p.m. PDT. The hearing will be informal and will be tape recorded for inclusion in the docket. Persons who desire to express opinions or ask questions at the hearings do not have to sign up in advance or give any prior notification. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, Washington, D.C. 20590, (202) 366–9315; email address: joanne.petrie@ost.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.''

Petition for Rulemaking

On January 8, 1999, Mayor Walter F. Sanders, Mayor of the City of West Wendover, Nevada sent a letter to the Department of Transportation asking the Department to change the city from the Pacific time zone to the Mountain time zone. The letter noted the following facts in support of its petition.

1. West Wendover is located on the border of Utah and Nevada and is directly adjacent to the City of Wendover, Utah, which is in the Mountain time zone.
2. It is more than one hundred miles to the nearest city.
3. Businesses in West Wendover make most of their purchases from Salt Lake City, which is in the Mountain time zone.
4. The city receives all of its television and radio broadcasts from Salt Lake City. Due to mountain ranges west of West Wendover, radio broadcasts cannot be received from the Nevada area.
5. West Wendover has one weekly local newspaper, which is printed in Salt Lake City.
6. The City of West Wendover currently has no passenger rail service. The nearest public rail service is located in either Salt Lake City, Utah or Elko, Nevada. Both cities are more than one hundred miles from West Wendover.
7. Greyhound buses travel through West Wendover on an east/west run, but only stop in Wendover, Utah.
8. Wendover, Utah has a small airport, which is limited to mostly small private aircraft and which receives no commercial air service. Tooele County, Utah, which is on Mountain time, is in the process of renovating its airport. The closest major airport is Salt Lake City International Airport.
9. A small percentage of West Wendover's working population resides outside the City limits. The majority of employed residents work in the gaming/tourism industry.
10. Medical services are currently provided by a local medical clinic. The facility is owned by the City of West Wendover, which in turn has leased the facility to the University of Utah—Medical Facility. This agreement provided the opportunity for expanded medical services to the community. Most residents of West Wendover travel to Salt Lake City for major and routine health care.
11. Secondary education is offered in Salt Lake City, Utah and Elko, Nevada.
12. West Wendover is in the process of expanding its recreation facilities. These recreational services are designed to accommodate people from the Wastach Front area, which is on Mountain time.
13. West Wendover's residents must travel to Salt Lake City or Elko in order to obtain a greater variety of services, shopping, and recreation.
14. The City of West Wendover is trying to purchase Air Force property adjacent to the Tooele County Airport. This purchase is expected to provide opportunities to establish a more diversified economy within the Wendover/West Wendover community.
15. Historically, West Wendover has always operated on Mountain time. Prior to the 1980s, there was no reason to do otherwise because there was literally nothing to the town fifty yards past the state line. When West Wendover began to ''boom,'' the town tried to operate by Pacific time. According to the Mayor, this action created mass confusion for both residents and those outside the community.

The Mayor stated that by allowing West Wendover to formally move into the Mountain time zone, commerce within the Wendover/West Wendover community would be facilitated and confusion would be eliminated.

Under DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. DOT has determined that the petition from the City of West Wendover makes a *prima facie* case that warrants opening a proceeding to determine whether the change should be made. Consequently, in this notice of proposed rulemaking, DOT is proposing to make the requested change and is inviting public comment.

Although the City of West Wendover has submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will be based upon information received at the hearing or submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. We are not bound either to accept or reject the proposal of the City of West Wendover at the present time in the proceeding. The Department here issues no opinion on the merits of the City's request. Our decision will be made on the basis of information developed during the rulemaking proceeding.

Impact on Observance of Daylight Saving Time

This time zone proposal does not directly affect the observance of daylight saving time. Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2:00 a.m. on the first Sunday in April until 2:00 a.m. on the last Sunday in October, except in any State that has, by law, exempted itself from this observance.

Regulatory Analysis & Notices

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily affect individuals and their scheduling of activities. Although it would effect some small businesses, not-for-profits and, the City of West Wendover, it would not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, the Office of the Secretary certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Joanne Petrie at (202) 366–9315.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71

Time zones.

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 would continue to read as follows:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; 49 CFR 159(a), unless otherwise noted.

2. In § 71.9 paragraph (b) would be revised to read as follows:

§ 71.9 Boundary line between mountain and Pacific zones.

(a) * * *

(b) *Utah-Nevada-Arizona-California.* From the northeast corner of the State of Nevada southerly along the Utah-Nevada boundary to the junction with the northern border of the City of West Wendover, Utah. Then westward along the northern, western, and southern boundaries of the City of West Wendover back to the Utah-Nevada boundary. Then southerly along the Utah-Nevada boundary, the Nevada-Arizona boundary, and the Arizona-California boundary to the boundary between the United States and Mexico.

* * * * *

Issued in Washington on July 12, 1999, under authority delegated in 49 CFR § 1.57(a).

Rosalind Knapp,

Acting General Counsel.

[FR Doc. 99–19041 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF03

Endangered and Threatened Wildlife and Plants; Canada Lynx; Special Rule Record of Compliance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: On July 8, 1998, we published a proposed rule to list the United States (lower 48 States) population segment of the Canada lynx as threatened under the Endangered Species Act of 1973, as amended (Act). The listing included a special rule regulation issued under section 4(d) of the Act that would allow the export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of live captive-bred Canada lynx, and skins derived from the captive-bred population of Canada lynx. This notice announces the availability of the Record of Compliance with the various statutory, Executive Order, and Departmental requirements applicable to the special rule regulation and invites comments on the Record of Compliance.

ADDRESSES: To request a copy of the Record of Compliance, contact the U.S. Fish and Wildlife Service, Montana

Field Office, 100 N. Park Ave., Suite 320, Helena, Montana 59601. Send your comments on the Record of Compliance to this same address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor, U.S. Fish and Wildlife Service, Montana Field Office, at the address above.

SUPPLEMENTARY INFORMATION:

On July 8, 1998, we published a proposed rule to list the United States population (lower 48 States) segment of the Canada lynx (Lynx canadensis) as threatened, and the captive-bred population of Canada lynx within the lower 48 States as threatened due to similarity of appearance.

The proposed listing rule included a special rule regulation under section 4(d) of the Act that would allow the export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)(50 CFR part 23) of live captive-bred Canada lynx, and skins derived from the United States captive-bred population (lower 48 States) of Canada lynx, accompanied by a valid CITES export tag and permit. CITES is an international treaty for the regulation of international trade in certain animal and plant species. We would authorize such export in accordance with the permit requirements at 50 CFR 17.32.

The range of the United States population (lower 48 States) segment of the Canada lynx includes the States of Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts. Currently within the lower 48 States there are facilities in Idaho, Minnesota, Montana, North Dakota, and Utah that raise captive-bred Canada lynx for commercial purposes.

The Department of the Interior Manual Part 318 DM, **Federal Register** Documents, guides the **Federal Register** rulemaking process. A key component of 318 DM is the preparation of a Record of Compliance (ROC). The ROC certifies that a rulemaking action complies with the various statutory, Executive Order, and Departmental Manual requirements applicable to rulemaking. The contents of the ROC include certification of compliance with the requirements of: Executive Order 12866-Regulatory Planning and Review; the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*); the Small Business Regulatory Enforcement Fairness Act, (5 U.S.C. 804(2)); the Unfunded Mandates Reform Act,(2 U.S.C. 1501 *et seq.*); Executive Order 12630-Government Actions and Interference With Constitutionally Protected Property Rights; Executive Order 12612-Federalism; Executive Order 12988-Civil Justice Reform; the Paperwork Reduction Act of 1995 (44 U.S.C. 350); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with the Native American Tribal Governments'' (59 FR 22951); and the Department of Interior Manual, Departmental Responsibilities for Indian Trust Resources (512 DM 2). In accordance with the restrictions of section 4(b)(1)(A) of the Act regarding the basis for listing determinations, the economic determinations contained in the ROC are not applicable to the listing decision for the Canada lynx and pertain only to the operation of the special rule regulation under section 4(d) of the Act if the species is listed. You can obtain a copy of this ROC by request (see **ADDRESSES** section).

Dated: May 6, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 99–18962 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 64, No. 142
Monday, July 26, 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; Recreation Fee Permit Envelope

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate an information collection. This information collection will help the Forest Service ensure that visitors to National Forest System recreational sites comply with Forest Service policies and regulations and pay user fees, when required. The data also will help the agency evaluate how well it meets the recreational needs of its visitors.

DATES: Comments must be received in writing on or before September 24, 1999.

ADDRESSES: Send written comments to Developed Sites Program Manager, Recreation, Heritage, and Wilderness Resources Staff, Mail Stop 1125, Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090 or FAX to (202) 205–1145 or email: phernand/wo@fs.fed.us.

The public may inspect comments in the Office of the Director, Recreation, Heritage, and Wilderness Resources Staff, 201 14th Street, SW, Washington, DC. Visitors are encouraged to call (202) 205–1706 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Peggy Hernandez, Developed Sites Program Manager, Recreation, Heritage and Wilderness Resources Staff, at (202) 205–1169.

SUPPLEMENTARY INFORMATION:

Background

Annually, millions of people visit National Forest System recreational sites. The Land and Water Conservation Fund Act of 1965, section 4(b), and Forest Service regulations at Title 36, Code of Federal Regulations (CFR), section 291.2 authorize some of the National Forest and Grassland recreational sites to collect fees from visitors. The Forest Service uses the Recreation Fee Permit Envelope to collect these fees.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: FS–2300–26, Recreation Fee Permit Envelope.

OMB Number: 0596–0106.

Expiration Date of Approval: August 31, 1998.

Type of Request: This is a request for reinstatement of an information collection that was previously approved by the Office of Management and Budget.

Abstract: The agency will analyze the collected data to evaluate visitor use of recreational sites to determine the law enforcement, cleaning, maintenance, inspection personnel, and other staffing needs at these recreational sites. The Forest Service also will use the collected information to track demographic data (such as a visitor's length of stay at a specific recreational site, a visitor's recreational activities of choice, or the recreational sites most frequented) and to ensure that visitors on National Forest System recreational sites comply with the agency's fee payment policies and regulations at 36 CFR, 261.15.

Visitors pick up self-service fee envelopes at recreational sites that charge fees, such as campgrounds or other facilities. The visitors complete the blocks of information requested and place the money in the envelope, which they deposit in a secure collection box or fee tube, generally located at the entrance to the site. As part of the fee collection process, the Forest Service asks visitors to provide the following information: the amount of money enclosed, the number of days for which they paid, the date and time period for which they paid, their vehicle license plate number, the State in which they live, their camp unit number, the number of people in their party, and their planned date of departure. The envelope also asks for comments on how the Forest Service can improve the facilities or services at the site. The agency will use the collected data to evaluate accessibility for all visitors based on actual reported need rather than agency personnel assumptions. For example, visitors could report that they were unable to get a wheelchair to a picnic table or restroom or that signs weren't available in braille.

To determine the estimate of burden, six Forest Service employees were requested to pick up fee envelopes at a Forest Service campground, read the directions, complete the form, place the fee in the envelope, deposit the envelope in a fee tube, and place the stubs on their dashboards. The estimate of burden is based on the average time it took the six employees to complete the fee-payment process.

Data collected in this information collection is not available from other sources.

Estimate of Burden: 3 minutes.

Type of Respondents: Individuals and groups using National Forests and Grasslands recreational sites at which fees are collected.

Estimated Number of Respondents: 400,000. This estimate is based on the number of fee envelopes that are printed and placed in recreational sites annually (500,000).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20,000 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 received in response to this notice, including name and address

when provided, will become a matter of public record. Comments also will be summarized and included in the request for Office of Management and Budget approval.

Dated: June 21, 1999.

Janette S. Kaiser,

Acting Associate Deputy Chief, NFS.

[FR Doc. 99–18948 Filed 7–23–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Aquarius Ecosystem Restoration Project; Dixie National Forest, Garfield County, Utah

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an Environmental Impact Statement. (The original notice of intent was published on November 16, 1998.)

The Aquarius Ecosystem Restoration Project is hereby being named the Griffin Springs Resource Management Project. Comments originally collected under the NOI for the Aquarius Ecosystem Restoration Project will be used for the Griffin Springs Resource Management Project.

SUMMARY: The Dixie National Forest, Garfield County, Utah, announced November 16, 1998, it's intent to prepare an Environmental Impact Statement (EIS) which would analyze management proposals within the Aquarius Ecosystem Restoration Project. Because a portion of the area has been affected by 36 CFR part 212, Administration of the Forest Development Transportation System: Temporary Suspension of Road Construction and Reconstruction in Unroaded Areas, and there are existing roadless areas within the project area, it does not appear to be feasible to make decisions affecting that portion of the area at this time. For these reasons, the project area will be divided into smaller decision blocks. The first area that will be decided upon will be the Griffin Springs Resource Management Project.

Comments that were received during the initial scoping period will be used in this analysis, and an Environmental Impact Statement will be prepared. Analysis and disclosure on the other decision areas will be made at later dates. The responsible official for this decision will be the Forest Supervisor, Dixie National Forest. The DEIS is expected to be available for review by October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Cindy Calbaum, Interdisciplinary Team Leader (435) 826–5400, Escalante Ranger District, PO Box 246, Escalante, Utah, 84726.

Dated: July 13, 1999.

Mary Wagner,

Forest Supervisor, Dixie National Forest.

[FR Doc. 99–18944 Filed 7–23–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Technical Advisory Committees; Notice of Recruitment of Private-Sector Members

SUMMARY: Six Technical Advisory Committees (TACs) advise the Department of Commerce on the technical parameters for export controls applicable to dual-use commodities and technology and on the administration of those controls. The TACs are composed of representatives from industry and Government representing diverse points of view on the concerns of the exporting community. Industry representatives are selected from firms producing a broad range of goods, technologies, and software presently controlled for national security, foreign policy, non-proliferation, and short supply reasons or that are proposed for such controls, balanced to the extent possible among large and small firms.

TAC members are appointed by the Secretary of Commerce and serve terms of not more than four consecutive years. The membership reflects the Department's commitment to attaining balance and diversity. TAC members must obtain secret-level clearances prior to appointment. These clearances are necessary so that members can be permitted access to the classified information needed to formulate recommendations to the Department of Commerce. Each TAC meets approximately 4 times per year. Members of the committees will not be compensated for their services.

The six TACs are responsible for advising the Department of Commerce on the technical parameters for export controls and the administration of those controls within the following areas: Information Systems TAC: Control List Categories 3 (electronics—semiconductor section), 4 (computers), and 5 (telecommunications and information security); Materials TAC: Control List Category 1 (materials, chemicals, microorganisms, and toxins); Materials Processing Equipment TAC: Control List Category 2 (materials processing); Regulations and Procedures TAC: the Export Administration Regulations (EAR) and procedures for implementing the EAR; Sensors and Instrumentation TAC: Control List Categories 3 (electronics—instrumentation section) and 6 (sensors and lasers); Transportation and Related Equipment TAC: Control List Categories 7 (navigation and avionics), 8 (marine technology), and 9 (propulsion systems, space vehicles, and related equipment).

To respond to this recruitment notice, please send a copy of your resume. Materials may be faxed to the number below.

DEADLINE: This Notice of Recruitment will be open for one year from date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Lee Ann Carpenter on (202) 482–2583. Materials may be faxed to (202) 501–8024, to the attention of Ms. Lee Ann Carpenter.

Dated: July 8, 1999.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 99–19017 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–810; C–412–811—A–428–811; C–428–812]

Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom; Negative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Negative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders.

SUMMARY: On May 1, 1998, the Department of Commerce published preliminary negative determinations of circumvention of the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products from Germany and the United Kingdom.

We provided interested parties an opportunity to comment on the preliminary negative determinations. After our analysis of the case and rebuttal briefs, we have determined that imports into the United States of leaded steel billets that were exported from Germany and the United Kingdom do not constitute circumvention of the antidumping and countervailing duty

orders on hot-rolled lead and bismuth carbon steel products from Germany and the United Kingdom, within the meaning of section 781(a) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Richard Herring, Office of AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930 (the Act), as amended, by the Uruguay Round Agreements Act (URAA), effective January 1, 1995. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 C.F.R. Parts 353 and 355 (1997).

Background

On March 22, 1993, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty (AD) orders (58 FR 15334) and countervailing duty (CVD) orders (58 FR 15325, 15327) on hot-rolled lead and bismuth carbon steel products (hot-rolled lead bar) from Germany and the United Kingdom. On April 14, 1997, the Department received an application (amended on May 14, 1997) filed by Inland Steel Bar Company and USS/KOBE Steel Company (the petitioners) requesting that the Department conduct anticircumvention inquiries of the AD and CVD orders on lead bar from Germany and the United Kingdom pursuant to section 781(a) of the Act. The petitioners alleged that the principal German (Saarstahl A.G. i.K. and Thyssen Stahl A.G.) and British (British Steel plc) producers of lead bar are circumventing their respective orders by shipping leaded-steel billets (lead billets) to the United States, where they are easily and inexpensively converted into the lead bar products covered by the orders.

Pursuant to the petitioners' application and in accordance with 19 C.F.R. 353.29(e) and 355.29(e), the Department initiated circumvention inquiries of the AD and CVD orders on hot-rolled lead bar from Germany and the United Kingdom (62 FR 34213; June 25, 1997).

In conducting the inquiries, we requested and received detailed information on a range of topics, such as processing, pricing, and conversion costs. We also collected data on patterns of trade, sourcing patterns, and other trend data for the period January 1, 1991 through June 30, 1997, for the United Kingdom proceeding and January 1, 1988 through June 30, 1997, for the German proceeding.

The preliminary determination in this investigation was issued on April 23, 1998. *See Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom; Negative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 63 FR 24156 (May 1, 1998) (*Preliminary Determination*).

In May 1998, we verified the responses of two of the re-rollers, American Steel & Wire and Republic Engineered Steels. We followed standard verification procedures, including meeting with company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the verification reports, which are on file in public version form in the Central Records Unit, Room B–099, of the Commerce Department.

In May 1998, the petitioners requested that the Department hold a public hearing on these circumvention inquiries. Based upon their request a hearing was held on July 29, 1998. Case and rebuttal briefs were filed by the interested parties prior to the hearing. Comments raised by the interested parties in their respective case and rebuttal briefs are addressed in the ''Analysis of Comments Received'' section of this notice.

Scope of AD and CVD Orders

Imports covered by these orders include hot-rolled bars and rod of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent of lead or 0.05 percent of bismuth, in coils or cut lengths, and in numerous shapes and sizes. The order excludes ''other alloy steels,'' as defined by Chapter 72, note 1(f) of the Harmonized Tariff Schedule of the United States (HTSUS), ''except steels classified as other alloy steel by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium or selenium.'' Most of the products covered are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and for customs purposes, the written description of the scope of the order remains dispositive.

Scope of the Circumvention Inquiries

The products subject to these circumvention inquiries are carbon or alloy steel billets containing 0.03 percent or more of lead or 0.05 percent or more of bismuth (the only accepted metallurgical equivalent to lead), and other alloy steel billets by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium or selenium, that meet the chemical requirements for the merchandise subject to the orders.

Facts Available

Section 776(a)(2) of the Act requires the Department to use facts available if ''an interested party or any other person * * * withholds information that has been requested by the administering authority * * * under this title.'' The facts on the record show that Bar Tech did not comply with the Department's requests for information required to calculate the value of the processing performed in the United States. In our initial questionnaire dated September 10, 1997, the Department requested information regarding the total amount of lead billet consumed in the production of one unit of lead bar (lead billet consumption rate). Bar Tech responded to our questionnaire on October 29, 1997, but did not provide its lead billet consumption rate.

The Department's supplemental questionnaires dated November 18, 1997 and January 7, 1998, again requested that Bar Tech report its lead billet consumption rate. Bar Tech, however, did not provide its lead billet consumption rate to the Department.

Section 776(b) of the Act permits the administering authority to use an inference that is adverse to the interests of an interested party if that party has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' Such an adverse inference may include reliance on information derived from (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753 regarding the country under consideration, or (4) any other information placed on the record. Because Bar Tech did not comply with the Department's requests to provide its

lead billet consumption rate, we find that Bar Tech failed to cooperate by not acting to the best of its ability to comply with the Department's information requests. Therefore, we are using adverse inferences in accordance with section 776(b) of the Act. In making an adverse inference for Bar Tech's lead billet consumption rate, the Department has used the highest average lead billet consumption rate submitted by another U.S. re-roller participating in these inquiries. Corroboration of this data is not necessary because this information is not considered secondary information. See Statement of Administrative Action (SAA) accompanying the URAA, H.Doc. 103–316, Vol. 1, at 870 (1994).

Nature of the Circumvention Inquiry

Section 781(a)(1) of the Act provides that the Department, after taking into account any advice provided by the United States International Trade Commission (ITC) under section 781(e), may include the imported merchandise under review within the scope of an order if the following criteria have been met:

A. The merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

(i) an antidumping duty order issued under section 736,

(ii) a finding issued under the Antidumping Act, 1921, or

(iii) a countervailing duty order issued under section 706 or section 303;

B. Such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies;

C. The process of assembly or completion in the United States is minor or insignificant; and

D. The value of the parts or components [produced in the foreign country with respect to which the order applies], is a significant portion of the total value of the merchandise.

If one of the four elements does not apply, there can be no finding of circumvention. However, even if all four of these criteria are met, the Act requires that the Department also consider additional factors. Section 781(a)(3) of the Act directs the Department to consider, in determining whether to include parts or components produced in a foreign country within the scope of an AD and CVD order, such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country; and (C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

U.S. Re-Rollers

We requested information from U.S. re-rollers with respect to these circumvention inquiries. Information was submitted by the following five U.S. re-rollers: (1) American Steel & Wire (AS&W), a wholly-owned subsidiary of Birmingham Steel Corporation; (2) Bar Tech; (3) Nucor Steel Corporation (Nucor); (4) Republic Engineered Steels (Republic); and (5) Sheffield Steel Corporation (Sheffield). Based upon our analysis of the information submitted by the foreign respondents and the U.S. re-rollers, we have determined that no affiliation exists between the U.S. re-rollers and the foreign respondents, as defined in section 771(33) of the Act. A determination with respect to sections 781(a)(1) and (2) of the Act is based solely on the processing of lead billets into hot-rolled lead bar by these unaffiliated U.S. re-rollers. The rolling facilities owned by each of the U.S. re-rollers, except Bar Tech, were in operation before the initiation of the respective AD and CVD investigations of hot-rolled lead bar from Germany and the United Kingdom. Bar Tech was established after the issuance of the AD and CVD orders when Bar Tech purchased Bethlehem Steel's Bar, Rod & Wire (BRW) facilities in Lackawanna, New York in 1994. Bethlehem Steel, a former roller of lead billet into hot-rolled lead bar, was one of the original petitioners in the lead bar investigations.

Much of the information provided by the U.S. re-rollers is proprietary. Therefore, in most instances, the information used in our analysis below has been ranged, and our discussion of this information has been generalized in order to maintain the proprietary treatment of submitted information. In addition, for most of the U.S. re-rollers, the source of their imported lead billet supply is also proprietary. Therefore, the analysis below refers to imports from both Germany and the United Kingdom.

Statutory Analysis

(1) Whether the Class or Kind of Merchandise Is Sold in the United States

AS&W, Bar Tech, Republic, and Sheffield sell hot-rolled lead bar in the United States. Nucor processes lead billets into hot-rolled lead bar, which the company further processes into cold-finished products.

(2) Whether Merchandise Sold in the United States is Completed or Assembled in the United States from Foreign Parts or Components

All of the U.S. re-rollers purchase lead billets from one or more of the foreign respondents subject to the AD and CVD orders. They each use the lead billets to produce hot-rolled lead bar in the United States.

(3) Whether the Process of Assembly or Completion is Minor or Insignificant

Section 781(a)(2) lists the factors the Department will consider in determining whether the process of assembly or completion is minor or insignificant. The SAA states that no single factor listed in section 781(a)(2) of the Act will be controlling. SAA at 893. The SAA also states that the Department will evaluate each of the factors as they exist in the United States depending on the particular circumvention scenario. *Id.* Therefore, the importance of any one of the factors listed under 781(a)(2) of the Act can vary from case to case depending on the particular circumstances unique to each specific circumvention inquiry. As discussed below, each of the factors set forth in section 781(a)(2) of the Act is examined below for the U.S. re-rollers.

(a) The Level of Investment in the United States

The rolling facilities owned by each of the U.S. re-rollers were in operation before the initiation of the respective AD and CVD investigations of hot-rolled lead bar from Germany and the United Kingdom. Although Bar Tech did not exist before the initiation of the investigations, the facility producing subject merchandise that is operated by the company does pre-date the investigations. Each of the U.S. re-rollers has made substantial capital investments in its respective rolling mills.

AS&W entered the hot-rolled lead bar market in 1986, with its purchase of rolling facilities from U.S. Steel. In 1993, Birmingham Steel acquired AS&W and entered the specialty bar, rod, and wire products business. In 1996, Birmingham Steel invested $132 million

in a new high-quality rolling mill at AS&W's Cleveland, Ohio facility, enabling the company to produce larger-sized bar products and bars with tighter size tolerances and more stringent mechanical properties. AS&W primarily produces nonlead hot-rolled bars, and less than a quarter of the mills' production utilizes lead billets. AS&W sells the hot-rolled lead bar that it produces to unaffiliated customers.

Bar Tech came into existence in 1994, with the purchase of Bethlehem Steel's BRW facilities for $19 million. From 1994 through 1997, Bar Tech made additional investments in the rolling facilities' buildings, machinery, and equipment. In April 1996, Bar Tech acquired Bliss & Laughlin (B&L), the largest cold-finishing company in the United States. In September 1997, Bar Tech announced plans to invest $30 million in its steelmaking facilities. Approximately half of the investment is allocated for the production of lead and nonlead semi-finished steels at its Johnstown meltshop. The majority of the remaining investment is designated for equipment upgrades at its 13-inch rolling mill in Lackawanna, New York to roll both lead and nonlead billets.

Nucor's steel mill in Darlington, South Carolina became operational as a new steel mill in 1969. Prior to 1991, Nucor added a high-speed rolling line to its mill. The addition of such equipment allows for automatic straightening, shearing, stacking, and bundling of bar, and has significantly enhanced Nucor's ability to produce hot-rolled lead and nonlead bar from lead and nonlead billets. Since 1991, Nucor has made several investments for a variety of improvements.

In November 1989, Republic was created through an employee stock ownership plan with the purchase of LTV's Bar Division. With the purchased steelmaking facilities, Republic gained the ability to produce lead and nonlead ingots, and hot-rolled and cold-finished bar products. Republic currently produces lead billets via the ingot process in a shared facility; however, the quantity it can produce is restricted by environmental permit limits. During the 1990's, Republic invested in the construction of a continuous casting facility which has the capability to produce both lead and nonlead billets; however, Republic currently only produces nonlead billets at the facility.

Sheffield was established in the early 1980's, with the purchase of the Sand Springs, Oklahoma meltshop and rolling facility in 1981, and the construction of the Kansas City, Missouri rolling facility in 1985. In 1986, Sheffield purchased a 12-inch rolling mill facility in Joliet, Illinois from Continental Steel for $3.5 million. This rolling mill was originally installed around 1957. Since acquiring the Joliet mill in 1986, Sheffield has made additional investments of approximately $6 million in the facility, which is the company's only rolling mill which produces hot-rolled lead bar. Sheffield entered the hot-rolled lead bar market in 1992.

(b) The Level of Research and Development (R&D) in the United States

Four of the five re-rollers had little or no R&D related to the production of hot-rolled lead bar. One U.S. re-roller reported that it conducted some R&D with respect to the development of heating, rolling and inspection practices used in the production of leaded steels. The U.S. re-rollers reported that there have been few technological breakthroughs affecting leaded steels since 1991. Because the rolling of hot-rolled lead bar is a technically mature process, R&D is not a significant factor in this industry.

(c) The Nature of the Production Process in the United States

The ITC states that the manufacturing process for the production of hot-rolled lead bar consists of three different stages: (1) melting, (2) casting, and (3) hot-rolling. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, and the United Kingdom*, Final Determinations of the Commission in Investigations Nos. 701–TA–314 thru 317, USITC Publication 2611 (March 1993). Lead billets are created during the second stage; the U.S. re-rollers perform the third and final stage in the manufacturing process of hot-rolled lead bar.

Each of the U.S. re-rollers are fully operational hot-rolled lead and nonlead bar producers, manufacturing bar in a like manner. The nature of the process overall consists of a series of steps for the purpose of sizing and shaping the lead billets to produce specific sized and shaped hot-rolled bar on rolling equipment used to manufacture either hot-rolled lead or nonlead bars. The rolling process does not require equipment devoted exclusively to the production of hot-rolled lead bar. Three of the five re-rollers also have cold-finishing operations to further process the hot-rolled lead bar. In the cold-finishing process, the bar undergoes surface treatments in the form of polishing, turning, grinding, and straightening.

The process for producing hot-rolled lead bar from lead billets is as follows. First, the lead billets are placed in a re-heat furnace and heated to a temperature usually above 2200 degrees Fahrenheit. This heating procedure increases the malleability of the steel, reducing energy consumption and wear on the rolling mill. Once the lead billets reach the necessary temperature, walking beams gradually discharge them from the re-heat furnace onto the rolling lines. The lead billets are then rolled on a series of rolling mills, including roughing, intermediate, and finishing mills. Each rolling mill has a series of stands which compress and shape the lead billets with each pass through. As a lead billet passes through the stands, it becomes elongated and its cross-section becomes smaller. This process transforms a lead billet into a hot-rolled lead bar product having a specific size and shape. Generally four to 15 percent of a lead billet's weight is lost in the rolling process.

The hot-rolled lead bar is then placed on a hot bed and cooled to a temperature of about 800 degrees Fahrenheit. Once cooled, the hot-rolled lead bar undergoes straightening, non-destructive testing, deburring, and saw cutting. The hot-rolled lead bar is either coiled or cut into various lengths at the finishing shear. At this stage, some re-rollers apply a surface treatment to clean and coat their products. After being inspected for straightness, length, and defects, the hot-rolled lead bars are weighed, packaged, and placed in the warehouse for later shipment.

There are environmental issues and limitations in rolling lead billets versus nonlead billets. Environmental controls, worker safety, and health regulations are more stringent for lead than for nonlead grades. For instance, additional ventilation of exhaust fumes is necessary as lead and bismuth steel wastes are classified as hazardous waste, necessitating their segregation and separate treatment from other scrap. Specialized safety equipment and more rigorous operating procedures must also be used in compliance with Occupational Safety and Health Administration (OSHA) standards.

(d) The Extent of Production Facilities in the United States

In general, each of the U.S. re-rollers has production facilities in various states throughout the United States, but the rolling of hot-rolled lead bar mainly takes place in Illinois, Ohio, Utah, South Carolina, and New York. As we have noted earlier, most of the U.S. re-rollers were rolling lead billets into hot-rolled lead bar before the initiation of the AD and CVD investigations of hot-rolled lead bar from Germany and the United Kingdom.

In analyzing the extent of production facilities, we considered the square footage of building space dedicated to rolling lead billet into hot-rolled lead bar, the number of employees involved in rolling the lead billets, and the capital equipment used in the production of hot-rolled lead bar. Sheffield, for example, reported that its Joliet rolling facility encompasses 334,305 square feet for the processing of lead billet into hot-rolled lead bar.

With regard to the number and level of skilled employees involved in rolling lead billets into hot-rolled lead bar, Sheffield, for example, reported that in the production process of hot-rolled lead bar, from the time the lead billets are received in the billet yard to the time that hot-rolled lead bar is shipped to a customer, there are 25 skilled workers responsible for the rolling of a lead billet into hot-rolled lead bar, and all of the other ancillary functions.

With respect to the capital equipment used in the processing of lead billet into hot-rolled lead bar, the U.S. re-rollers have invested a substantial amount of money not only in the construction of factory buildings used in rolling operations for both lead and nonlead products, but also in the purchase of sophisticated machinery required to produce hot-rolled bar from lead and nonlead billets, and in the maintenance required for such machinery.

(e) Whether the Value of the Processing Performed in the United States Represents a Small Proportion of the Value of the Merchandise Sold in the United States

We calculated the difference in value between the hot-rolled lead bar sold in the United States and the value of the lead billets purchased from the foreign respondents that were used in the production of that merchandise. For AS&W, BarTech, Republic, and Sheffield, we based our calculation of value added to the merchandise sold in the United States on the difference between the delivered lead billet import price and the ex-factory sales price of the hot-rolled lead bar. This methodology was used because both transactions (lead billet purchases and hot-rolled lead bar sales) were sales between unaffiliated parties. To derive the value of processing performed by each U.S. re-roller, we subtracted from the ex-factory sales price of hot-rolled lead bar to unaffiliated customers the delivered price of lead billets, after adjusting for a yield factor (to account for additional lead billet consumed in the production of one unit of hot-rolled lead bar).

In regard to Nucor, because the company uses all the hot-rolled lead bar that it produces to further manufacture cold-finished products, we applied a different value-added methodology. We based our calculation of value-added on the comparison between the conversion fee Nucor's rolling mill charged its affiliated cold-finisher and the resulting total input cost of hot-rolled lead bar to the cold-finisher, after adjusting both for a yield factor (to account for additional lead billet consumed in the production of one unit of hot-rolled lead bar).

Some of the U.S. re-rollers purchased lead billets from all three suppliers of lead billets subject to these inquiries, while others purchased exclusively from one source. Some of the U.S. re-rollers, however, were unable to identify the supplier of lead billets on a transaction-specific basis with respect to the U.S. sales of the processed hot-rolled lead bar. Therefore, for each U.S. re-roller, the calculation of value-added is based upon a weighted-average price of imported lead billet from the foreign respondent(s) from whom the U.S. re-roller purchased its lead billets. Because the processing of the imported lead billet into hot-rolled lead bar is virtually identical regardless of the source of the imported lead billet, we consider this weighted-average, non-supplier specific calculation of value-added to be appropriate in those instances. However, where possible, we used the supplier-specific information to calculate the value-added to each supplier.

The value of processing performed in the United States ranges from approximately 10 percent to 29 percent for the U.S. re-rollers. The relative value of processing varies because of the lead billet prices charged by the foreign respondents to the U.S. re-rollers, the U.S. re-roller's yield factor for rolling one unit of lead billet into one unit of hot-rolled lead bar, and the different prices charged by the U.S. re-rollers to their customers due to size and shape of the hot-rolled lead bar. Because the calculation of the value of processing is based upon proprietary data, the value-added percentages presented above have been ranged.

(4) Whether the Value of Imported Parts is a Significant Portion of Value of Lead Bar

Under section 781(a)(1)(D) of the Act, the value of the imported parts or components must be a significant portion of the total value of the subject merchandise sold in the United States in order to find circumvention. The imported lead billet is the sole material input into the completed hot-rolled lead bar and a significant portion of the value of the completed hot-rolled lead bar is for this material cost.

Other Factors To Consider

In making a determination whether to include parts or components within an order, section 781(a)(3) of the Act instructs us to take into account such factors as: the pattern of trade, including sourcing patterns; whether affiliation exists between the exporter of the parts and the person who assembles or completes the merchandise sold in the United States; and whether imports into the United States of the parts produced in the foreign country have increased after the initiation of the investigation which resulted in the issuance of the order. Each of these factors are examined below.

(1) Pattern of Trade And Sourcing

The first factor to consider under section 781(a)(3) is changes in the pattern of trade, including changes in the sourcing patterns of the lead billets. SAA at 894. Unlike our examination of the processing of lead billets into hot-rolled lead bar in the United States, which was essentially the same for all of the U.S. re-rollers, there are differences in the pattern of trade among the U.S. re-rollers and the three foreign respondents (British Steel, Thyssen, and Saarstahl). Among the foreign respondents, British Steel and Thyssen are the two largest lead billet exporters to the United States. In comparison, Saarstahl is a small exporter of lead billets.

British Steel began selling lead billets to the United States in 1994. By 1996, the company's lead billet sales doubled. British Steel's sales of hot-rolled lead bar peaked in 1992, declined in 1993 and 1994, rebounded in 1995, and continued to trend upwards in 1996. In general, sales of hot-rolled lead bar by British Steel have greatly exceeded its sales of lead billets to the U.S. market (despite the AD and CVD orders). British Steel's sales of hot-rolled lead bar in the U.S. market have remained substantial since the imposition of the orders. In fact, Sheffield reported that its primary competition for hot-rolled lead bar shapes is imports from British Steel.

Thyssen has been selling lead billets to the United States since 1988, well before the Department initiated its hot-rolled lead bar investigations in May 1992. Thyssen's lead billet shipments to the United States increased steadily from 1991 to 1996, peaking in 1996, while its hot-rolled lead bar sales to the U.S. market terminated in 1992. Thyssen has stated that lead billets, and not hot-rolled lead bar, have always

been its primary U.S. market, and the pattern of trade for both products indicates this to be accurate.

Saarstahl began selling lead billets to the United States in 1992, the last year the steelmaker sold hot-rolled lead bar to U.S. customers. Saarstahl's exports of lead billets to the United States peaked in 1993, and since then have significantly decreased.

AS&W has been purchasing lead billets since its inception in 1986. AS&W reported that since 1992, the company has sourced lead billets from both foreign and domestic suppliers. A major change in the company's sourcing was the termination of a billet supply agreement (inclusive of lead and nonlead billets) with USS/KOBE. When Birmingham Steel purchased AS&W in 1993, there was a lead billet supply agreement in effect with USS/Lorain Works, which subsequently became USS/KOBE. USS/KOBE terminated the supply agreement in 1996, citing a lack of lead billet availability. With the termination of this supply agreement, AS&W was no longer able to source lead billets domestically.

Bar Tech began purchasing lead billets in 1996. Bar Tech has not sourced lead billets from domestic producers. Bar Tech never purchased lead bar from the foreign respondents.

Nucor did not begin purchasing lead billets until 1992, when the company began sourcing from foreign respondents. Purchases from the foreign respondents have been generally declining. Nucor had previously purchased hot-rolled lead bar from foreign sources.

Republic's predecessor began purchasing lead billets from foreign sources in the mid-80's. Since becoming an independent company in 1989, Republic has continued to source its lead billets from foreign sources to supplement its own production. Republic has not purchased lead billets from domestic producers. The company did purchase hot-rolled lead bar from foreign sources in the early 1990's; however, since 1993, Republic has sourced hot-rolled lead bar exclusively from domestic suppliers.

Sheffield has sourced lead billets from both domestic and foreign producers since it began purchasing lead billets in 1992. Throughout much of 1993, Sheffield sourced lead billets from Inland; however, by late 1993, Inland stopped its external sales of lead billets citing its own internal lead billet consumption needs. In June 1995, Inland was again in a position to supply lead billets. Sheffield placed orders with Inland, but by the fourth quarter of 1995, Inland once again stopped selling lead billets. Since 1996, Sheffield has sourced lead billets from abroad.

(2) Affiliation

The second factor to consider under section 781(a)(3) of the Act is whether the manufacturer or exporter of the lead billets is affiliated with the entity that assembles or completes the merchandise sold in the United States from the imported lead billets. In these circumvention inquiries, the Department inquired whether affiliation existed between the U.S. re-roller and the foreign respondents, pursuant to section 771(33) of the Act. Based upon our analysis of the information on the record, including the questionnaire responses from both the U.S. re-rollers and the foreign respondents, we find that no affiliation exists between the parties. There is no common ownership, direct or indirect, between the U.S. re-rollers and the foreign suppliers of lead billets, or a joint venture between the companies. Further, there are no facts (e.g., close supplier relationship) that suggest control of any of the re-rollers by the foreign respondents. In sum, we have found no evidence to indicate that the foreign respondents have attempted either to purchase or to construct re-rolling facilities in the United States which would allow them to import lead billet and process it into hot-rolled lead bar for their own use.

(3) Whether Imports Have Increased

The third factor to consider under section 781(a)(3) is whether imports of lead billets into the United States have increased after the initiation of the hot-rolled lead bar investigations. Therefore, we have analyzed the level of imports of lead billets from both Germany and the United Kingdom since 1992, the year in which the AD and CVD investigations of hot-rolled lead bar were initiated. While we find that imports of lead billets have increased from all three foreign respondents, there are reasons beyond the initiation of the AD and CVD investigations to explain their rise.

According to some of the U.S. re-rollers, there has been a switch from domestically produced lead billets to foreign-sourced lead billets because Inland and USS/KOBE have not met the lead billet supply needs of the U.S. market. In addition, there were two new entrants to the hot-rolled lead bar market after the initiation of the hot-rolled lead bar investigations that required supplies of lead billet. Sheffield entered into the hot-rolled lead bar market after Bethlehem Steel exited the market in 1992. Two years later, Bar Tech entered the hot-rolled lead bar market after purchasing Bethlehem's rolling facilities. Bethlehem Steel, one of the original petitioners in the hot-rolled lead bar investigations, produced its own lead billets; however, neither Sheffield nor Bar Tech currently have lead billet production and thus, must source their lead billets from other outside sources.

Further, according to the ITC, in the United States almost all semifinished steel such as blooms, billets, and slabs are used in captive production of finished steel products. Steel processors, such as the U.S. re-rollers, are an important outlet for excess semifinished steel products manufactured by steel producers. In the relatively limited semifinished steel market, the consumer is also likely to be the supplier's competitor in sales of finished steel. *See* USITC Publication 2758, *Industry & Trade Summary Semifinished Steel* (March 1994) 3, 5, and 11. Because the consumer of a billet is generally a competitor of the supplier, the dynamics of supply operate differently than for finished steel products. A steelmaker with excess melting capacity may have incentive to refrain from selling semifinished steel, such as billets.

It has also been difficult to measure the rise in imports of lead billets from Germany and the United Kingdom against import trends from other countries. This is because the primary HTS number under which lead billets are imported is a basket category which includes other imports of semifinished products of iron or nonalloy steel with a chemical content of under 0.25 percent carbon. In its application, Inland and USS/KOBE provided import data for this HTS category. According to these data, imports of semifinished products of iron or nonalloy steels from countries not subject to AD or CVD orders increased after the initiation of the hot-rolled lead bar investigations, and significantly in some cases.

Summary of Statutory Analysis

As discussed above, in order to make an affirmative determination of circumvention, all the elements under sections 781(a)(1) of the Act must be satisfied, taking into account the factors under section 781(a)(2). In addition, section 781(a)(3) of the Act instructs the Department to consider, in determining whether to include parts or components within the scope of an order, such factors as: pattern of trade, affiliation, and whether imports into the United States of such parts or components increased after the initiation of the investigation which resulted in the issuance of the order. When the criteria

of section 781(a)(1), taking into account the factors under section 781(a)(2), are applied to the individual facts, our analysis of whether circumvention is occurring is inconclusive. However, when the evidence to be considered under section 781(a)(3) of the Act, is incorporated into our analysis, we find that all of the evidence, taken as a whole, does not lead us to find a basis for including lead billets within the scope of the AD and CVD orders on hot-rolled lead bar from Germany and the United Kingdom.

Pursuant to sections 781(a)(1) and (2), we find that the processing of lead billets into hot-rolled lead bar is essentially identical for all of the U.S. re-rollers involved in these inquiries. A detailed description of the re-rolling process is provided above. Though the U.S. re-rollers perform only one of the three processes needed to produce hot-rolled lead bar, they do perform the final process of converting the semifinished steel product into a functional finished steel good. Also, because the production process of converting lead billets into hot-rolled lead bar is a technically mature process, we did not find significant R&D expenditures by the U.S. re-rollers.

The process of rolling lead billet into hot-rolled lead bar requires significant capital investment in rolling machinery and equipment, and compliance with a variety of OSHA and environmental regulations. Capital equipment and machinery used by the U.S. re-rollers, once purchased, installed, and operational, represent significant fixed plant and equipment which cannot be easily disassembled and transported to another location. Investment in re-rolling facilities requires a long-term investment of capital, long-term corporate planning, and a long-term business commitment by the U.S. re-roller.

Pursuant to section 781(a)(3), in reaching our determination, we took into consideration the factors of pattern of trade, sourcing, affiliation, and import trends. The facts concerning pattern of trade, sourcing, affiliation, and import trends do not indicate that there is circumvention of the hot-rolled lead bar orders. Even if we were to conclude that the value of processing performed by the U.S. re-rollers in the United States is relatively small, when we examined sections 781(a)(1) and (2) in conjunction with the factors under section 781(a)(3), the facts, taken as a whole, do not lead us to find that circumvention of the hot-rolled lead bar orders is occurring.

Throughout the United States, the U.S. re-rollers have extensive capital-intensive rolling facilities staffed by skilled workers. As previously discussed, the U.S. re-rollers are not affiliated with the foreign respondents and their rolling facilities were in existence and operational before the initiation of the hot-rolled lead bar investigations. Indeed, the petition for the hot-rolled lead bar investigations was filed on behalf of two of the five U.S. re-rollers, AS&W and Republic. In addition, a third U.S. re-roller, Bar Tech, purchased its rolling facilities from Bethlehem Steel, one of the two original petitioners in the hot-rolled lead bar investigations.

Based upon the information on the record, most of the U.S. re-rollers' investment in rolling facilities in the United States was made before the initiation of the AD and CVD investigations of hot-rolled lead bar from Germany and the United Kingdom. In addition, some of the U.S. re-rollers made large investments in their rolling mills after 1992, the year in which the investigations on hot-rolled lead bar began. Thus, before and after 1992, U.S. re-rollers made large investments of capital and resources into their rolling facilities. These facts demonstrate that there were substantial production facilities for converting lead billets into hot-rolled lead bar before the initiation of the hot-rolled lead bar investigations.

Further, as discussed above, British Steel remains a large exporter of hot-rolled lead bar to the United States and its bar market in the United States is still much larger than its U.S. lead billet market. Thyssen was primarily a lead billet exporter to the United States before 1992, the year the hot-rolled lead bar investigations were initiated. That did not change after the initiation of the hot-rolled lead bar investigations. Saarstahl, which exports a relatively small volume of lead billets to the United States, is not a major player in the U.S. lead billet market.

With respect to the U.S. re-rollers, changes in their respective sourcing patterns after 1992 appear to be due to changes in the U.S. market, independent of the hot-rolled lead bar investigations. U.S. re-rollers were purchasing lead billets and rolling them into hot-rolled lead bar before 1992. For example, Republic began purchasing lead billets in the mid-80's from foreign sources. New hot-rolled lead bar entrants came into the market after the departure of Bethlehem, causing an increase in the demand for lead billets. While Bethlehem was able to produce its own lead billets, the two new entrants, Bar Tech and Sheffield, have to purchase their lead billets from independent sources. In addition, there were also shifts from domestic to foreign billet suppliers because the domestic companies producing lead billets were only able to meet their own internal consumption needs. As discussed above, since 1996, both AS&W and Sheffield have been forced to source lead billets from foreign suppliers as a result of the termination of their supply arrangements with USS/KOBE and Inland, respectively.

Our analysis demonstrates that the increase in the importation of lead billets by the U.S. re-rollers in order to produce hot-rolled lead bar was due to many factors above and beyond the imposition of the bar orders. As noted above, a number of the U.S. re-rollers were producing hot-rolled lead bar from foreign lead billet suppliers prior to the orders and continued to produce hot-rolled lead bar after the orders. In addition, these unaffiliated U.S. re-rollers invested a substantial amount in their rolling facilities both before and after the AD and CVD orders to roll both lead and nonlead billets into hot-rolled bar.

The facts of these inquiries also show that the foreign respondents did not change their product lines in the United States as a result of the initiation of the hot-rolled lead bar investigations. As noted, Thyssen's primary market in the United States has been lead billets since the mid-80's. British Steel, which commenced selling lead billets in 1994, continues to export a significant amount of hot-rolled lead bar to the United States.

Based upon this analysis under section 781(a) of the Act, we determine that circumvention of the AD and CVD orders on hot-rolled lead bar is not occurring by reason of imports of lead billets from Germany and the United Kingdom.

Analysis of Comments Received

We invited interested parties to comment on the preliminary negative determinations of circumvention of hot-rolled lead and bismuth carbon steel products from Germany and the United Kingdom. We received case and rebuttal briefs from the foreign respondents, British Steel, Saarstahl, Thyssen; two of the U.S. re-rollers, Republic and Sheffield; and the petitioners, USS/KOBE and Inland Steel Bar Company. All comments and rebuttal arguments properly raised by the parties in their briefs to the proceeding are discussed below.

Comment 1: The Statute Does Not Instruct the Department To Evaluate Why Imports Into the United States Have Increased

The petitioners argue that pursuant to section 781(a)(3)(C) of the Act, the Department will consider whether ''the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.'' The petitioners argue that the statute instructs the Department to consider whether an increase of the lead billets have occurred after the initiation of the original investigation without evaluating possible reasons for such an increase before or during the investigation period and up to the order date.

The petitioners assert that the data on the record clearly demonstrates that the level of imported lead billets into the U.S. market from Germany and the United Kingdom has increased dramatically since the investigations of hot-rolled lead bar in 1992, while imports of bars and rods subject to the orders have markedly declined.

The petitioners argue that the Department's reasons for the sharp increase of lead billets, as stated in the preliminary determinations, including general sourcing patterns in the U.S. semifinished steel market, import trends from other countries, and the re-rollers ''short supply'' argument, do not hold up to the facts. Moreover, the petitioners argue that none of the U.S. re-rollers or foreign respondents has alleged that there is a shortage of lead billets in the United States. The petitioners argue that none of the alternate rationales provided by the Department disproves the fact that the imports of lead billets from the United Kingdom and Germany increased since the investigation and subsequent orders placed on hot-rolled lead bars in 1992 and 1993, respectively.

The foreign respondents argue that the pattern of trade demonstrates that the foreign respondents were selling lead billets to the United States before the imposition of the AD and CVD orders on hot-rolled lead bar. In addition, the U.S. re-rollers participating in these inquiries were in existence before the imposition of the hot-rolled lead bar orders. Further, the U.S. re-rollers that were in existence before the AD and CVD orders on hot-rolled lead and bismuth carbon steel products had been purchasing lead billets prior to the AD and CVD orders.

Collectively, the foreign respondents argue that the individual patterns of trade for British Steel, Thyssen, and Saarstahl are vastly different, and do not demonstrate on their part or the U.S. re-rollers' part that circumvention of the orders is occurring. For example, British Steel argues that its shipments of hot-rolled lead bar to the United States have and continue to exceed its shipments of lead billets. Thyssen argues that it was never a significant exporter of hot-rolled lead bars to the United States. Rather, Thyssen states that it sells significantly greater quantities of lead billets to unrelated companies throughout the world, including the United States, than hot-rolled lead bars. Additionally, Thyssen notes that prior to the certain hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany and the United Kingdom investigations, it sold lead billets to the United States in significantly greater quantities than its sales of hot-rolled lead bar. Saarstahl argues that its sales of lead billets to the United States have significantly declined since peaking in 1993.

Both the foreign respondents and U.S. re-rollers argue that, because four of the five U.S. re-rollers participating in these proceedings either do not currently produce lead billets themselves, or can not produce sufficient quantities of lead billets to meet their requirements, a reliable source of lead billet supply is necessary. The U.S. re-rollers, as well as the foreign respondents, stress that the reason for the increase in lead billet imports from Germany and the United Kingdom is due to the fact that the domestic lead billet industry (*i.e.*, petitioners) is either ''unwilling'' or ''unable'' to provide a consistent and reliable supply of lead billets to the U.S. re-rollers respective facilities. AS&W, Republic, and Sheffield have made repeated assertions that Inland and USS/KOBE do not have the capacity to meet their demands or the demands of the domestic lead billet merchant market and, therefore, were compelled to source lead billets from the foreign respondents because both Inland and USS/KOBE refused to sell lead billets on a consistent basis. British Steel notes that AS&W approached British Steel as a possible supply source of lead billets only after USS/KOBE terminated a supply agreement with AS&W in 1996.

Department's Position: Although the pattern of trade is not a determining factor, but rather one of several factors which the Department considers in evaluating whether circumvention is occurring, the Department did consider this to be an important factor in its analysis as to whether circumvention of the AD and CVD orders are occurring.

The petitioners have argued that in evaluating the pattern of trade, it is sufficient merely to look at the trends of the data without further examination of the facts surrounding those trends. For example, petitioners contend that we have disregarded the statute by going behind the import statistics to consider what they characterize as ''short supply'' issues. We disagree with petitioners'' interpretation of the statute. The petitioners' argument that the Department only examine whether imports have increased would convert this criterion into a mechanical approach which we believe is much less meaningful than an examination of all the relevant circumstances, including the causes behind the import trends. The ''pattern of trade'' is more than just bare import statistics alone.

Therefore, in order to determine whether circumvention of an order has occurred, we are directed by the SAA to examine the individual facts on a case-by-case basis for each circumvention inquiry. For example, if imports of lead billet increased after the order by 10 percent, while the increase in imports of hot-rolled lead bar was 100 percent after the imposition of the order, the petitioners' interpretation of the statute would require that the Department ignore contributing factors and explanations for an increase in the level of importations when deciding whether or not circumvention of an order has occurred. To adopt this interpretation of the statute would render the individual facts of a circumvention inquiry meaningless. In other words, the petitioners' suggestion that the Department must only consider quantitative changes pursuant to section 781(a)(3)(C) of the Act without consideration of the facts of the circumvention inquiry and the underlying causes that may have contributed to such changes is inappropriate for evaluation of this criterion.

In analyzing the level of imports of lead billets from both Germany and the United Kingdom, respectively, we found that imports of lead billets have increased from all three foreign respondents. However, the respective increases appear to be the result of causes other than the initiation of the hot-rolled lead bar investigations and the subsequent orders.

In evaluating the criterion provided by section 781(a)(3)(C), the Department relied, in part, upon the fact that since the mid-1980s Thyssen's primary product market in the United States has been lead billets, not hot-rolled lead bar. With respect to British Steel, the Department found that the pattern of trade did not suggest circumvention because British Steel remains a large exporter of hot-rolled lead bar to the

United States and its hot-rolled lead bar market in the United States is still much larger than its lead billet market. Further, the reduction or elimination of domestic supply by Inland and/or USS/KOBE's inability to provide a consistent supply of lead billets to the U.S. merchant lead billet market is a contributing cause to the reported increase in imported lead billets into the United States. Thus, even though the petitioners contend that there is now ''available'' domestic capacity to meet the U.S. lead billet merchant market demand, the record clearly demonstrates that the petitioners' capacity is not necessarily available to U.S. re-rollers as evidenced by the re-rollers' inability to secure a consistent supply from domestic sources. Indeed, Inland has stated publicly that it does not sell lead billets to the U.S. lead billet merchant market. *See* February 17, 1998 *Ex Parte* Memorandum from the Team, through Barbara E. Tillman, to the File.

We also found during our verification of Republic various contractual agreements between Republic and its customers. These contracts, also known as a ''frozen practice,'' identify the lead billet supplier, specifications and functional requirements of the input. Republic has entered into a number of ''frozen practice'' arrangements with its customers which require Republic to use specific lead billet suppliers in the production of the multiple downstream products which are purchased by the automobile industry in the United States. In these cases, changes in sourcing lead billets without written approval of the customer are subject to refusal. *See Verification of Republic Engineered Steel's Questionnaire Responses in the Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders on Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom*, July 6, 1998 at 4.

Comment 2: The Department Should Compare the Investments in a Re-rolling Mill to the Investments Required for an Integrated Steel Facility

The petitioners argue that the Department failed to provide a proper analysis pursuant to section 781(a)(2) of the Act as to whether the process carried on in the United States is ''minor'' or ''insignificant.'' In particular, the petitioners argue that the Department's analysis was deficient with respect to the level of investment factor. The petitioners contend that the Department, in reaching its preliminary determinations, merely summarized generic hot-rolling investment information submitted by the U.S. re-rollers and concluded that ''[i]nvestment in re-rolling facilities requires a long term investment of capital'' and that all of the U.S. re-rollers have made ''large investments of capital and resources into their rolling facilities'' without providing a proper comparison of what constituted a ''long term investment of capital'' and ''large investment of capital.'' The petitioners argue that the Department in its final determination must compare the level of investment required to produce lead billets relative to the investment required to roll lead billet into hot-rolled lead bar. The petitioners argue that using a comparative analysis would demonstrate that the production of lead billets requires ''substantial'' investment in specialized facilities, including dedicated equipment, such as bloom casters, lead injection equipment, and fume control technology, whereas the level of investment dedicated and required to roll lead billets into hot-rolled lead bar at the U.S. re-roller facilities would be deemed ''minor'' or ''insignificant.''

The petitioners argue that the investment data from the U.S. re-rollers clearly establishes that the plant and equipment required for the production of hot-rolled lead bar represents only a fraction of the plant and equipment required for the production of lead billets. According to the petitioners, the investment required to construct the facilities and purchase capital machinery dedicated and required for the production of lead billets vastly exceeds the level of investment in the U.S. re-rollers' current facilities and equipment which merely roll the lead and/or nonlead billets into hot-rolled bar.

The petitioners also note that in their application for these circumvention inquiries, the petitioners compared the level of investment necessary to roll lead billets into hot-roll lead bar with that required to produce lead billets, and that this relative comparison prompted the Department to initiate these inquiries because the level of investment required to roll lead billets at the U.S. re-roller facilities was ''minor'' in comparison to the production of lead billets at the petitioners'' integrated facility.

Further, the petitioners contend that the Department, in reaching its preliminary determination, failed to follow previous anticircumvention inquiries where the Department conducted a comparative analysis of the level of investment between an industry and its individual segments. *See Granular Polytetrafluoroethylene Resin from Italy; Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 63 FR 26100 (April 30, 1993)(*PTFE*), and *Brass Sheet and Strip from Canada; Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 58 FR 33610 (June 18, 1993) (*Brass Sheet and Strip*). In *PTFE*, the petitioners assert, the Department made an affirmative finding of circumvention, in part, because ''* * * in comparison to the investment required to establish an integrated production facility for granular PTFE resin (finished product), respondent's investment in the United States is relatively minor'' (58 FR at 26103). Petitioners also cite to *Brass Sheet and Strip*, where the Department found that failure to compare the re-roller's operations to an integrated mill would not ''provide * * * an accurate representation of the industry as a whole * * * nor a meaningful evaluation of Great Lakes' operations in particular'' (58 FR at 33613).

The U.S. re-rollers and foreign respondents disagree with the petitioners' assertion that the level of investment is ''minor'' and that a comparison of an integrated facility to a rolling facility is warranted in these inquiries. The U.S. re-rollers and foreign respondents argue that the record in these inquiries demonstrates that the U.S. re-rollers' absolute level of their investment in their respective bar mills is ''significant.'' Both the U.S. re-rollers and foreign respondents argue that during the course of these inquiries, documentation has been provided and verified confirming that the level of investment required to modernize a bar mill facility or to construct a new state of the art bar mill facility in the United States demonstrated a substantial level of investment in absolute terms. These multi-million dollar investments in the United States, the U.S. re-rollers and foreign respondents argue, do not comport with the type of ''screwdriver'' operations intended to be captured by the statutory anticircumvention provisions.

Both the U.S. re-rollers and foreign respondents argue that the mining, smelting, casting and refining of steel is performed by integrated producers, which is just one part of the entire U.S. steel making industry, whereas the U.S. re-rollers are a distinct segment of the steel making industry. Further, the foreign respondents point out that the Department has previously rejected comparisons of a petitioner's production activities with those of foreign respondents, when separate segments of the industry exist. *See, e.g., Portable Electric Typewriters from Japan (Brother*

Industries, Ltd. and Brother Industries (USA), Inc.); Negative Final Determination of Circumvention of Antidumping Order 56 FR 58031 (November 15, 1991)(*PETS*). Similarly, the foreign respondents argue that the rolling operation of lead billets into lead bar is not the kind of secondary operation the Department found in *Brass Sheet and Strip,* but rather, is a substantial operation involving large amounts of investment necessary to perform its intended operation (*i.e.,* rolling, testing, finishing, etc.).

Department's Position: In reaching our final determinations, the Department evaluated the U.S. re-rollers' level of investment within the context of the amount of investment required at a rolling mill for the production of hot-rolled lead and nonlead bar. We believe that a comparison of the U.S. re-rollers' level of investment with that of an integrated steel making facility, as suggested by the petitioners, is not called for in these inquiries. First, neither the statute and SAA, nor the legislative history contains a requirement that the Department make such a comparison.

Second, it is not necessary or appropriate in this case to undertake such an analysis because the activities undertaken by the U.S. re-rollers historically represent a pre-existing and distinct segment of the leaded steel industry. The investment made by each U.S. re-roller in its facilities, as the Department has verified, was largely made prior to the orders. Although the actual amount of an individual U.S. re-rollers' investment is business proprietary information, the data from the U.S. re-rollers reveal that, prior to the inquiries in these cases, they made long-term commitments to produce hot-rolled bar from leaded and nonleaded billets and, to this end, invested a substantial amount of money in plant and equipment. Furthermore, according to the ITC, the manufacturing process for the leaded steel industry involves mining, melting, casting, rolling, testing, and finishing. The ITC notes that operations performed by integrated mills include all of the above and, therefore, such facilities require more investment in relation to the U.S. re-rollers which undertake the end stage, characterized by rolling, testing and finishing operations. Thus, a comparison of operations undertaken and the investment needed by an integrated mill would not represent an appropriate standard in this case and would fail to provide an accurate representation of the U.S. re-rollers' level of investment. The petitioners' assertion that the U.S. re-rollers' investment in rolling mills is small compared to its integrated mills' investment in the United States is irrelevant because, here, we are only concerned with the investment required at a rolling mill, a separate, recognized segment of the steelmaking industry as identified by the ITC.

Section 781 of the Act was not intended to deter commercial investment in the United States or to thwart the legitimate business interests of U.S. companies. SAA at 894. In this regard, the record in this proceeding establishes that each U.S. re-roller has made significant investment in the United States in plant, equipment, and the training of employees related to the rolling of leaded billets, and they did so largely prior to the antidumping investigations. In view of the amount and type of investment by the U.S. re-rollers and the existence of these operations prior to the investigations, we do not agree that the level of investment in this case plainly supports a finding that the processing in the United States is minor or insignificant, whether or not the level of investment may be smaller than the amount needed for a fully integrated steel mill, as petitioners argue. Rather, when all of the facts of this case are considered, we find that these investments represent significant investments in the re-rolling segment of the U.S. industry.

Although the petitioners cite to previous circumvention decisions where the Department did compare segments of an industry to its whole, the Department has also found it unnecessary to make such comparisons in other circumvention inquiries. *See, e.g., Certain Internal-Combustion, Industrial Forklift Trucks from Japan; Negative Final Determination of Circumvention of Antidumping Duty Order,* 55 FR 6028 (February 21, 1990) (*Forklift Trucks*). In *Forklift Trucks,* the Department noted that the foreign respondents ''made substantial investments in plant and equipment'' (55 FR at 6029), and that the ''level of production operations is too great to characterize these operations as completion or assembly operations established for the purpose of evading the antidumping duty order'' (*see Certain Internal-Combustion, Industrial Forklift Trucks from Japan; Preliminary Determination of Circumvention of Antidumping Duty Order,* 54 FR 50260, 50263 (December 5, 1989)). In *Forklift Trucks* the Department determined that ''it is not necessary that respondent's investments be comparable with those of (petitioners) * * * in order for the Department to decide if respondent's facilities are more than mere completion or assembly operations' (55 FR at 6029).

In addition, there are factual differences between these circumvention inquiries of the lead bar orders and the two cases cited by the petitioners. In *PTFE,* the inquiry involved whether the Italian PTFE manufacturer set up and operated facilities in the United States in order to circumvent the PTFE order. The facility was newly established and performed only a portion of the manufacturing process the company performed in Italy. Thus, in that case, a comparison of the Italian manufacturer's operations in the United States with its operations in Italy was relevant to the inquiry because the allegation of circumvention in *PTFE* focused on whether the Italian respondent had set up a related subsidiary in the United States in order to circumvent the order. Given the nature of the allegation, it would have been extremely difficult to determine whether the Italian company started its U.S. processing in order to circumvent the order on PTFE without comparing the nature of its processing facilities in the United States with that company's operations in Italy. This fact pattern is not present in these circumvention inquiries on lead bar. For one thing, the U.S. rerollers are not related to the U.K. and German lead bar producers. Moreover, the U.S. rerollers existed at the time that the lead bar orders were issued.

In addition, the fact pattern in *Brass Sheet and Strip* does not support the petitioners' argument that we should compare the investments made by the U.S. re-rollers with the investments required of an integrated steel manufacturer. In *Brass Sheet and Strip,* the Department compared the processes performed by the importer's facility with the operations normally performed by brass mills in the United States, because the importer's operations were not part of a separate, recognized segment of the brass sheet and strip industry. In *Brass Sheet and Strip,* we found that the importer's small amount of cold-breakdown rolling was insufficient for us to consider it a fabricator, but also that its operations were not comparable to the brass re-rollers because the re-rollers purchase brass sheet and strip and roll it into a different brass sheet and strip product. The purchased products already were within the scope of the order, as was the final product. In contrast, the importer subject to the circumvention inquiry, Great Lakes, purchased brass plate that had been processed to the point of being one rolling step short of constituting sheet and strip. Because Great Lakes

performed some processing of the plate, the operations it performed did not represent the type of processing that had been performed by a separate, recognized segment of the brass sheet and strip industry. Prior to Great Lakes, there were no ''re-rollers'' that processed plate. Great Lakes' operations, which were established after the order was issued, included an operation normally performed by brass mills and not by re-rollers. Thus, in *Brass Sheet and Strip,* we compared the U.S. importer's processing to that of the brass mill, where the type of processing Great Lakes performed normally took place in that industry. Again, the facts which caused us to compare Great Lakes' rolling facilities to integrated facilities in *Brass Sheet and Strip* are not present in the hot-rolled lead bar circumvention inquiries. This case does not involve a new and different type of processor. The U.S. lead bar industry is comprised of both integrated producers and re-rollers. This composition of the U.S. lead bar industry existed before the initiation of the original AD and CVD investigations of lead bar from Germany and the United Kingdom. Because re-rollers are a separate, recognized part of the U.S. lead bar industry, there is no need to compare their investments and facilities to another segment of the U.S. steel industry.

Comment 3: The Department Should Compare the Extent and Nature of Re-rolling Operations to Those of an Integrated Steel Facility

The petitioners argue that using a comparative analysis between the nature and extent of a U.S. re-roller's processing and that of an integrated facility would demonstrate that the quality, inherent characteristics and machinability of the final product are imparted at the steps taken in the casting stage of an integrated producer and that the rolling of lead billets into hot-rolled lead bar is merely a shaping and sizing process which does not add to the value because the fundamental chemical properties are imparted in the production of the semifinished leaded steel. The petitioners contend that the production of the semifinished lead billet is substantial in terms of equipment required (*i.e.,* specialized facilities, including dedicated equipment, such as bloom casters, lead injection equipment, and fume control technology) and that the conversion of the semifinished steel into hot-rolled bar is ''minor.''

Further, the petitioners argue that the Department has failed to follow previous anticircumvention precedent where the Department made a comparison of a segment of an industry to the entire industry as a whole. The petitioners argue that, in *Brass Sheet and Strip,* the Department evaluated a similar industry via a relative comparison, and that this comparison rendered an affirmative determination of circumvention. In *Brass Sheet and Strip,* the Department considered that the nature of the production process indicated that U.S. value added was ''small'' because melting and casting operations performed in integrated brass mills were the ''primary operations for production of brass sheet and strip; whereas rolling operations add only the last fraction of value.'' The petitioners contend that the U.S. re-rollers, in the instant proceeding, perform the last of three stages in the manufacturing process for hot-rolled leaded bar and that this process is similar to the finishing processes of brass plate in *Brass Sheet and Strip,* where the rolling of brass plate into brass sheet entailed only one process for turning a semifinished product into a single finished product.

Similarly, the petitioners assert that in *PTFE* the Department compared the respondent's integrated facility in Italy with its affiliated U.S. production facility. The petitioners point out that in *PTFE* the Department concluded that the ''post-treatment processes are not complex relative to the processes required to produce PTFE wet raw polymer, and do not fundamentally alter the nature of the product'' (58 FR at 26102). The petitioners argue that as in the instant proceedings, the inherent characteristics of the lead billet are imparted at the melting stage, not the rolling stage and that the rolling stage should be considered similar to post treatment.

The foreign respondents refute the petitioners' allegations that the nature and extent of processing lead billets into hot-rolled lead bar is ''minor.'' In particular, Thyssen points out that Inland argued to the ITC in the original lead bar investigations, that:

> [t]he rolling practice of injected steels is also unique and with it come additional production costs * * * must be heated up to an hour longer than SBQ (special bar quality) carbon steels to achieve the proper rolling temperature; therefore adding extra heating cost * * * [t]here is substantially more time involved in producing a lead or bismuth product and therefore it becomes a more costly process.

(*See* Thyssen's July 21, 1997 submission.) Further, the foreign respondents and U.S. re-rollers contend that the Department has the discretion to engage in a comparative analysis, and that the use of a comparative analysis would be nonsensical in the steel industry context, because the integrated facility produces a full range of products with a different cost structure, different production volumes and various product mixes than that of a rolling mill. The foreign respondents argue that under the petitioners' hypothesis, any production process that takes place after the casting of the semifinished steel may be characterized as ''minor or insignificant'' by comparison, even though the further processing is very significant in absolute terms. The U.S. re-rollers contend that an examination of their descriptions of the production process reveal that the processing of lead billet into hot-rolled lead bar that they perform in the United States is substantial. According to the U.S. re-rollers, the operations performed at their respective U.S. facilities require sophisticated and complex machinery in order to adhere to strict environmental and process quality controls.

The foreign respondents also refute the petitioners' assertions that the machinery at the melting and casting stages at an integrated facility is dedicated solely to the production of lead billets. The foreign respondents argue that neither an integrated facility's nor the U.S. re-rollers' equipment is used solely for the production of either leaded and nonleaded steel products, but rather a product mix involving chemistries for both leaded and nonleaded products. The foreign respondents argue that the smelting and casting equipment at the integrated facility (*i.e.,* furnace and tundish) can be used to produce both leaded and nonleaded steel products.

Both the foreign respondents and U.S. re-rollers argue that, given the nature of the U.S. re-rollers operations, the fact that they do not add any materials to the imported lead billet is irrelevant because there is virtually no market for lead billet other than re-roller facilities. The U.S. re-rollers state that they must substantially transform the lead billet into a hot-rolled lead bar in order to produce a saleable product. Foreign respondents stress that a lead billet is a semifinished product that is used by the U.S. re-rollers to produce other semifinished products (*e.g.,* hot-rolled lead bar) and finished products, (*i.e.,* cold-finished lead bar).

Department's Position: The petitioners' main argument that the Department should compare a re-rolling facility to an integrated steel facility in determining whether the re-rolling operations in the United States are ''minor'' or ''insignificant'' and their citations to *Brass Sheet and Strip* and

PTFE have been addressed in the ''Department's Position'' to ''Comment 2.'' The issue present in these circumvention inquiries is not whether the production of steel is more complex than the re-rolling and completion of a semifinished steel product but whether the rolling of lead billets into hot-rolled lead bar is a ''minor'' or ''insignificant'' process being used to circumvent the AD and CVD orders on hot-rolled lead bar from Germany and the United Kingdom. For the reasons stated earlier in our response to ''Comment 2,'' we did not compare the operations of the U.S. re-rollers to the production of steel by integrated steel producers.

In our analysis of the process used by the U.S. re-rollers' operations, the Department thoroughly considered many factors, including the square footage of building space dedicated to hot-rolling, the number of employees involved in hot-rolling, and the capital equipment used in the production of hot-rolled lead bar, as well as the ITC's description of the re-rolling process carried on by the U.S. industry. On the basis of this analysis, the Department concluded in the preliminary determinations that throughout the United States, the U.S. re-rollers have extensive capital-intensive rolling facilities staffed by skilled workers which are used to transform lead billet into hot-rolled lead bar.

In making our final determinations, we again reviewed the records in these inquiries. During verification, the Department toured AS&W's rolling facilities and Republic's meltshop and rolling facilities. We reviewed the production processes and facilities with respect to the manufacture of lead billets and the subsequent rolling of the lead billet into hot-rolled lead bar. While touring Republic's meltshop, we verified that Republic employs workers responsible for teeming, controlling, and inoculating the molten steel with lead wire. *See* Republic's Verification Report at 7. In addition, during our tour of AS&W's bar mill facility, company officials stated that while AS&W ''does not have machinery dedicated exclusively for the purpose of rolling leaded steel products, the bar mill was designed specifically to roll high quality lead and alloy products.'' Further, AS&W provided documentation which showed that in comparison to its rod mill, its bar mill rolls at very high tolerances, and as such, normally will roll lead billets as opposed to nonlead billets into hot-rolled products. *See* AS&W Verification Report at 6. Both plant tours demonstrated that the production processes at the U.S. re-roller facilities require stringent quality control, strict adherence to OSHA and environmental regulations, and special training for employees.

Thus, we disagree with the petitioners that the production of hot-rolled lead bar from lead billets is similar to the process examined in *Brass Sheet and Strip*. Based on our analysis of the re-rollers production process, we found the transformation of lead billet into lead bar to be a more substantial undertaking than the process used in *Brass Sheet and Strip*. For example, Great Lakes did not perform hot-breakdown rolling, but merely a small amount of cold-breakdown rolling; whereas, the re-rollers in these inquiries perform hot-breakdown rolling before the lead billet can be transformed into a lead bar. Next, the Department found in *Brass Sheet and Strip* that the rerolling operations that Great Lakes performed, which included all of the processes that rerollers perform, with one additional step, namely that of cold-breakdown rolling, ''add only the last fraction of value'' because Great Lakes'' fabrication process turned a semifinished product (brass plate), a product which was merely one rolling step short of constituting a single finished product (brass sheet and strip). In contrast, the production of lead bar from lead billets is a more involved multi-process operation as we found on verification and as described in the ITC's report. *See Statutory Analysis* Section of this notice for a discussion of the production processes.

In *Forklift Trucks*, the Department examined all of the facts and circumstances surrounding the respondent's domestic assembly operations and noted that all foreign respondents ''made substantial investments in plant and equipment,'' and that the ''level of production operations is too great to characterize these operations as completion or assembly operations established for the purpose of evading the antidumping order.'' Specifically, the Department discussed the manner in which it analyzed the processing operations performed in the following manner:

> We examined the nature of foreign respondents' U.S. production facilities in order to determine whether such facilities were similar to the examples of circumvention cited in the legislative history. Since a major goal of the circumvention provision is to prevent evasion of an antidumping duty order through ''slight changes'' in the method of production or shipment * * * examination of foreign respondents' U.S. production processes is an important part of our analysis.

55 FR at 6030. *Forklift Trucks* is instructive for these final determinations because the record in these proceedings demonstrates that the operations which the U.S. re-rollers undertake in order to produce hot-rolled lead bar from lead billets do not involve evasion of the orders through ''slight changes.''

Comment 4: Valued-Added Calculated for U.S. Re-Rolling Process is ''Minor''

The petitioners contend that a comparison of the ranged value-added data in these inquiries to that found in *Brass Sheet and Strip* should have led the Department to conclude that the amount of value added by the U.S. re-rollers in rolling lead billet into hot-rolled lead bar is ''minor'' or ''insignificant.'' In support of their argument, the petitioners provided the Department with a weighted-average calculation of the value-added by the re-rollers which indicated that the value added in the instant inquiries is ''similar in amount'' to the value-added calculated in *Brass Sheet and Strip*. Given this similarity, the petitioners argue that the weight-averaged value-added calculation is within the range that the Department previously determined to be ''small'' under the pre-URAA statute.

Foreign respondents argue that the value-added that the Department calculated in its preliminary determinations is not ''small.'' They argue that the Department can determine whether the value-added in a circumvention inquiry is ''significant'' on a case-by-case basis.

Department's Position: The legislative history to section 781(a) establishes that Congress intended the Department to make determinations regarding circumvention on a case-by-case basis in recognition that the facts of individual cases and the nature of specific industries vary widely. In particular, Congress directed the Department to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the imported parts or components. (*See* S. Rep. No. 103–412, 81–82 (1994)). Thus, we believe that any attempt to establish a numerical standard would be contrary to the intentions of Congress.

The Department's determination that the U.S. value-added in *Brass Sheet and Strip* was ''small'' is irrelevant to the present proceedings because that decision concerns the unique nature and extent of fabrication undertaken by a U.S. importer in an entirely different industry with different production processes. In addition, that case was decided before 1995, *i.e.*, before the changes made in section 781 of the Act

by the URAA were effective. The URAA, which became effective on January 1, 1995, redirected the focus of an circumvention inquiry away from a numerical calculation of value-added towards a more qualitative focus on the nature of the production process. Under the URAA, which provides the current statutory language for section 781 of the Act, the numerical calculation of value-added is just one of five factors the Department is to examine in our determination of whether the processing undertaken in the United States is minor or insignificant.

We also note, in conclusion, that in *Brass Sheet and Strip,* which is cited by the petitioners in support of their argument, the Department explicitly stated in the ''Affirmative Final Determination of Circumvention'' section of that final determination ''that our analysis of the difference in value and resulting determination of 'small' in this case are not necessarily synonymous with such determinations that the Department will formulate in future anti-circumvention inquiries since Congress has directed us to make determinations regarding the difference in value on a case-by-case basis.''

Comment 5: The Department's Preliminary Determination of No Circumvention Conflicts With Prior Case Precedent

The petitioners argue that the Department's preliminary determinations are incompatible with its previous finding of circumvention in *Brass Sheet and Strip,* which involved similar fact patterns (*i.e.,* value-added calculations, capital-intensive industries, production processes, etc.).

In their case briefs, the petitioners provide the Department with a calculated weighted-average amount of the value-added in the instant inquiries and argue that this weighted-average amount is ''similar'' to the value-added of 15% determined in *Brass Sheet and Strip,* where the Department found circumvention. The petitioners also contend that in *Brass Sheet and Strip* the Department determined that the re-rolling of brass plate into brass sheet and strip neither adds additional materials nor imparts essentially physical characteristics to the rerolled brass plate but rather ''adds only the last fraction of value'' by shaping and sizing the brass plate. The petitioners argue that the Department in *Brass Sheet and Strip* considered that the nature of the production process was indicative that the U.S. value-added was ''small,'' since melting and casting operations performed in integrated brass mills were the ''primary operations for production of brass sheet and strip; whereas re-rolling operations add only the last fraction of value * * *'' (58 FR at 33614).

The foreign respondents argue that the brass sheet and strip industry (*i.e.,* producers and fabricators and its subgroup, secondary mills) and the hot-rolled lead bar industry are vastly different. They contend that in *Brass Sheet and Strip,* the brass plate was merely ''finished'' into brass sheet and strip. On the other hand, the U.S. re-rollers and foreign respondents argue that the production of hot-rolled lead bar from lead billets is much more involved than merely ''finishing'' the lead billet into hot-rolled bar. They assert that the record clearly demonstrates that the production of lead billets into hot-rolled lead bar involves more steps (*i.e.,* hot-rolling, testing, and finishing) than the mere conversion of brass sheet and strip from brass plate (*i.e.,* finishing). In addition, the foreign respondents and U.S. re-rollers argue that the majority of hot-rolled lead bar sold in the merchant market is still an intermediate good that must undergo further processing (*i.e.,* cold finishing, forming, and testing) before it can be considered a finished good. On the other hand, foreign respondents argue, brass sheet and/or strip are themselves finished goods.

Department's Position: We agree with the foreign respondents and U.S. re-rollers that the fact pattern of these inquiries is different from *Brass Sheet and Strip.* As we have previously noted, the Department must determine whether or not circumvention of an order has occurred based upon the nature of the specific circumvention inquiry and the facts surrounding that circumvention inquiry. Thus, the facts which are present in the instant circumvention inquiries and the nature of the circumvention allegations differ from the facts which were present in *Brass Sheet and Strip.* A review of *Brass Sheet and Strip* and a review of the allegations and the facts surrounding these lead bar circumvention inquiries reveal that the petitioners' reliance on *Brass Sheet and Strip* to support their argument that the Department has erred in finding no circumvention of the lead bar orders is misplaced.

In order to determine whether the value added by Great Lakes, a secondary mill, specifically a brass plate re-roller, in *Brass Sheet and Strip* was ''small,'' the Department examined the operations of Great Lakes' re-rolling of brass plate into brass sheet and strip. We compared Great Lakes' operations to the operations performed by fabricators in the U.S. brass sheet and strip industry, otherwise known as brass mills, which perform fabrication processes such as casting, melting and some re-rolling. Since Great Lakes re-rolled thicker brass plate, while secondary mills normally re-roll the thinner gauge brass sheet and strip, the Department determined that a comparison of the Great Lakes' operations to the operations normally performed by a brass mill was warranted, and upon examination, determined that the value added by Great Lakes indicated that the processing performed was minor. This decision was essentially based upon the fact that Great Lakes was founded in 1990, more than three years after the issuance of the antidumping order and the fact that, at the time of the original investigation, brass plate re-rollers were not considered a separate and recognized segment of the U.S. brass sheet and strip industry because the established re-rollers began the re-rolling process with brass sheet and strip, which itself was already within the scope of the investigation and subsequent order. *See* the ''Department's Position'' to ''Comment 2'' in *Brass Sheet and Strip.* In other words, because there was no brass plate re-roller industry segment with which to compare Great Lakes' activities during the POI, the Department compared Great Lakes' operations to that of a fabricator.

As we stated in *Brass Sheet and Strip,* the U.S. importer, Great Lakes, imported brass plate, a product which was one rolling step short of constituting sheet and strip prior to importation. In the brass sheet and strip industry, the primary fabrication process is hot-breakdown rolling, whereby brass ingots are heated, rolled, and coiled, then further reduced through cold-breakdown rolling. The relatively small amount of Great Lakes' cold-breakdown rolling was insufficient to consider Great Lakes a fabricator; however, since Great Lakes re-rolled brass plate, not the thinner brass sheet and strip re-rolled by the recognized secondary brass sheet and strip mills, the Department compared Great Lakes operations to the operations of brass fabricators and concluded that the re-rolling of brass plate into brass sheet and strip relative to a fabricator's processes was ''small.'' The petitioners' arguments that we should compare the hot rolling process in these inquiries to the process of an integrated steel facility because such a comparison was conducted in *Brass Sheet and Strip* is misplaced, because the rolling mills which subsequently roll lead billets into hot-rolled lead bar predate the order and have always been

considered a distinct part of the industry. In contrast, brass plate re-rollers were not considered a separate and recognized segment of the brass sheet and strip industry but one created by a foreign exporter in an attempt to evade the order on brass sheet and strip.

Since the date of the determination of circumvention in *Brass Sheet and Strip,* there were also changes in the statute relating to the determination of the amount of value added in the United States and the place that this has in the Department's analysis. Whereas under the statute applicable in *Brass Sheet and Strip* a determination of circumvention required a finding that the value added to the imported parts or components was ''small,'' under the current statute the amount of value added is but one factor to be considered in determining whether the processing or assembly in the United States is ''minor or insignificant.'' Accordingly, whether or not the value added is a ''small proportion,'' we must consider other factors in determining whether the processing is ''minor or insignificant.'' Thus, while case precedent prior to the enactment of the URAA, which became effective January 1, 1995, can provide useful guidance to the Department in post-URAA circumvention inquiries, certain changes in the Act expanded the factors to be considered by the Department in determining whether circumvention of an order has occurred.

For example, in *Brass Sheet and Strip,* our circumvention determination did not address level of investment. With the changes to the Act under the URAA, the Department must consider the level of investment by the U.S. re-rollers in determining whether the processing in the United States is minor or insignificant. As stated earlier, some of the U.S. re-rollers have invested over 100 million dollars in their rolling facilities. These facts must be considered by the Department in reaching determinations in these hot-rolled lead bar inquiries, while these factors were not addressed in *Brass Sheet and Strip.*

In both these hot-rolled lead bar circumvention inquiries and in *Brass Sheet and Strip,* the Department did examine patterns of trade to determine whether there were increases in imports of the alleged circumventing product. In *Brass Sheet and Strip,* the facilities of Great Lakes, an affiliated importer, were introduced into production in 1990, more than three years after issuance of the antidumping duty order, and imports of Canadian brass plate increased ten-fold from 1990 to 1991 (58 FR at 33610, 33615). This massive increase in imports of brass plate following the establishment of this facility contrasts markedly with the fact pattern in these hot-rolled lead bar inquiries, where there was no dramatic increase in the importation of lead billets connected with the establishment of an affiliated rolling mill in the United States before and after the issuance of these orders (*see* the ''Department's Position'' to ''Comment 1,'' above). In these inquiries, while there was some increase in imports of lead billets, the product alleged to be circumventing the respective orders, after the initiation of these investigations, the circumstances were quite different. In particular, the U.S. re-rolling facilities existed prior these investigations, the re-rollers that imported the lead billets are not affiliated with any foreign producer or exporter of the lead billets, and at least one of these re-rollers imported lead billets before the initiation of the investigations. Thus, this pattern of trade in these inquiries is different from the pattern of trade in *Brass Sheet and Strip.*

In addition, the history and nature of the production process at issue in *Brass Sheet and Strip* bears no relationship to the history and nature of the processing performed by the U.S. re-rollers in these inquiries. In *Brass Sheet and Strip* the type of processing performed by the U.S. importer was not in existence at the time of the original AD investigation. Indeed, the U.S. importer and brass finisher in *Brass Sheet and Strip* was not established, and did not begin operations, until more than three years after the issuance of the antidumping order on brass sheet and strip. This contrasts with the facts in these lead bar circumvention inquiries, where most of the U.S. re-rollers were in existence, importing lead billets and processing them into lead bar, before the AD and CVD petitions on lead bar were filed with the Department.

In conclusion, the facts in *Brass Sheet and Strip* which caused the Department to find circumvention in that inquiry are not present in the circumvention inquiries on lead bar. Based on the facts present in these inquiries and the current statute, we find that circumvention of the lead bar orders is not occurring. Additional information with respect to the petitioners' comment regarding the similar value-added found in our preliminary determinations and the value-added determined in *Brass Sheet and Strip* can be found in our position in ''Comment 4.''

Comment 6: Most of the Merchandise Sold in the United States is a Different Class or Kind From That Under the AD and CVD Orders

The foreign respondents argue that the vast majority of the merchandise sold in the United States from the purchase of lead billets is not the same class or kind of merchandise that is subject to the leaded bar order. They state that the majority of the imported lead billet further processed into hot rolled bar is subsequently cold finished by the U.S. re-roller before it is sold to unaffiliated customers or is sold to cold drawers. Thus, much of the merchandise sold in the United States, *i.e.,* cold finished leaded bar, is not the same class or kind of merchandise subject to the orders. Foreign respondents argue that in recognition of the fact that the circumvention provision only applies to component materials used to produce subject merchandise sold in the United States, the Department has previously excluded from its circumvention findings component materials used to produce nonsubject merchandise. The foreign respondents argue that in *Brass Sheet and Strip,* the Department excluded from its final affirmative determination brass plate used to produce products sold as something other than brass sheet and strip. Further, Republic has stated that if the Department issues an affirmative final determination, at the very least, the Department would need to adopt an importer/exporter certificate program so that lead billets purchased by Republic for conversion to cold-finished bars are excluded from the scope of the hot-rolled lead bar orders.

The petitioners argue that the foreign respondents' argument ignores the fact that hot-rolled lead bar has been historically sold to unaffiliated and affiliated cold finishers for further processing and suggests that sales of merchandise for further manufacturing are not ''sales'' within the meaning of the statute. This would be inconsistent with the Department's previous precedent in circumvention cases such as *Brass Sheet and Strip* and *PTFE.* In both of those cases, the Department found that products sold in the United States were of the same class or kind as the merchandise subject to unfair trade orders even though the items that were produced from parts or components were subject to further processing before reaching the ultimate consumer.

Department's Position: Because the Department has determined that imports of lead billets from Germany and the United Kingdom are not circumventing the respective AD and CVD orders on

hot-rolled lead bar, we are addressing arguments concerning the coverage of a circumvention finding.

Comment 7: Lead Billets Are Not Parts or Components

The foreign respondents argue that the anticircumvention statute requires that the merchandise sold in the United States be completed or assembled in the United States from parts or components from the country subject to the orders. The foreign respondents assert that the Department's preliminary determinations merely stated that all of the U.S. re-rollers purchased lead billet from one or more of the foreign respondents and that the re-rollers ''use the lead billet to produce hot-rolled lead bar in the United States.'' They argue that the use of a lead billet in the production of hot-rolled lead bar in the United States does not establish a finding that the process of rolling lead billets into hot-rolled lead bar constitutes ''completion.'' The foreign respondents further argue that the petitioners recognized in their methodological comments that lead billets are a complete product upon importation when the petitioners described the hot-rolling of lead billets into bars as a ''conversion'' process, rather than a process of completion.

Further, the foreign respondents argue that broadening the scope of an order beyond the like product examined in the ITC's injury determination in the original AD and CVD investigations is inconsistent with the anticircumvention statute. The foreign respondents assert that lead billets and hot-rolled lead bar constitute separate and distinct like products produced by separate and distinct domestic industries, as determined by both the ITC and the Department in the initial investigations. They also argue that because the petitioners in the initial hot-rolled lead bar investigations made the strategic decision to limit their petition to hot-rolled lead bar (rather than including lead billets within its scope), the Department must now conclude, as a matter of law, that circumvention does not exist.

The petitioners argue the anticircumvention statute does not require a finding that the parts or components fall within the same like product category as the finished product and certainly does not require a separate finding that the products subject to an anticircumvention inquiry must fall within the ITC's prior like product and injury determinations. The petitioners also note that in previous anticircumvention inquiries, *Steel Wire Rope from Mexico* and *Brass Sheet and Strip*, the Department correctly included merchandise in the scope of antidumping order that had previously been excluded from the ITC's like product and injury determinations.

The petitioners note that the Department stated in its notice of initiation of these inquiries that this investigation is analogous to the anticircumvention inquiry in *Steel Wire Rope from Mexico*, where the Department made an affirmative finding of circumvention and expanded the scope of an order to include a component that the petitioners had expressly excluded from the original investigation. Even though the expressly excluded merchandise was not part of the ITC's like product determination or injury determination, the petitioners argue in the instant case that the Department should follow the plain meaning of the statute (*i.e.*, that the anticircumvention statute permitted expansion of the scope beyond the original like product) and make an affirmative finding. The petitioners note that in *Brass Sheet and Strip* the Department included brass plate within the order on brass sheet and strip even though the brass plate was not included within the scope of the original investigation.

Department's Position: We disagree with the respondents' first argument that a so-called ''completed'' product cannot be a ''part or component'' of lead bar for purposes of section 781(a) of the Act. Indeed, it is difficult to imagine that many ''parts and components'' used to produce or assemble subject merchandise could not be considered ''complete'' in and of themselves. For example, an engine is a ''completed'' product, but it can still be imported in the United States and ''assembled'' into a forklift truck. Accordingly, the engine, although a completed product, can still be a part or component of another item. Thus, whether a part or component is or is not characterized as ''completed'' is irrelevant to the circumvention section of the statute. The question is whether that item becomes part of the product sold in the United States that is of the same class or kind of merchandise subject to an order.

Because the Department has determined that imports of lead billets from Germany and the United Kingdom are not circumventing the respective AD and CVD orders on hot-rolled lead bar, we are not addressing the arguments concerning the ITC's injury determination.

Comment 8: Because There Is Minimal R&D in the Re-rolling Process, the Re-rolling Process Must Be Minor or Insignificant

The petitioners contend that the Department's findings on the lack of R&D in the U.S. re-rollers' facilities are consistent with the petition, where the petitioners demonstrated that R&D expenditures are typically concentrated in the relatively more complex melt shop facility and that the Department's finding that ''R&D into the process of rolling bar is not a significant factor in this industry'' demonstrates that foreign producers can easily shift from selling bars and rod to selling billets, and, thus, circumvent the order. Therefore, the petitioners argue that the Department's finding that little, if any, R&D is evident at the rolling stage means that the production process is ''minor'' or ''insignificant.''

The foreign respondents agree in part with the petitioners that the amount of R&D expenditures related to the rolling of lead billets into hot-rolled bar is minimal. However, they argue that, because the production of leaded steels is technically a mature process, the Department properly gave little weight to the level of R&D in the United States in determining whether the conversion of leaded billet into hot-rolled lead bar is ''minor'' or ''insignificant.'' Further, the foreign respondents argue that the anticircumvention statute does not require an analysis of R&D when the Department finds that it is not a meaningful factor with respect to the industry and merchandise under review.

Department's Position: We disagree with the petitioners that a lack of R&D in the production of hot-rolled lead bar means that the foreign respondents can readily shift from the sale of hot-rolled lead bars to the sale of lead billets in circumvention of the orders. While R&D may be a significant factor in some industries, it is not in others. Further, the significance of its presence or absence depends on the industry and product under investigation. For example, changes in technology occur very rapidly in the electronics industry. This requires significant amounts for R&D. Thus, R&D might be a significant factor in a circumvention inquiry of that industry. In other industries, such as this one R&D is not a significant factor because of the maturity of the production process. However, a lack of R&D does not necessarily mean that circumvention is more easily accomplished. Where R&D is almost non-existent in the industry in general, whether that industry is located in the

respondent's country or in the United States, the absence of such expenditures does not automatically equate with ease of circumvention. As we have explained above, the re-rolling of lead billet into lead bar is not accomplished in temporary, transitory facilities. The lack of R&D in this industry does not change that fact. Accordingly, the Department gave little weight to R&D as an informative factor in its determination as to whether the lead bar orders were being circumvented.

Comment 9: The Department Placed Too Much Emphasis on the Fact that the U.S. Re-rollers and Foreign Manufacturers are Unaffiliated

The petitioners argue that the Department has placed greater weight on the fact that the respondents and the U.S. re-rollers are unaffiliated than contemplated by the statute or previous circumvention decisions. Specifically, the petitioners cite to the Department's observation in the preliminary determination that ''these unaffiliated re-rollers invested a substantial amount in their re-rolling facilities both before and after the AD and CVD orders to roll both lead and nonlead billets into hot-rolled bar.'' 63 FR at 24162. They also note that affiliation is not necessary in order for the Department to make an affirmative finding of circumvention.

The foreign respondents argue that while the absence of affiliation does not mandate a negative determination, the arm's length nature of the business relationships between the foreign respondents and the U.S. re-rollers cannot be ignored in the Department's analysis.

Department's Position: The second factor the Department is required to consider under section 781(a)(3) of the Act is whether the manufacturer or exporter of the parts or components (in this instance, the foreign respondents which produce and export the lead billets) is affiliated with the persons which assemble or complete the merchandise in the United States (here, the U.S. re-rollers). In its preliminary determination, the Department set out the facts which lead it to find that no affiliation of any kind existed between the foreign respondents and the U.S. re-rollers.

Neither the statute, the SAA, nor the relevant legislative history provide any guidance as to how the Department is to consider this particular factor. Accordingly, the Department may reasonably determine how to evaluate that factor on a case-by-case basis in light of the pertinent facts particular to a specific circumvention inquiry. We agree with the petitioners that, as a general proposition, affiliation is not necessary for a finding of circumvention. However, a finding of no affiliation cannot be dismissed as having no relevance to the Department's determination, particularly when the statute mandates that this factor be considered. Thus, we disagree with the petitioners that we have elevated affiliation beyond that contemplated by the statute or previous circumvention determinations. Indeed, in several prior circumvention determinations, the Department has explicitly stated that we consider circumvention to be more likely when the manufacturer/exporter of the parts and components is related to the party completing or assembling merchandise in the United States using the imported components. *See, e.g., PTFE* and *Brass Sheet and Strip.*

In these circumvention inquiries, we found that the U.S. re-rollers acted on behalf of their respective commercial interests, independently of the foreign respondents' interests. The lack of any affiliation between the foreign respondents and the U.S. re-rollers was a contributing factor in the U.S. re-rollers' decisions on how best to protect and advance their own economic interests given, in particular, the sourcing problems for domestic leaded billet they encountered in the market place. However, as we explained in the preliminary determination and in this final determination, as well, affiliation is only one of several factors the Department considered in reaching a determination that circumvention does not exist.

Conclusion

Based on the analysis under section 781(a) of the Act, detailed above, we determine that circumvention of the AD and CVD orders on hot-rolled lead bar is not occurring by reason of imports of lead billets from Germany and the United Kingdom.

These negative final circumvention determinations and notice are in accordance with section 781(a) of the Act and 19 C.F.R. 353.29(e) and 19 C.F.R. 355.29(e).

Dated: July 20, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19019 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–833]

Notice of Postponement of Final Antidumping Determination: Live Cattle from Canada.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler or Kris Campbell, AD/CVD Enforcement, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1442 or (202) 482–3813, respectively.

Postponement of Final Determination

The Department of Commerce (the Department) is postponing the final determination in the antidumping investigation of live cattle from Canada. The deadline for issuing the final determination in this investigation is now no later than October 4, 1999.

On June 30, 1999, the Department issued its affirmative preliminary determination in this proceeding. The notice stated we would issue our final determination by September 13, 1999. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Live Cattle from Canada,* 64 FR 36847 (July 8, 1999).

On July 2, 1999, pursuant to section 735(a)(2)(A) of the Tariff Act of 1930, as amended, the Canadian Cattlemen's Association and the named respondents in this investigation requested that the Department postpone the issuance of the final determination in this investigation for 21 days. They also requested an extension of the provisional measures (*i.e.,* suspension of liquidation) period from four months to four months and three weeks, in accordance with the Department's regulations (19 CFR 351.210(e)(2)).

The respondents' request was timely, and the Department finds no compelling reason to deny the request. Therefore, we are extending this final determination until October 4, 1999. Suspension of liquidation will be extended accordingly.

In addition, because the countervailing duty investigation of live cattle from Canada has been aligned with this investigation under section 705(a)(1) of the Act, the time limit for completion of the final determination in the countervailing duty investigation

will be the same date, October 4, 1999, as the final determination of the concurrent antidumping investigation.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: July 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19021 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings From the People's Republic of China: Extension of Time Limit for Preliminary Results of Five-Year Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for final result of five-year (''sunset'') review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the sunset review on the antidumping duty order on tapered roller bearings from the People's Republic of China. Based on adequate responses from domestic and respondent interested parties, the Department is conducting a full sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping. As a result of this extension, the Department intends to issue its preliminary results not later than October 18, 1999.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith, Martha V. Douthit or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230; telephone (202) 482–6397, (202) 482–3207 or (202) 482–1560 respectively.

Extension of Final Results

The Department has determined that the sunset review of the antidumping duty order on tapered roller bearings from the People's Republic of China is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e,* an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. The antidumping duty order on tapered roller bearings from the People's Republic of China was issued on June 15, 1987 (52 FR 22667) and, as such, is a transition order. Accordingly, the Department is extending the time limit for completion of the preliminary results of this review until not later than October 18, 1999, in accordance with section 751(c)(5)(B) of the Act. The Department will, therefore, issue the final results of this review not later than February 25, 2000.

Dated: July 20, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19020 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980608149–8149–01]

RIN 0648–ZA44

Use of Satellite Data for Studying Local and Regional Phenomena

AGENCY: National Environmental Satellite, Data, and Information Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of availability of Federal assistance.

SUMMARY: The Office of Research and Applications announces the availability of Federal assistance for fiscal year 2000 to expand the use of satellite data for the study of scientific phenomena in local and regional areas. This announcement provides detailed guidelines for the technical program, evaluation criteria, and selection procedures. The standard NOAA Grant Application can be obtained from the Office of Research and Applications (301–763–8127). Each funded project will establish a grant.

DATES: Proposals will be accepted through 5:00 p.m. EST on November 15, 1999. Final selection will occur approximately December 31, 1999.

ADDRESSES: Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Rm 701; Camp Springs, MD 20746–4304.

FOR FURTHER INFORMATION CONTACT: Dr. James Purdom, 301–763–8127 or jpurdom@nesdis.noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for this program is provided under 49 U.S.C. 44720, 33 U.S.C. 833a, 833d, 833e.

Catalog of Federal Domestic Assistance (CFDA)

This program is listed in the CFDA under Number 11.440.

Program Description. NOAA's National Environmental Satellite, Data, and Information Service (NESDIS) Office of Research and Applications (ORA) is establishing a program which will provide free real-time satellite data to academic institutions for their use in studying local and regional phenomena. The emphasis of the program is to expand the use of satellite data within the academic community. In order to do so, ORA will: (1) Provide free access to satellite data for use in ongoing projects; (2) provide data and funds for the purchase of basic equipment required for analysis as part of an existing program or teaching laboratory; and (3) provide data to support students for research purposes.

The purpose of these guidelines is to identify eligibility criteria, roles and responsibilities, milestones, and selected criteria associated with the award. Each funded project will establish a 1-year grant between ORA and the grantee. Most projects will be funded from $0 plus free data to $22,000 for equipment and personnel plus free data. No cost sharing is required.

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert service to other NESDIS offices relating to sensor development, instrument problems, or systems hardware components. It coordinates with NESDIS, other appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign laboratories, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among centers and offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It produces and provides specific programmatic studies and statistics as needed. ORA provides support and coordination on NOAA's activities in the Strategic Plan and the U.S. Global Change Research Program.

Roles and Responsibilities

ORA: ORA will have primary responsibility for the following activities: Provide satellite data needed for the project. (The original data are the property of ORA and cannot be used for purposes other than stated in the proposals, i.e., the data cannot be sold or used for commercial purposes, with the exception of use in academic text.) Provide technical guidance for image processing and analysis. Monitor progress and evaluate progress reports.

Grantee: The grantee shall have primary responsibility for the following activities associated with the project:

Organize and manage grant activities.

Identify Principal Investigator that will take the lead for all technical aspects of the grant and be responsible for using satellite data as a key tool in the activity.

Submit a progress report every 4 months and a final report at the end of the 1-year project period.

Submit scientific findings for this activity.

Project Proposals

All project proposals should include the following sections for a total of 6–8 pages maximum. Multi-year proposals will be accepted; however, future funding will be dependent upon satisfactory performance and the availability of funds. The annual awards must have scopes of work that are clearly severable that can be easily separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available to the Applicant.

Goals and Objectives—identify broad project goals and quantifiable objectives.

Background/Introduction—state the problem and summary of existing federal/state/local efforts.

Audience—identify explicitly the audience and describe specifics of how the project will contribute to improve the use of satellite data with the primary target audience.

Project Description/Methodology—describe the specifics of the activity (3 pages maximum), with a complete and explicit description of the project area.

Expected Results—list desired outcomes in terms of products or services.

Project Budget—provide a detailed budget breakdown by category and provide a brief narrative budget justification.

Selection Process

Applicants will submit project proposals to the Office of Research and Applications by the published due date. A project selection panel will be convened to review and recommend selection using the criteria published in these guidelines. Each proposal will be reviewed by three internal reviewers. This selection panel will present its recommendations to the Director, ORA, for final selection. In addition to the rankings assigned by the panel, the Director may consider program policy factors such as geographic location and balance of technical areas in making his final decision.

Selection Criteria (With Weights)

NOAA Relevance

Will the activity foster broader knowledge concerning the use of satellite data in meteorological and/or oceanographic research at your institution? (40 points)

Technical Merit

Is the proposed activity scientifically sound and relevant. (60 points)

Selection Schedule

Proposals due—November 15, 1999.

Final Selection—Approximately December 31, 1999.

Grant start date—Approximately March 1, 2000.

Note: All deadlines are for receipt by 5:00 p.m. EST on the dates identified. All applicants are required to submit one original and two copies of a completed and signed NOAA Grants Application Package. The application package may be obtained by calling (301) 763–8127 or accessed on-line from the NOAA Grants Home Page at http://www.rdc.noaa.gov/~grants/index/html.

Project Reporting/Evaluation Requirements

The Grantee will be asked to provide progress reports every 4 months and a final report.

Funding Availability

There is no guarantee that sufficient funds will be available to make awards for all approved projects. Publication of this notice does not obligate NOAA to award any specific grant or cooperative agreement or to obligate all or any part of the available funds. NOAA expects that approximately $100,000 will be available in FY 2000 for this program.

Cost Sharing

None.

Eligibility Criteria

The emphasis of this program is to foster new uses of satellite data within the academic community. Any state university, college, institute or laboratory, any public or private nonprofit institution or consortium may apply. Ongoing activities that use this program solely as a source of free data with no other costs encumbered are encouraged to do so.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the Applicant's cognizant Federal agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal, if any, key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt under either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided.

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR, part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act of any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This Notice involves a collection of information requirement subject to PRA which has been approved under OMB Control Number 0348–0046.

Dated: July 16, 1999.

Gregory W. Withee,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 99–18920 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799H]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is cancelling the meeting of its Research Steering and Experimental Fisheries Committee scheduled for July 29, 1999 at 9:30 a.m. The meeting was announced in the **Federal Register** on July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION: The initial notice published on July 13, 1999 (64 FR 37751). Because of scheduling conflicts, the meeting of the Research Steering and Experimental Fisheries Committee will be cancelled. An alternative date will be announced as soon as possible.

Dated: July 20, 1999.

Richard W. Surdi,

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

[FR Doc. 99–18998 Filed 7–21–99; 3:52 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071599C]

Marine Mammals; File No. 77–1#70

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 925, issued to The National Marine Mammal Laboratory, Northwest and Alaska Fisheries Science Center, National Marine Fisheries Service, 7600 Sand Point Way, NE. Seattle, Washington 98115, was amended to extend the expiration date to September 30, 1999.

ADDRESSES: The amendment 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: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of 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.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR part 222–226).

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.

Application and documentation are available 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, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA, 98115–0070 (206/526–6150); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Dated: July 19, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–19012 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Meeting Notice

AGENCY: U.S. Consumer Product Safety Commission Washington, DC 20207.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 64, No. 138, 38896, July 20, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, July 27, 1999.

CHANGES IN MEETING: The meeting concerning the decision on issues related to the Commission's budget for Fiscal Year 2001 has been canceled.

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 22, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–19134 Filed 7–22–99; 2:06 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Panel on Military Operations on Vieques; Notice

AGENCY: Special Panel on Military Operations on Vieques; Notice.

SUMMARY: The Panel will conduct three public meetings to receive and discuss information associated with military operations at Vieques, Puerto Rico and in the adjoining ocean range complex. The panel will receive information from the Mayor of Vieques, the Honorable Manuela Santiago and from representative residents of Vieques on July 24. Because of the short timeframe of the panel's review, and the accelerated pace of the meeting schedule, this announcement must be made less than 15 days before the meetings will take place.

DATES: July 24, 1999 from 12:30 to 2 p.m.

ADDRESSES: 449 Carlos Lebraum Street, City Hall, Vieques, Puerto Rico 00765.

FOR FURTHER INFORMATION CONTACT: Contact Dr. Hector O. Nevarez, the Designated Federal Officer, 1401 Wilson Boulevard, Suite 400, Arlington, VA 22209, phone (703) 696–9456, fax (703) 696–9482, or via Email at *Hector.Nevarez@osd.pentagon.mil.* Copies of the draft meeting agenda can be obtained by contacting Debra Crnkovic at (703) 695–5493.

SUPPLEMENTARY INFORMATION: Seating in the panel meeting room is limited, and spaces will be reserved only for panel members and invited representatives. The remaining seating is available on a first-come, first-served basis. No teleconference lines will be available. Written comments for the record may be mailed to the Panel and will be distributed to the Panel members after the adjournment of the July 24, 1999 meeting.

Dated: July 21, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–19044 Filed 7–23–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Revise and Reissue the Draft Environmental Impact Statement (EIS) on the Proposal To Release Federal Funds to the University of New Mexico To Construct Enchanted Skies Park and Observatory, Near Grants, NM

The United States Air Force prepared a draft Environmental Impact Statement (EIS) to assess the potential environmental impacts of the Air Force's decision to issue Department of Defense (DoD) grant funds to the University of New Mexico to construct an astronomical observatory on Horace Mesa, near Grants. In May 1997 the Air Force began preparation of an Environmental Assessment (EA) to analyze this proposal. Preliminary results from the EA indicated the potential for significant impacts to cultural resources. In accordance with the National Environmental Policy Act, the Air Force continued the analysis of this proposal through the preparation of a draft EIS that was released in July 1998. A public hearing was held in August 1998. Based on comments received by the public, the Air Force will revise and reissue the draft EIS. In addition to addressing issues raised by the public, the Air Force will analyze additional siting alternatives located on Horace Mesa and at a site referred to as the Bibo site. The revised draft EIS will be used by the Air Force in considering whether, and under what conditions, to approve the release of federal funds to construct the observatory on Horace Mesa or at the Bibo site and to document the Air Force's decision in a Record of Decision.

The Air Force will accept public input regarding the Enchanted Skies Park and Observatory throughout the preparation of the revised draft EIS. Written and oral comments received from meetings and correspondence during the preparation of the original draft EIS will be considered in preparation of the revised draft EIS, as will comments received by the Air Force throughout the process. To ensure the Air Force has sufficient time to consider public input in the preparation of the revised draft EIS, comments

should be submitted to the address below: HQ AFCEE/EXX, ATTN: Ms Julia Cantrell, 3207 North Road, Brooks AFB, TX 78235–5363.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–18945 Filed 7–23–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

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.

Dated: July 20, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: Extension.

Title: Evaluation of School-to-Work Implementation.

Frequency: Annually.

Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,375.

Burden Hours: 33,828.

Abstract: This congressionally mandated five-year study examines the implementation of School-to-Work programs in states and local communities. The evaluation involves surveys of local STW partnerships, in-depth case studies in eight states and 40 communities, and study of students' experiences in high school and postsecondary education.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 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 Jacqueline Montague at 202–708–5359 or electronically at her internet address Jackie__Montague@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. 99–18936 Filed 7–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10 (a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: August 5–7, 1999.

TIME: August 5—Subject Area Committee #2, 11:30 a.m.–2:30 p.m., (closed) 2:30–3:00 p.m., (open); Design and Methodology Committee, 1:00–3:00 p.m., (open)' Joint Meeting of the Design and Methodology Committee and the Reporting and Dissemination Committee, 3:00–4:00 p.m., (open); Executive Committee, 4:00–5:00 p.m., (open), 5:00–6:00 p.m., (closed). August 6—Full Board, 8:00–10:30 a.m., (open), Subject Area Committee #1, 10:30 a.m.–12:30 p.m., (open), Achievement Levels Committee, 10:30 a.m.–12:30 p.m., (open); Reporting and Dissemination, 10:30 a.m.–12:30 p.m. (open); Full Board, 12:30–2:00 p.m., (closed); 2:00–4:00 p.m. (open). August 7—Full Board, 8:30–adjournment, approximately 11:30 a.m. (open).

LOCATION: Ritz Carlton Hotel, Pentagon City, 1250 South Hayes Street, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Pub. L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests pursuant to contract number RJ97153001.

On August 5, the Subject Area Committee #2 will meet in closed session from 11:30 a.m.–2:30 p.m to review proposed items for the math and science tests to be administered in the year 2000. This meeting must be closed because references will be made to specific items from the assessment and premature disclosure of the information presented for review would be likely to

significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C. The Committee will meet in open session from 2:30–3:00 p.m. to discuss plans for the 2004 NAEP mathematics framework and VNT math items.

The Design and Methodology Committee will meet in open session from 1:00–3:00 p.m. The Committee will be taking action on the pilot test design and analysis plans, and the validity research agenda for the proposed Voluntary National Tests. The Committee will hear reports on the provisions that might be made for including special needs students in the Voluntary National Tests, and hear an update on the NAEP evaluations.

From 3:00–4:00 p.m., there will be a joint meeting of the Design and Methodology Committee and the Reporting and Dissemination Committees to review and discuss the sampling and reporting plans for NAEP 2000 assessments in mathematics and science.

Also on August 5, there will be a partially closed meeting of the Executive Committee. In open session from 4:00–5:000 p.m. the Committee will review the NAEP and NAGB reauthorizations preparations, and hear a report on the briefings that were given to Congress and the Secretary.

During the closed portion, 5:00–6:00 p.m., the Executive Committee will discuss the development of cost estimates for the NAEP and future contract initiatives. Public disclosure of this information would likely have an adverse financial affect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption (9)(B) of section 552b(c) of Title 5 U.S.C.

Also in closed session, the Executive Committee will discuss the qualifications of current Board members to serve as Chairman and Vice Chairman of NAGB. Based upon these discussions, the Board will elect a Vice Chairman and recommend a Chairman to the Secretary. This portion of the meeting will relate solely to the internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and, as such, is protected by exemptions (2) and (6) of section 552b(c) of title 5 U.S.C.

On August 5, the full Board will convene in open session from 8:00 to 10:30 a.m. The agenda for this session includes approval of the agenda, the report of the Executive Director, NAEP Update, discussion on Mathematics Framework for Year 2004 Assessment, and NAEP and NAGB reauthorization.

Between 10:30 a.m. to 12:30 p.m., there will be open meetings of Subject Area #1, Achievement Levels, and the Reporting and Dissemination committees.

Subject Area Committee #1 will meet to discuss issues related to the NAEP Foreign Language Framework Consensus Project, and the reading assessment issues in the proposed Voluntary National Tests.

The Achievement Levels Committee will hear briefings on three items: Preliminary results of the booklet classification and the similarities classification studies; findings of a research study designed to observe the impact of using different response probability criteria for setting achievement levels; and a report which summarizes the different methods that have been used to set achievement levels on NAEP.

The Reporting and Dissemination Committee agenda includes a series of reviews for the NAEP assessments: Review of plans for releasing results of the 1998 writing and civics assessments; review of the schedule for release of future NAEP reports; and review of the background questionnaires for NAEP 2000 in math and science. For the proposed Voluntary National Tests, the Committee will consider the workplan for score reporting, 4:00 p.m. The Board will hear the results of a research study concerned with the participation rates of special needs students in NAEP; receive a briefings on the current status of the NAEP redesign and the recommendations for NAGP and NAEP reauthorization.

On August 7, the full Board will be in session from 8:30—adjournment, approximately 11:30 a.m. The agenda includes a briefing on a report titled *Increasing Participation of Special Needs Students in NAEP: Results of the 1996 Research Study;* and an update on the planning for the foreign language framework. Also, the Board will hear reports from its standing committees and, where appropriate, take action on their work.

Summaries of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, DC, from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Government Board.

[FR Doc. 99–18932 Filed 7–23–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[Docket No. EA–122–A]

Application To Export Electric Energy; Electric Clearinghouse, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Electric Clearinghouse, Inc. (ECI) has applied for renewal of its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 25, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Rosalind Carter (Program Office) 202–586-7983 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: On August 8, 1997, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized ECI to transmit electric energy from the United States to Canada as a power marketer using the international electric transmission facilities owned and operated by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Co., Inc., Minnkota Power, New York Power Authority, Niagara Mohawk Power Corp., Northern States Power, and Vermont Electric Transmission Company. That two-year authorization will expire on August 8, 1999. On June 28, 1999, ECI filed an application with FE for renewal of this export authority and requested that the Order be issued for an additional five-year term.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the ECI request to export to Canada should be clearly marked with Docket EA–122–A. Additional copies are to be filed directly with Mr. Daniel A. King, Esq., Electric Clearinghouse, Inc., 805 15th Street, N.W., Suite 510–A, Washington, D.C. 20005–2207, AND Kathryn L. Patton, Esq., Electric Clearinghouse, Inc., 1000 Louisiana, Suite 5800, Houston, TX 77002–5050.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order EA–122. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–122–A proceeding.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on July 16, 1999.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–18976 Filed 7–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–131–A]

Application To Export Electric Energy; Sonat Power Marketing L.P.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Sonat Power Marketing L.P. (Sonat) has applied for renewal of its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 25, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: On July 31, 1997, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized Sonat to transmit electric energy from the United States to Canada as a power marketer using the international electric transmission facilities owned and operated by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison, Eastern Maine Electric Coop., Joint Owners of the Highgate Project, Maine Electric Power Co., Maine Public Service, Minnesota Power, Inc., Minnkota Power, New York Power Authority, Niagara Mohawk Power Corp., Northern States Power, and Vermont Electric Transmission Co. That two-year authorization will expire on July 30, 1999. On July 8, 1999, Sonat filed an application with FE for renewal of this export authority and requested that the Order be issued for an additional two-year term.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the Sonat request to export to Canada should be clearly marked with Docket EA–131–A. Additional copies are to be filed directly with S. Chris Still, Attorney, Sonat Power Marketing L.P., 1900 Fifth Avenue North (35203), P.O. Box 2563, Birmingham, AL 35202–2563.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order EA–131. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–131 proceeding.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on July 16, 1999.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–18977 Filed 7–23–99; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, August 5, 1999: 6:00 p.m.–9:30 p.m.

ADDRESSES: College Hill Library, (Front Range Community College), 3705 West 112th Avenue, Westminster, CO 80021.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Update on projects and issues being tracked by the Defense Nuclear Facilities Safety Board

2. Discuss and approve recommendations on the Building Rubble, Rocky Flats Clean-up Agreement Standard Operating Protocol (RFCA), RFCA Standard Operating Protocol (RSOP) document
3. Finalize discussion of cleanup phases end-states
4. Review and discuss the next draft of ''Vision'' document
5. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday—Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 a.m. to 4:00 p.m. Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on July 21, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–18978 Filed 7–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: Tuesday, July 27, 1999: 8:00 a.m.–7:00 p.m.

ADDRESS: Carson County Square House Museum, Hwy 207, Panhandle, TX.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477-3125.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to advise the Department of Energy and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

8:00 a.m.–12:00 p.m. A Water 101 Seminar will be conducted for the public by Texas Natural Resources Conservation Committee, Bureau of Economic Geology, and the Attorney General's offices
1:00 p.m. Welcome—Agenda Review—Approval of Minutes
1:15 p.m. Co-Chair Comments
1:30 p.m. Ex-Officio Reports
1:45 p.m. Task Force/Subcommittee minutes
2:30 p.m. Updates—Occurrence Reports—DOE
3:00 p.m. Presentation (TBA)
4:00 p.m. Question and Answer
4:20 p.m. Closing Remarks
4:30 p.m. Public Comments
4:45 p.m. Adjourn
5:00 p.m. 7:00 p.m.—Environmental Restoration Program Update—Poster Session

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and every reasonable provision will be made to accommodate the request in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on July 21, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–18979 Filed 7–23–99; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–438–000]

Algonquin Gas Transmission Company; Request for Waiver

July 20, 1999.

Take notice that on July 14, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing a request for waivers to permit a change in contract conversion election under Order No. 636.

Algonquin states that under Algonquin's Order No. 636 restructuring proceeding, qualifying small customers could make contract conversion elections for small customer no-notice firm transportation under Rate Schedule AFT–1S and small customer firm transportation under Rate Schedule AFT–1S. Algonquin states that the Town of Middleborough, Massachusetts, Municipal Gas and Electric Department (Middleborough) did not make its original contract conversion election for the small customer options, even though it qualifies for small customer status.

Algonquin also states that Middleborough has requested that Algonquin permit Middleborough to convert its firm service to service under Algonquin's small customer rate schedules. Algonquin states that good cause exists for the Commission to grant the waiver requested herein.

Algonquin states that copies of the filing were served on all affected parties 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, 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 on or before July 27, 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. 99–18972 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–440–000]

Black Marlin Pipeline Company; Proposed Changes in FERC Gas Tariff

July 20, 1999.

Take notice that on July 14, 1999, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective August 14, 1999:

Second Revised Sheet No. 202
First Revised Sheet No. 204

Black Marlin states that in view of new gas discoveries in its area and corresponding changes in the needs of shippers, Black Marlin has discussed quality of gas standards with its shippers and has agreed to file to implement a change to the General Terms and Conditions (GT&C) of its Tariff to allow for the delivery of non-conforming gas into the Black Marlin system. The proposed change is intended to provide shippers with the increased flexibility that they desire, while preserving the integrity of Black Marlin's system and the commingled gas stream it transports.

Black Marlin states that Section 2.1 of the GT&C of Black Marlin's Tariff requires that gas tendered to Black Marlin by a shipper must meet the quality specifications set forth in the tariff. Section 2.1 further provides that failure to meet such quality specifications shall relive Black Marlin of an obligation to take receipt of such gas. With recent changes in production occurring in its vicinity, however, Black Marlin has determined that it can provide shippers with limited additional flexibility with respect to quality specifications, without impairing Black Marlin's ability to operate its system.

Black Marlin states that specifically, the overall mix of gas being transported is changing, especially in light of different product coming on line. Black Marlin has determined that, because gas of different quality specifications may be commingled without impairing Black Marlin's ability to provide service, a shipper may be permitted to deliver non-conforming gas into the Black Marlin system as long as the safety and reliability of the system are not impaired. Therefore to provide shippers with the increased flexibility they both need and desire, Black Marlin proposes to modify Section 2.1 of its Tariff to provide that it will accept off specifications gas as long as deliveries at all delivery points meet the quality specifications set forth in the Tariff, and the safety and reliability of Black Marlin's system is not impaired.

Further, Black Marlin states that in the event that the quality specifications at all delivery points are not met, the Tariff has been modified to state that, after the shipper has been provided notice and an opportunity to remedy the deficiency, the gas at receipt points most out of compliance with the quality specifications will be the first to be rejected for acceptance into the Black Marlin system.

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. Boegers,

Secretary.

[FR Doc. 99–18973 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–441–000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 20, 1999.

Take notice that on July 14, 1999, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with an effective date of August 1, 1999:

Third Revised Sheet No. 289
Third Revised Sheet No. 386A

CNG states that the purpose of this filing is to modify CNG's FERC Gas Tariff as required to reflect CNG's implementation of additional business practice standards that have been established by the Gas Industry Standards Board (GISB). In particular, the instant revision reflects the Commission's adoption of Version 1.3 GISB standards, as incorporated by reference in the Commission's regulations under Order No. 587–K. CNG states that it has enclosed in its filing an updated chart, detailing CNG's compliance with each GISB Business Practice standard adopted by the Commission.

CNG states that copies of its letter of transmittal and enclosures are being mailed to its customers and to 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. 99–18974 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–437–000]

Dauphin Island Gathering Partners; Proposed Change in FERC Gas Tariff

July 20, 1999.

Take notice that on July 14, 1999, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective August 1, 1999:

First Revised Sheet No. 170
First Revised Sheet No. 225
Original Sheet No. 255A

DIGP 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.

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. 99–18971 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–373–001]

Destin Pipeline Company, L.L.C.; Tariff Filing

July 20, 1999.

Take notice that on July 15, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet Nos. 71a and 76b, to become effective on August 1, 1999.

Destin states that the purpose of this filing is to correct a pagination error in Destin's July 1, 1999, filing.

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 approprite 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 avaiable 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. 99–18970 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–577–000]

Duke Energy Field Services Inc.; Notice of Petition for Declaratory Order

July 20, 1999.

Take notice that, on July 13, 1999, Duke Energy Field Services Inc. (Duke) 370 Seventeenth Street, Suite 900, Denver, Colorado 80202, filed a petition pursuant to Section 1(b) of the Natural Gas Act (NGA), and Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207). Duke requests a declaratory order finding that its proposed acquisition of certain facilities currently owned by Texas Eastern Transmission Corporation (Tetco) will not subject Duke to the jurisdiction of the Federal Energy Regulatory Commission under the provisions of the natural Gas Act. All of this is more fully set forth in the application, which is one file with the Commission and open to public inspection. The application may also be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

The name address, and telephone number of the person to whom correspondence and communications concerning this petition should be addressed is: David E. Williams, Senior Attorney, Duke Energy Field Services, Inc. 370 17th Street—Suite 900, Denver, Colorado 80202, (303) 595–3331.

The facilities which Duke hopes to purchase include Tetco's Kenedy Ranch, Humble-Sarita and Bennett Ranch pipelines located in Kenedy, Brooks and Jim Hogg Counties, Texas. Duke states that it will use the facilities for gathering and will arrange for the purchase of production currently attached to the laterals, or in the alternative will enter into gas gathering agreements with no adverse rate impact for producers and shippers currently using the line.

Any person desiring to be heard or make any protest with reference to said application should on or before August 20, 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 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 Protesters 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, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Duke to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–18964 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–62–000]

Granite State Gas Transmission, Inc.; Notice of Refund Report

July 20, 1999.

Take notice that on July 16, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing with the Commission a report of Gas Research Institute (GRI) refunds made to its customers.

Granite State states that it received a total refund of $335,102.00 from GRI for over collections during 1998. Granite State says that it allocated the refund proportionately to its firm customers, Bay State Gas Company and Northern Utilities and made the refunds to them on July 7, 1999 by credit to the customers accounts.

Granite State also states that its report has been served on its customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

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 27, 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. 99–18967 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–111–002]

Koch Gateway Pipeline Company; Tariff Filing

July 20, 1999.

Take notice that on July 16, 1999, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1999:

Twenty-eighth Revised Sheet No. 20
Twenty-fifth Revised Sheet No. 21
Twenty-sixth Revised Sheet No. 22
Twenty-eighth Revised Sheet No. 24
First Revised Sheet No. 24A

Koch states that the purpose of this filing is to place the rates into effect related to the Offer of Settlement and Stipulation and Agreement resolving all aspects of Koch's costs of service and rate design in Docket No. RP99–111 which was approved by an Order issued July 14, 1999.

Koch also states that it has served copies of the instant filing upon each affected customer, interested state commissions, and other parties.

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. 99–18969 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–583–000]

Portland Natural Gas Transmission System; Notice of Request Under Blanket Authorization

July 20, 1999.

Take notice that on July 14, 1999, Portland Natural Gas Transmission System (Portland Natural Gas), One Harbour Place, Portsmouth, New Hampshire 03801, filed in Docket No. CP99–583–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to add a delivery point near mile post 0.48 on the Newington lateral, for G–P Gypsum Corporation (G–P Gypsum) in Newington, New Hampshire. Portland Natural Gas makes such request under its blanket certificate issued in Docket No. CP96–249–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission. The filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Communications concerning this filing should be addressed to: J. Marc Teixiera, Vice President of Engineering and Operations, Portland Natural Gas Transmission System Operations Co., LLC, 603–427–2410.

Specifically, the proposed facilities will consist of approximately 235 feet of 4-inch pipe and a metering facility, that will extend from the existing tap at the Newington lateral to a meter station to be built by G–P Gypsum, which will house the proposed metering facility. Portland Natural Gas indicates that its tariff does not prohibit the installation of the proposed facilities, and that G–P Cypsum is providing all funding for the facilities required for the proposed delivery point, so there will be no cost to Portland Natural Gas or its existing customers. It is averred that G–P Gypsum, who is presently served by Northern Utilities, Inc., a local distribution company, has constructed for 4,000 Dt of IT service from Portland Natural Gas.

It is stated that the Newington lateral is part of the Joint Facilities owned by both Portland Natural Gas and Maritimes & Northeast Pipeline, L.L.C. (Maritimes). Portland Natural Gas indicates that it has already constructed the facilities necessary for a tie-in to the Newington lateral pursuant to Commission authorization in Docket No. CP99–110–000, issued on December 31, 1998. It is therefore indicated that Portland Natural Gas will own the proposed delivery point and that Maritimes, as the operator of the Joint Facilities, will be the operator of the proposed delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–18966 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–578–000]

Texas Eastern Transmission Corporation; Notice of Application To Abandon

July 20, 1999.

Take notice that on July 13, 1999, Texas Eastern Transmission Corporation (Tetco), 5400 Westheimer Court, Houston Texas 77056–5310, filed under Section 7(b) of the Natural Gas Act, for authority to abandon by sale to Duke Energy Field Services Inc., (Duke) the Bennet Ranch line, the Kenedy Ranch Lateral and the Humble Sarita Lateral. These facilities are located in Brooks, Jim Hogg and Kenedy Counties, Texas, all as more fully described 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.us/online/rims.htm. Call 202–208–2222 for assistance.

The name, address, and telephone number of the person to whom correspondence and communications concerning this Application should be addressed is: S.E. Tillman, Director of Regulatory Affairs, Texas Eastern Transmission Corporation, P.O. Box 1642 Houston, Texas 77251–1642, (713) 627–5113, (713) 627–5947 (Fax).

The facilities proposed for sale access supplies of natural gas from production fields in Kenedy, Jim Hogg and Brooks Counties Texas. Tetco states that the facilities are underutilized and that Duke proposes to sell them at a net book value of $395,975, plus incidental costs of transfer not to exceed $25,000. Duke proposes to use the facilities to gather production and has advised Tetco that it will either arrange to purchase production from wells currently attached to the facilities or enter into gather arrangements with rates comparable to those currently being charged by Tetco.

Any person desiring to be heard or make any protest with reference to said application should on or before August 10, 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 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 Protesters 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, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene it 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 Tetco to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–18965 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–442–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

July 20, 1999.

Take notice that on July 16, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 16, 1999:

Sixth Revised Sheet No. 3; Sixth Revised Sheet No. 203; Third Revised Sheet No. 225; Sixth Revised Sheet No. 234; Second Revised Sheet No. 277; Second Revised Sheet No. 278; Second Revised Sheet No. 279; Second Revised Sheet No. 509; Fourth Revised Sheet No. 510; Second Revised Sheet No. 559; Fourth Revised Sheet No. 560; Fourth Revised Sheet No. 608; Sheet Nos. 775–778; Sheet Nos. 825–835

Williston Basin respectfully requests that it be granted a permanent waiver from the requirement to report its Master Receipt/Delivery Point Lists in its tariff and instead, to maintain such only on its EBB web site.

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 in 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. 99–18975 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–92–000, et al.]

Texas-New Mexico Power Company and SW Acquisition, L.P., et al.; Electric Rate and Corporate Regulation Filings

July 19, 1999.

Take notice that the following filings have been made with the Commission:

1. Texas-New Mexico Power Company and SW Acquisition, L.P.

[Docket No. EC99–92–000]

Take notice that on July 9, 1999, Texas-New Mexico Power Company (TNMP) and SW Acquisition, L.P. (together, Joint Applicants) tendered for filing a request that the Commission approve a disposition of facilities and/or grant any other authorization the Commission may deem to be needed under Section 203 of the Federal Power Act as a result of the forthcoming merger between TNP Enterprises, Inc. (TNP), TNMP's parent, and SW Acquisition, L.P. Joint Applicants submit that the planned merger of TNP with SW Acquisition, L.P., will have no effect on the jurisdictional facilities, rates or services of TNMP and will be consistent with the public interest.

Joint Applicants request expeditious action on the application in order that there be no delay in the merger of TNP and SW Acquisition, L.P.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Energy Atlantic, LLC

[Docket No. ER98–4381–003]

Take notice that on July 14, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at *www.ferc.fed.us*/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

3. Tampa Electric Company

[Docket No. ER99–3559–000]

Take notice that on July 14, 1999, Tampa Electric Company (Tampa Electric) tendered for filing service agreements with The Energy Authority, Inc. (TEA) for firm and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric also tendered for filing notices of termination of the existing service agreements with InterCoast Power Marketing Company (InterCoast) and Sonat Power Marketing L.P. (Sonat) under the tariff.

Tampa Electric proposes an effective date of July 14, 1999, for the tendered service agreements and terminations, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on TEA, InterCoast, Sonat, and the Florida Public Service Commission.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Energy, Inc.

[Docket No. ER99–3560–000]

Take notice that on July 14, 1999, Puget Sound Energy, Inc. (PSE), as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with ABB Information Systems (ABB), as Transmission Customer.

A copy of the filing was served upon ABB.

PSE respectfully requests that these filings become effective as of July 15, 1999.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Yadkin, Inc.

[Docket No. ER99–3561–000]

Take notice that on July 14, 1999, Yadkin, Inc. (Yadkin) tendered for filing a service agreement between Yadkin and Allegheny Power Service Corporation (as agent for Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, collectively d/b/a Allgheny Power) under Yadkin's FERC Electric Tariff Original Volume No. 2—Market-Based Rate Tariff. This Tariff was accepted for filing by the Commission on September 30, 1996, effective as of October 1, 1996, in Docket No. ER96–2603–000.

The service agreement is proposed to be effective July 1, 1999.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER99–3562–000]

Take notice that on July 14, 1999, Virginia Electric and Power Company (Virginia Power), filed a letter agreement amending the provisions of a rate schedule of Virginia Power for service to Northern Virginia Electric Cooperative (NOVEC), a member cooperative of Old Dominion Electric Cooperative (Old Dominion). The amendment is a letter agreement dated April 29, 1999, establishing the terms and conditions for modifying the existing monthly excess facilities charge for NOVEC associated with NOVEC's Godwin delivery point. Virginia Power requests waiver of the Commission's notice requirements for an effective date of January 1, 1999.

Copies of the filing were served upon Old Dominion, NOVEC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Energy, Inc.

[Docket No. ER99–3563–000]

Take notice that on July 14, 1999, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with the Los Angeles Department of Water and Power Wholesale Marketing Group (LAWM), as Transmission Customer. A copy of the filing was served upon LAWM.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Idaho Power Company

[Docket No. ER99–3564–000]

Take notice that on July 14, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and Los Angeles Department of Water and Power Wholesale Marketing.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company/ Kentucky Utilities Company

[Docket No. ER99–3565–000]

Take notice that on July 14, 1999, Louisville Gas and Electric Company/ KentuckyUtilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/ KU and TXU Energy Trading Company under LG&E/KU's Open Access Transmission Tariff.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power, a division of Duke Energy Corporation

[Docket No. ER99–3566–000]

Take notice that on July 14, 1999, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with Sempra Energy Trading Corp. (Sempra) for power sales at market-based rates. Duke requests that the proposed Service Agreement be permitted to become effective on June 18, 1999. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER99–3567–000]

Take notice that on July 14, 1999, Commonwealth Edison Company (ComEd), submitted for filing an unexecuted Service Agreement, establishing Western Resources, Inc. (WRI), as a customer under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd also submits for filing a revised Index of Customers reflecting the addition of WRI, and name change for current customer NP Energy, Inc., renamed Duke Energy Trading and Marketing, L.L.C. (DETM).

ComEd requests an effective date of July 1, 1999, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served upon WRI and DETM.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Power Service Corporation, On Behalf of West Penn Power Company

[Docket No. ER99–3568–000]

Take notice that on July 14, 1999, Allegheny Power Service Corporation on behalf of West Penn Power Company (Allegheny Energy), filed Amendment No. 1 to Supplement No. 10 to the Market Rate Tariff to incorporate a Netting Agreement with DTE Energy Trading, Inc. into the tariff provisions. Allegheny Energy requests a waiver of notice requirements to make the Amendment effective as of the effective date therein, June 18, 1999. Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER99–3569–000]

Take notice that on July 19, 1999, Arizona Public Service Company (APS), tendered for filing umbrella Service Agreements to provide short-term Non-Firm and Firm Point-to-Point Transmission Service to TXU Energy Trading Company under APS Open Access Transmission Tariff.

A copy of this filing has been served TXU Energy Trading Company and the Arizona Corporation Commission.

Comment date: August 3, 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. 99–18933 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission and Soliciting Comments and Recommendations, Motions To Intervene, and Protests and Notice of Public Meeting To Discuss Application

July 20,1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Requested Variance to License Requirement (Article 50).

b. *Project No.:* 2146–081.

c. *Date Filed:* June 30, 1999.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* The Coosa River Hydroelectric Project includes the following dams on the Coosa River in Alabama: Weiss, H. Neely Henry, Logan Martin and Lay. The H. Neely Henry dam is about 3 miles west of the city of Ohatchee and about 15 miles south of the city of Gadsden. The H. Neely Henry Reservoir is located within Calhoun, St. Clair and Etowah Counties, Alabama. The dam and reservoir do not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federla Power Act, 18 CFR 4.200.

h. *Applicant Contact:* Mr. James Schauer, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291; (205) 257–1401.

i. *FERC Contact:* Questions about this application can be answered by Steve Hocking, E-mail address steve.hocking@ferc.fed.us, or telephone (202) 219–2656.

j. *Deadline for filing comments and recommendations, motions to intervene, and protests:* August 23, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Please include the project number (2146–081) on any comments and recommendations, motions to intervene and protests.

k. *Description of Application:* Alabama Power Company (APC)

requests a variance to temporarily change lake levels at H. Neely Henry Reservoir, part of the Coosa River Hydroelectric Project. Currently, lake levels must be maintained at elevation 508 msl from May 1 to October 31; drawn down to elevation 505 msl by about November 7 and maintained at this level until about April 15; then raised to elevation 508 msl by May 1. APC proposes to change H. Neely Henry Reservoir so it is maintained at elevation 508 msl from May 1 to September 30; drawn down to elevation 507 msl by December 1 and maintained at this level until April 1; then raised to elevation 508 masl by May 1. APC would change lake levels as described above for up to three years during a trial period. At the end of the trial, APC would decide whether to file an application to make the above lake levels permanent.

The Federal Energy Regulatory Commission (FERC) will be the lead agency in preparing an environmental assessment (EA) for this proposed action. The U.S. Army Corps of Engineers (Corps) will be a cooperating agency in the preparation of the EA. The FERC and Corps along with APC will jointly host a public meeting to explain APC's proposal and answer any questions. The public meeting will be at 7:00 p.m. on August 24, 1999, at the Elliott Community Center, 2827 West Meighan Blvd., Gadsden, AL 35904, (256) 549–4674).

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', '' PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 first Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–18963 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Recreation Plan Amendment and Soliciting Comments, Motions To Intervene, and Protests

July 20, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Recreation Plan.

b. *Project No.:* 271–056.

c. *Date Filed:* June 1, 1999.

d. *Applicant:* Entergy, Arkansas, Inc.

e. *Name of Project:* Carpenter-Remmel Hydroelectric Project.

f. *Location:* The application will affect access to the overlook area adjacent to the Remmel Dam. The project is located in the Ouachita River in Hot Springs and Garland Counties, Arkansas. The project partially occupied federal lands administered by the U.S. Forest Service, Army Corps of Engineers, and Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas R. Sikes, Entergy Arkansas, Inc., P.O. Box 218, Jones Mills, AR 72105, (501) 844–2197.

i. *FERC Contact:* Any questions on this notice should be addressed to Jon Cofranesco at (202) 219–0079, or e-mail address: jon.cofrancesco@ferc.fed.us.

j. *Deadline for filing comments and or motions:* August 30, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (271–056) on any comments or motions filed.

k. *Description of Proposal:* Entergy Arkansas, Inc. (licensee) proposes to amend the approved recreation plan for the Carpenter-Remmel Project. The proposed amendment would involve closing the overlook area immediately adjacent to Remmel Dam. The licensee indicates this closure is necessary to ensure safety at the project after Remmel Dam is converted to remote operation. No alternate facility or access are proposed in lieu of this closure.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Document—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS

AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–18968 Filed 7–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

July 21, 1999.

THE FOLLOWING NOTICE OF MEETING IS PUBLISHED PURSUANT TO SECTION 3(A) OF THE GOVERNMENT IN THE SUNSHINE ACT (PUB. L. NO. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: FEDERAL ENERGY REGULATORY COMMISSION

DATE AND TIME: JULY 28, 1999, 10:00 A.M.

PLACE: ROOM 2C, 888 FIRST STREET, NE, WASHINGTON, DC 20426

STATUS: OPEN

MATTERS TO BE CONSIDERED: AGENDA * NOTE—ITEMS LISTED ON THE AGENDA MAY BE DELETED WITHOUT FURTHER NOTICE.

CONTACT PERSON FOR MORE INFORMATION: DAVID P. BOERGERS, SECRETARY, TELEPHONE (202) 208–0400, FOR A RECORDING LISTING ITEMS STRICKEN FROM OR ADDED TO THE MEETING, CALL (202) 208–1627.

THIS IS A LIST OF MATTERS TO BE CONSIDERED BY THE COMMISSION. IT DOES NOT INCLUDE A LISTING OF ALL PAPERS RELEVANT TO THE ITEMS ON THE AGENDA; HOWEVER, ALL PUBLIC DOCUMENTS MAY BE EXAMINED IN THE REFERENCE AND INFORMATION CENTER.

Consent Agenda—Hydro; 724th Meeting—July 28, 1999; Regular Meeting (10:00 A.M.)

CAH–1.
OMITTED
CAH–2.
DOCKET# P–2325, 022, FPL ENERGY MAINE HYDRO LLC
OTHER#S P–2329, 019, FPL ENERGY MAINE HYDRO LLC
P–2552, 025, FPL ENERGY MAINE HYDRO LLC
P–2671, 007, KENNEBEC WATER POWER COMPANY
CAH–3.
DOCKET# UL96–7, 004, KENNEBEC WATER DISTRICT
OTHER#S P–2555, 007, KENNEBEC WATER DISTRICT
P–2556, 013, FPL ENERGY MAINE HYDRO LLC
P–2557, 010, FPL ENERGY MAINE HYDRO LLC
P–2559, 011, FPL ENERGY MAINE HYDRO LLC
UUL96–8, 004, FPL ENERGY MAINE HYDRO LLC
UL96–9, 004, FPL ENERGY MAINE HYDRO LLC
UL96–10, 004, FPL ENERGY MAINE HYDRO LLC
CAH–4.
DOCKET# P–2004, 073, HOLYOKE WATER POWER COMPANY
OTHER#S P–11607, 000, HOLYOKE GAS & ELECTRIC DEPARTMENT, ASHBURNHAM MUNICIPAL LIGHT PLANT AND MASSACHUSETTS MUNICIPAL WHOLE-SALE ELECTRIC COMPANY
CAH–5.
DOCKET# P–2555, 001, KENNEBEC WATER DISTRICT
CAH–6.
DOCKET# P–2556, 004, FPL ENERGY MAINE HYDRO LLC
OTHER#S P–2557, 004, FPL ENERGY MAINE HYDRO LLC
P–2559, 003, FPL ENERGY MAINE HYDRO LLC
CAH–7. OMITTED
CAH–8.
DOCKET# P–9690, 047, ORANGE AND ROCKLAND UTILITIES INC.
OTHER#S P–10481, 025, ORANGE AND ROCKLAND UTILITIES INC.
P–10482, 038, ORANGE AND ROCKLAND UTILITIES INC.
CAH–9.
DOCKET# P–2494, 028, PUGET SOUND ENERGY, INC.

Consent Agenda—Electric

CAE–1.
DOCKET# ER93–540, 006, AMERICAN ELECTRIC POWER SERVICE CORPORATION
CAE–2.
DOCKET# ER99–3119, 000, ALLIANT ENERGY CORPORATE SERVICES, INC.
CAE–3.
DOCKET # ER99–3301, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–4.
OMITTED,
CAE–5.
DOCKET # ER99–3163, 000, UTILICORP UNITED, INC.
OTHER #S EL99–78, 000, UTILICORP UNITED, INC.
CAE–6.
DOCKET # ER99–3206, 000, ISO NEW ENGLAND, INC.
CAE–7.
DOCKET # ER99–3148, 000, CALIFORNIA POWER EXCHANGE CORPORATION
CAE–8.
DOCKET # ER99–3150, 000, COMMONWEALTH EDISON COMPANY AND COMMONWEALTH EDISON COMPANY OF INDIANA
CAE–9.
DOCKET # ER99–3129, 000, FIRSTENERGY OPERATING COMPANIES
CAE–10.
DOCKET # ER99–3196, 000, NORTHEAST UTILITIES SERVICE COMPANY
CAE–11.
DOCKET # OA96–64, 004, DAYTON POWER AND LIGHT COMPANY
OTHER #S ER96–1552, 001, DAYTON POWER AND LIGHT COMPANY
CAE–12.
DOCKET # TX99–2, 000, PRAIRIELAND ENERGY, INC.
CAE–13.
DOCKET # ER99–1414, 003, NEW ENGLAND POWER POOL AND ISO NEW ENGLAND INC.
CAE–14.
DOCKET # OA97–237, 007, NEW ENGLAND POWER POOL
OTHER #S ER97–1079, 006, NEW ENGLAND POWER POOL
ER97–3574, 005, NEW ENGLAND POWER POOL
ER97–4421, 005, NEW ENGLAND POWER POOL
ER98–499, 004, NEW ENGLAND POWER POOL
OA97–608, 005, NEW ENGLAND POWER POOL
CAE–15.
DOCKET # ER99–2335, 000, NEW ENGLAND POWER POOL
CAE–16.
OMITTED,
CAE–17.
DOCKET # ER99–2021, 000, CALIFORNIA POWER EXCHANGE CORPORATION
CAE–18.
DOCKET # OA97–163, 003, MID-CONTINENT AREA POWER POOL
OTHER #S ER97–1162, 002, MID-CONTINENT AREA POWER POOL
OA97–658, 003, MID-CONTINENT AREA POWER POOL
CAE–19.
DOCKET # ER99–3145, 000, PACIFIC GAS AND ELECTRIC COMPANY
OTHER #S EL98–46, 000, LAGUNA IRRIGATION DISTRICT
CAE–20.
DOCKET # EL95–71, 003, PUBLIC SERVICE COMPANY OF NEW

HAMPSHIRE V. NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.
CAE–21.
DOCKET # ER98–3594, 001, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–22.
DOCKET # ER97–1523, 003, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
OTHER #S ER97–1523, 004, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
ER97–4234, 002, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
ER97–4234, 003, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
OA97–470, 004, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG SLAND LIGHTING COMPANY, ET AL.
OA97–470, 005, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
CAE–23.
DOCKET # EL99–46, 000, CAPACITY BENEFIT MARGIN IN COMPUTING AVAILABLE TRANSMISSION CAPACITY
CAE–24.
DOCKET # EL99–57, 000, ENTERGY SERVICES, INC.
CAE–25.
DOCKET # EL98–71, 000, PJM INTERCONNECTION, L.L.C.
CAE–26.
DOCKET # RM99–7, 000, DEPRECIATION ACCOUNTING
CAE–27.
DOCKET # RM95–9, 007, OPEN ACCESS SAME-TIME INFORMATION SYSTEM (OASIS) AND STANDARDS OF CONDUCT
CAE–28.
DOCKET # OA97–520, 003, CITIZENS UTILITIES COMPANY
OTHER #S OA97–610, 003, CITIZENS UTILITIES COMPANY
CAE–29.
DOCKET # ER99–3125, 000, MINERGY NEENAH, L.L.C.
OTHER #S ER99–3118, 000, DUKE ENERGY ST. FRANCIS L.L.C.
ER99–3143, 000, RELIANT ENERGY INDIAN RIVER, LLC
ER99–3165, 000, TENASKA GEORGIA PARTNERS, L.P.
ER99–3168, 000, ASTORIA GENERATING COMPANY, L.P.
ER99–3197, 000, BIV GENERATING COMPANY, L.L.C.
ER99–3207, 000, CAPITAL CENTER GENERATING COMPANY, LLC
ER99–3208, 000, ILLINOVA POWER MARKETING, INC.
ER99–3248, 000, CONSOLIDATED EDISON ENERGY MASSACHUSETTS, INC.
CAE–30.
DOCKET # ER99–34, 002, SIERRA PACIFIC POWER COMPANY
OTHER #S ER99–2339, 001, SIERRA PACIFIC POWER COMPANY

Consent Agenda—Miscellaneous

CAM–1.
DOCKET # RM98–13, 001, COMPLAINT PROCEDURES

Consent Agenda—Gas and Oil

CAG–1.
DOCKET # PR99–11, 000, CINCINNATI GAS & ELECTRIC COMPANY
CAG–2.
DOCKET # RP98–99, 006, TENNESSEE GAS PIPELINE COMPANY
CAG–3.
DOCKET # RP98–206, 005, ATLANTA GAS LIGHT COMPANY
CAG–4.
DOCKET # RP99–355, 000, BALTIMORE GAS AND ELECTRIC COMPANY
CAG–5.
OMITTED
CAG–6.
OMITTED
CAG–7.
DOCKET # RP99–424, 000, TEXAS-OHIO PIPELINE, INC.
CAG–8.
DOCKET # RP99–238, 000, SEA ROBIN PIPELINE COMPANY
CAG–9.
OMITTED
CAG–10.
DOCKET # RP99–381, 000, WYOMING INTERSTATE COMPANY, LTD.
CAG–11.
OMITTED
CAG–12.
OMITTED
CAG–13.
DOCKET # RP99–422, 000, WESTGAS INTERSTATE, INC.
CAG–14.
OMITTED
CAG–15.
DOCKET # RP98–324, 002, BLUE LAKE GAS STORAGE COMPANY
CAG–16.
DOCKET # RP98–326, 001, STEUBEN GAS STORAGE COMPANY
CAG–17.
DOCKET # RP99–159, 000, SOUTHERN NATURAL GAS COMPANY
OTHER #S RP99–159, 001, SOUTHERN NATURAL GAS COMPANY
CAG–18.
DOCKET # RP95–408, 000, COLUMBIA GAS TRANSMISSION CORPORATION
CAG–19.
DOCKET # RP97–156, 008, VIKING GAS TRANSMISSION COMPANY
CAG–20.
DOCKET # RP99–427, 000, GULF STATES TRANSMISSION CORPORATION
CAG–21.
DOCKET # GP98–23, 000, LAJOLLA PROPERTIES, INC.
CAG–22.
DOCKET # RP97–307, 004, ANR PIPELINE COMPANY
OTHER #S RP97–367, 002, ANR PIPELINE COMPANY
CAG–23.
DOCKET # RP98–381, 002, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER #S RP98–381, 003, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–24.
DOCKET # RP99–294, 002, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–25.
OMITTED
CAG–26.
DOCKET # RP98–284, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER #S RP97–71 011 TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–27.
OMITTED
CAG–28.
DOCKET # RP97–408, 008, TRAILBLAZER PIPELINE COMPANY
CAG–29.
DOCKET # RP99–278, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–30.
DOCKET # RP97–287, 021, EL PASO NATURAL GAS COMPANY
OTHER #S RP97–287, 019, EL PASO NATURAL GAS COMPANY
RP97–287, 024, EL PASO NATURAL GAS COMPANY
RP97–287, 025, EL PASO NATURAL GAS COMPANY
RP97–287, 026, EL PASO NATURAL GAS COMPANY
CAG–31.
DOCKET # RP99–248, 002, PG&E GAS TRANSMISSION, NORTHWEST CORPORATION
CAG–32.
DOCKET # RP99–249, 001, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–33.
DOCKET # RP98–54, 027, COLORADO INTERSTATE GAS COMPANY
OTHER #S RP98–38, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
RP98–39, 000, NORTHERN NATURAL GAS COMPANY
RP98–52, 000, WILLIAMS NATURAL GAS COMPANY
RP98–53, 000, KN INTERSTATE GAS TRANSMISSION COMPANY
CAG–34.
DOCKET # RP98–54, 024, COLORADO INTERSTATE GAS COMPANY
CAG–35.
DOCKET # RP99–330, 000, CONSUMER SERVICES ASSOCIATION, INC. D/B/A UNITED GAS SERVICES, INC. V. KN INTERSTATE GAS TRANSMISSION COMPANY AND KN ENERGY, INC.
CAG–36.

DOCKET # RM99–1, 000, REVISIONS TO OIL PIPELINE REGULATIONS
CAG–37.
DOCKET # MG99–18, 000, NORTHERN NATURAL GAS COMPANY
CAG–38.
DOCKET # MG99–20, 000, NATIONAL FUEL GAS SUPPLY CORPORATION
CAG–39.
OMITTED
CAG–40.
DOCKET# CP98–238, 002, DESTIN PIPELINE COMPANY, L.L.C.
CAG–41.
DOCKET# CP99–564, 000, CORAL MEXICO PIPELINE, LLC
CAG–42.
DOCKET# CP99–94, 000, FLORIDA GAS TRANSMISSION COMPANY
OTHER#S CP99–94, 001, FLORIDA GAS TRANSMISSION COMPANY
RP96–366, 011, FLORIDA GAS TRANSMISSION COMPANY
CAG–43.
DOCKET# CP98–648, 000, NATIONAL FUEL GAS SUPPLY CORPORATION
CAG–44.
DOCKET# CP99–218, 000, ANR PIPELINE COMPANY
CAG–45.
DOCKET# CP99–321, 000, KENTUCKY WEST VIRGINIA GAS COMPANY L.L.C., NORA TRANSMISSION COMPANY AND EQUITABLE PRODUCTION COMPANY
CAG–46.
OMITTED
CAG–47.
OMITTED
CAG–48.
DOCKET# CP99–102, 000, WYOMING INTERSTATE COMPANY, LTD.
CAG–49.
DOCKET# RM99–9, 000, DESIGNATION OF CORPORATE OFFICIALS OF OTHER PERSONS TO RECEIVE SERVICE

Hydro Agenda

H–1.
RESERVED

Electric Agenda

E–1.
RESERVED

Regular Agenda—Miscellaneous

M–1. OMITTED

Oil and Gas Agenda

I.
PIPELINE RATE MATTERS
PR–1.
OMITTED
PR–2.
OMITTED
II.
PIPELINE CERTIFICATE MATTERS
PC–1.
DOCKET# PL99–3, 000, DETERMINING THE NEED FOR NEW INTERSTATE NATURAL GAS PIPELINE FACILITIES
STATEMENT OF POLICY

David P. Boergers,

Secretary.

[FR Doc. 99–19100 Filed 7–22–99; 11:34 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6408–1]

Draft Toxicological Review of Cadmium and Compounds and IRIS Summaries for Cadmium and Compounds

AGENCY: Environmental Protection Agency.

ACTION: Notice of peer-review panel workshop and public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing an external peer-review workshop to review the external review draft document entitled, Toxicological Review of Cadmium and Compounds (CAS No. 7440–43–9) (NCEA–99–0734), and the companion draft IRIS (Integrated Risk Information System) Summaries for Cadmium and Compounds. The peer-review workshop will be organized, convened, and conducted by the Syracuse Research Corporation, an EPA contractor for external scientific peer review.

The EPA is also announcing a thirty-day public comment period for these same documents. The documents were prepared by the EPA's National Center for Environmental Assessment—Research Triangle Park, NC, Office (NCEA–RTP) within the Office of Research and Development. NCEA–RTP will consider the peer-review advice and public comment submissions in revising all of the documents.

DATES: The peer-review panel workshop will begin on Tuesday, August 3, 1999, at 8:30 a.m. and end at 5:30 p.m. Members of the public may attend as observers, and there will be a limited time for comments from the public in the afternoon. The thirty-day public comment period begins July 27, 1999, and ends August 27, 1999.

ADDRESSES: The external peer-review panel workshop will be held in Classroom #3 at the EPA's Environmental Research Center, 86 T.W. Alexander Drive, Research Triangle Park, NC. The Syracuse Research Corporation, an EPA contractor, is organizing, convening, and conducting the peer-review workshop. To attend the workshop, register by July 29, 1999, by calling Tara Childs, Syracuse Research Corporation, 1215 Jefferson Davis Highway, Arlington, VA 22202 at 703–413–9364, or send a facsimile to 703–418–1044. Space is limited, and reservations will be accepted on a first-come, first-served basis. Please inform Syracuse Research Corporation if you wish to make comments during the designated time in the afternoon.

The draft Toxicological Review and draft IRIS Summaries are available on the Internet at http://www.epa.gov/ncea/ under the ''What's New'' and ''Publications'' menus. The documents are identified as ''Cadmium and Compounds External Review Draft'' and consist of two groups of files, downloadable in .pdf format. The first group contains only the Toxicological Review, while the second group contains this document and the IRIS Summaries in five files. A limited number of paper copies are available by writing to the Technical Information Manager, U.S. Environmental Protection Agency, National Center for Environmental Assessment—RTP Office, MD–52, Research Triangle Park, NC 27711. The facsimile number is 919–541–1818. Or, you may send an e-mail to *ray.diane@epa.gov*. Regardless of the method you choose to request a paper copy, please provide your name, mailing address, and the document titles, Toxicological Review of Cadmium and Compounds and IRIS Summaries for Cadmium and Compounds.

Comments may be mailed to the Project Manager for Cadmium, U.S. Environmental Protection Agency, National Center for Environmental Assessment, MD–52, Research Triangle Park, NC 27711. Comments should be in writing and must be postmarked by August 27, 1999. Please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies. Electronic comments may be sent by e-mail to foureman.gary@epa.gov.

Please note that all technical comments received in response to this notice will be placed in a public record. For that reason, commenters should not submit personal information (such as medical data or home addresses), Confidential Business Information, or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: For workshop information, registration, and logistics, contact Tara Childs, Syracuse Research Corporation, 1215 Jefferson Davis Highway, Arlington, VA 22202; telephone: 703–413–9364; facsimile: 703–418–1044.

For further information on the public comment period, contact Gary L. Foureman, NCEA–RTP, telephone: 919–541–1183; facsimile: 919–541–1818; or send an e-mail to: foureman.gary@epa.gov.

SUPPLEMENTARY INFORMATION: The Toxicological Review for Cadmium and Compounds will provide the scientific basis for classifying the weight-of-evidence for the carcinogenicity of cadmium, deriving a potency cancer estimate for the inhalation route, and deriving the IRIS Summaries for the non-cancer health risk from exposure to cadmium including an oral reference dose (RfD) and an inhalation reference concentration (RfC).

Dated: July 21, 1999.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 99–19000 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00606; FRL–6087–4]

Certain Chemicals; Completion of Comment Period for Reregistration Eligibility Decision Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant to section 4(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), concludes the comment period for the Reregistration Eligibility Decision (RED) documents for several chemical cases.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED documents should be directed to the appropriate Chemical Review Managers listed in the table under ''SUPPLEMENTARY INFORMATION.''

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me

This notice is directed to the public in general. As such, 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 appropriate chemical review manager listed in the table in Unit II. of this document.

B. How Can I Get Additional Information, Including Copies of this Document and the REDs?

You may obtain copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''Federal Register - Environmental Documents.'' You can also go directly to the ''Federal Register'' listings at http://www.epa.gov/fedrgstr/.

Copies of these REDs are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, ATTN: Order Desk; telephone number 1–800–553–6847. To obtain copies you must provide the publication number that has been assigned to the RED listed in the table in Unit II. of this document.

Electronic copies of the REDs and RED Fact sheets can be downloaded from the internet via EPA's website at: http//www.epa.gov/oppsrrd1/REDs.

II. Background

During fiscal years 1990–1998, EPA published Notices in the **Federal Register** announcing the availability of RED documents for the listed pesticide active ingredients. These REDs were issued as final documents, with a 60–day comment period. In these REDs, EPA provided its regulatory position on the current registered uses of these pesticides and set forth certain requirements for product reregistration eligibility. No comments were submitted for the following REDs: Acetic acid and salts, aliphatic alcohols, fosetyl-al, asulam, bis(trichloromethyl)sulfon, M-cresol, dacthal, difenzoquat, ethalfluralin, fosamine ammonium, HPMTS, methomyl, Na and Ca hypochlorites, terbuthylazine, thiodicarb, and triclopyr. Comments were submitted for the following RED documents but did not significantly affect EPA's regulatory position: Furanone, hexazinone, methylisothiazolinone, metribuzin, telone, propachlor, and terbacil.

The NTIS publication number for the REDs subject to this notice are presented below.

Chemical Name	Chemical Review Manager	Case Number	RED Date	RED NTIS Number
Acetic acid and salts	Leonard Ryan 703-308-8067 Ryan.Leonard@epa.gov	4001	3/92	738-R-91-108
Aliphatic alcohols	Leonard Ryan 703-308-8067 Ryan.Leonard@epa.gov	4003	8/95	738-R-95-013
Asulam	Emily Mitchell 703-308-8583 Mitchell.Emily@epa.gov	0265	9/95	738-R-95-024
Bis(trichloromethyl)sulfon	Lorilyn McKay 703-308-8170 McKay.Lorilyn@epa.gov	2055	11/96	738-R-96-028
Dacthal (DCPA)	Jill Bloom 703-308-8019 Bloom.Jill@epa.gov	0270	11/98	738-R-98-005
1,3-Dichloropropene (Telone)	Lisa Nisenson 703-308-8031 Nisenson.Lisa@epa.gov	0328	12/98	738-R-98-002
Difenzoquat	Leonard Ryan 703-308-8067 Ryan.Leonard@epa.gov	0223	1-95	738-R-94-018

Chemical Name	Chemical Review Manager	Case Number	RED Date	RED NTIS Number
Ethalfluralin	Laura Parsons 703-305-5776 Parsons.Laura@epa.gov	2260	3/95	738-R-95-001
Fosamine ammonium	Beth Edwards 703-305-5400 Edwards.Beth@epa.gov	2355	3/95	738-R-95-004
Fosetyl-al (Aliette)	Leonard Ryan 703-308-8067 Ryan.Leonard@epa.gov	0646	12/90	738-R-90-100
Furanone	Emily Mitchell 703-308-8583 Mitchell.Emily@epa.gov	3138	3/96	738-R-96-009
Hexazinone	Michael Goodis 703-308-8157 Goodis.Michael@epa.gov	0266	9/94	738-R-94-022
HPMTS	Pat Dobak 703-308-8180 Dobak.Pat@epa.gov	3033	12/95	738-R-95-035
M-Cresol	Beth Edwards 703-305-5400 Edwards.Beth@epa.gov	4027	11/94	738-R-94-025
Methomyl	Tom Myers 703-308-8589 Myers.Tom@epa.gov	0028	12/98	738-R-98-021
Methylisothiazolinone (Kathon)	Deanna Scher 703-308-7043 Scher.Deanna@epa.gov	3092	11/98	738-R-98-008
Metribuzin	Michael Goodis 703-308-8157 Goodis.Michael@epa.gov	0181	4/98	738-R-97-006
Na and Ca Hypochlorites	Diane Isbell 703-308-8154 Isbell.Diane@epa.gov	0029	2/92	738-R-91-107
Propachlor	Anne Overstreet 703-308-8068 Overstreet.Anne@epa.gov	0177	9/98	738-R-98-015
Terbacil	Emily Mitchell 703-308-8583 Mitchell.Emily@epa.gov	0039	1/98	738-R-97-011
Terbuthylazine	Diane Isbell 703-308-8154 Isbell.Diane@epa.gov	2645	3/95	738-R-95-005
Thiodicarb	Tom Myers 703-308-8589 Myers.Tom@epa.gov	2675	12/98	738-R-98-022
Triclopyr	Dean Monos 703-308-8074 Monos.Dean@epa.gov	2710	10/98	738-R-98-007

List of Subjects

Environmental protection.

Dated: June 28, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–19002 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6402–7]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act; In the Matter of Lakeland Disposal Service, Inc., Claypool, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice of *de minimis* Settlement: In accordance with section 112(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), EPA gives notice of a proposed administrative settlement concerning the remedial action at the Lakeland Disposal Service, Inc., Superfund Site, Claypool, County at Kosciusko, Indiana (the Site). The proposed agreement will resolve issues concerning one individual *de minimis* landowner at the site. EPA has previously submitted the proposed agreement to the U.S. Department of Justice for review and has received its approval for the proposed agreement via letter dated June 6, 1997.

DATES: Comments must be provided on or before August 25, 1999.

ADDRESSES: Barbara Wester (C–14J), Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60605–3590. Include the following name of the matter in the comment: In the Matter of Lakeland Disposal Service Inc., Claypool, Indiana, U.S. EPA Docket No. V–W–97–C–397.

FOR FURTHER INFORMATION CONTACT: Barbara Wester (C–14J), Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5, 77 W, Jackson Boulevard, Chicago, Illinois 60604–3590.

SUPPLEMENTARY INFORMATION: The following parties have executed binding certifications of their consent to participate in the settlement: Dana Corporation; Eaton Corporation; General Motors Corporation; United Technologies Automotive, Inc.; and Warsaw Black Oxide, Inc. (collectively, the UAO Group); David W. Poage, an individual; and the Director, Superfund Division, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604–3590. Summary of the settlement: David W. Poage owns approximately seven and one-half (7.5) acres of property located entirely within the boundaries of the Site and did not himself contribute any wastes to the Site. The Record of Decision (ROD) for the Site, issued on September 28, 1993, contemplated that deed restrictions and institutional controls would be an important part of the remedy.

The Settlement provides: that the UAO Group will compensate Mr. Poage for the loss of use of his property; that Mr. Poage will establish the contractual access provisions and deed restrictions necessary to effect the on-going remediation of the Site proscribed by the ROD; and that Mr. Poage will convert these contractual promises to the form of an environmental easement, if EPA requests that he do so.

EPA will receive written comments relating to this settlement agreement for a period of thirty (30) days from the date of publication of this document. Under CERCLA section 122(i)(3), EPA will consider any comments filed during this public comment period in ''determining whether or not to consent to the proposed settlement and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.''

Copies of the proposed administrative settlement agreement and of additional background information relating to the settlement are available for review. These may be obtained in person at the Superfund Division's public records center, 7th Floor, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604–3590, or by mail from Barbara Wester (C–14J), Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago Illinois 60604–3590.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601–9675.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 99–18999 Filed 7–23–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

July 20, 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(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, 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 24, 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 Commission, Room 1 A–804, 445 Twelfth Street, SW, 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: 3060–0175.

Title: Section 73.1250 Broadcasting emergency information.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 50.

Estimated time per response: 1 hour.

Frequency of Response: Reporting, on occasion.

Total annual burden: 50 hours.

Total Annual Costs: None.

Needs and Uses: Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to, tornadoes, hurricanes, floods, tidal waves, earthquakes, and school closings. Section 73.1250(e) requires that immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages or when daytime facilities were used during nighttime hours by an AM station, a report in letter form shall be forwarded to the FCC in Washington, DC, setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information and a brief description of the material carried during the emergency. A certification of compliance with the noncommercialization provision must accompany the report where daytime facilities are used during nighttime hours by an AM station.

The report is used by FCC staff to evaluate the need and nature of the emergency broadcast to confirm that an actual emergency existed.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–18961 Filed 7–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting; Announcing an Open Meeting of the Board

TIME AND DATE: 10 a.m., July 28, 1999.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Proposed Rules: Financial Management and Mission Achievement and the Reorganization of Finance Board Regulations

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–19082 Filed 7–22–99; 9:52 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Cornerstone Bancorp, Easley, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone National Bank, Easley, South Carolina (in organization).

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Texas Bancshares Inc., San Antonio, Texas, and thereby indirectly acquire First National Bank of South Texas, San Antonio, Texas, and Bank of South Texas, Floresville, Texas.

Board of Governors of the Federal Reserve System, July 20, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–18923 Filed 7–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, 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 August 9, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Westbank Corporation, West Springfield, Massachusetts; to acquire certain assets and liabilities of New London Trust, FSB, New London, New Hampshire, pursuant to § 225.28(b)(4) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. SunTrust Banks, Inc., Atlanta, Georgia; to acquire Atlantic Financial

Group, Ltd., Arlington, Texas, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; activities related to extending credit, pursuant to § 225.28(b)(2) of Regulation Y; and leasing personal or real property, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, July 20, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–18924 Filed 7–23–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99148]

Program To Establish/Operate Health Promotion and Disease Prevention Initiative Program for African Americans Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year FY 1999 funds for a cooperative agreement program to establish a health promotion and disease prevention initiative program for African Americans. ''This program addresses the 'Healthy People 2000' priority area Education and Community-Based Programs.'' The program relates as well to recommendations of the 1985 Secretary's Task Force Report on Black and Minority Health, and the Department of Health and Human Services' (DHHS) initiatives to eliminate disparities in health status among racial and ethnic minorities. The purpose of the cooperative agreement is to assist a National or Regional Minority Organization (NRMO) to establish or operate the following three components: a Health Program Unit, a Speakers Bureau, and a National Health Network. The cooperative agreement will enable the grantee to use the three components for the following:

Health Program Unit to implement prevention strategies to improve the health of African Americans by targeting the leading causes of excess deaths in this population, and to increase the utilization of health care resources by African Americans.

Speakers Bureau consisting of health professionals and other professionals to provide oral presentations on salient health promotion and disease prevention topics relating to African Americans at national, State, and local meetings. Other organizations, including community-based and national/regional organizations which serve primarily African Americans should have ready access to the Speakers Bureau to assist in improving disease prevention and health promotion in their areas.

National Health Network to assist minority organizations to expand their internal and external organizational networks, and to facilitate the dissemination of health promotion and disease prevention information to African Americans.

B. Eligible Applicants

Eligible applicants are NRMOs which principally serve the African American population. The African American community is targeted with this activity because of a critical need to eliminate disparities in health that currently exist among African Americans. Consistent with the findings of the President's Initiative to Eliminating Health Disparities and Healthy People 2000 and 2010 program initiatives, excess morbidity and mortality continues to disproportionately impact African Americans. Eligible applicants must meet the following criteria:

1. Have been granted tax-exempt status under Section 501(c)(3), as evidenced by an Internal Revenue Service (IRS) determination letter.
2. Have a governing body or board that is composed of more than 50% African American.
3. Have a minimum of 12 months documented experience in operating and centrally administering a coordinated public health or related program serving the African American population within a major portion or region (multi-state or multi-territory) of the United States through its own offices, organizational affiliates, or the participation of other minority organizations.
4. Have a specific charge from the Articles of Incorporation or Bylaws or a resolution from its governing body or board to operate nationally or regionally (multi-state or multi-territory) within the United States and its territories, i.e, Virgin Islands, Puerto Rico, Guam.
5. Have agreements with their participating affiliates and chapters that their respective governing body or board is composed of 50% or greater African American membership.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

It is anticipated that a minimum of $100,000 will be available in FY 1999 to fund one award. It is expected that the award will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

A. The Health Program Unit

(1) Communicate science-based health promotion and disease prevention strategies throughout the African American communities to improve the environment and personal health behaviors of those living in these communities.

(2) Assess ongoing health related activities in various communities to determine if African Americans are involved, and to determine if the activities (i.e., immunization, STD/HIV prevention) are appropriate for the target audience.

(3) Develop and implement strategies to improve the utilization of community health resources by African Americans.

(4) Focus on the major risk categories for disease and death in the African American community, and consult with CDC and other federal agencies on the development of strategies to raise awareness within the African American community to reduce health risks and improve the quality of life.

(5) Develop informational resources that provide the African American community with recommendations for the improvement of health and access to related services.

(6) Identify specific quality of life measures and focus these for community members through a consensus building process (e.g., oral health, physical activity, nutrition). Inform the target group about health promotion and disease prevention activities related to the seven leading causes of deaths among African Americans that were found in the community.

B. The National Speakers Bureau

(1) Establish access to a national Speakers Bureau that will improve the information available to minority organizations concerning health promotion and disease prevention activities among African Americans.

(2) Develop/enhance a strategy to access and/or create a cadre of professional speakers to address local, State and national audiences on health promotion and disease prevention needs and practices among African Americans.

(3) Utilize culturally specific measures to encourage African Americans to improve their health.

(4) Identify subject area experts who will address and integrate the structural units of health, i.e., physical, social and psychological well-being. Develop a consensus building strategy to educate the community about the overlapping influence of these three health components.

(5) Develop and deliver effective mechanisms through community based organizations (CBOs), radio, television, or open forums to communicate current/updated information on health promotion and disease prevention to individuals and groups in African American communities.

(6) Develop and deliver mechanisms to advance health promotion and disease prevention activities among members of community groups, health practitioners, educators, consumer groups, health professionals, health professions schools, and public schools. Share the information at national conventions and meetings.

C. The National Health Network

(1) Identify national, State/district and local African American groups with directly related links to collaborate with the CDC and State and local health departments.

(2) Establish a distribution methodology in a minimum of 10 cities with predominate African American population to disseminate health promotion and disease prevention information.

(3) Collaborate with national minority health professional associations, community based organizations, HHS agencies to develop an effective plan to implement health promotion and disease prevention activities (e.g., immunization, tobacco control, diabetes, etc.) in the African American community.

D. Evaluate the Effectiveness of the Program in Achieving Goals and Objectives.

2. CDC Activities

A. As requested, provide consultation, assistance and support to the recipient in planning, implementing and evaluating activities undertaken under the cooperative agreement.

B. As needed, assist the recipient in identifying areas of the project that need evaluation.

C. As needed or requested, assist the recipient in identifying priority areas of focus for public health programs at the national, State and local levels.

D. As needed, assist the recipient in developing, testing and validating more effective and efficient disease prevention and health promotion models for African Americans.

E. Collaborate with the grantee and other concerned parties in developing workshops and conferences to exchange current information, opinions and findings in fields of public health and minority health.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 40 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Application

Submit the original and two copies of the application (PHS Form 5161–1). Forms are available at the following Internet address: www.cdc.gov/...Forms, or in the application kit. On or before September 7, 1999 submit the application to: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, [Program Announcement 99148], Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Deadline

Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date; or (b) sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.:

1. Applicant's Understanding of the Problem (15%)

The extent to which the applicant has a clear, concise understanding of the requirements, objectives, and purpose of the cooperative agreement. The extent to which the application reflects an understanding of the complexities surrounding health promotion, health disparities and health promotion issues, that have an impact in the African American community.

2. Organizational Experience (25%)

The extent to which the applicant has demonstrated skill and experience in working effectively with community based projects, and has the ability to establish meaningful relationships with various community based organizations. The applicant must demonstrate experience in providing leadership for community projects at the national, State and local levels. The applicant must provide proof of experience in sharing financial or technical resources with CBOs, affiliates, and chapters that provide a variety of services directly to racial and ethnic minority populations.

3. Approach and Capability (35%)

The extent to which the applicant has included a description of their approach and track record on developing a network which includes the various segments of the African American community at national, State and local levels.

4. Project Management and Staffing (15%)

The adequacy of the description for present or proposed staff and capabilities of the organization to assemble culturally competent and trained staff to conduct all three components proposed in this health promotion and disease prevention initiative. The applicant shall identify all current and potential personnel who will be utilized to work on this cooperative agreement, including qualifications and specific experience as

it relates to the requirements set forth in this request. The organization must provide proof that their program and administrative staff and the program and administrative staff of affiliates and participating organizations involved in the project are representative of the communities and populations to be served.

5. Evaluation (10%)

The extent and method by which the applicant proposes to measure progress in meeting objectives and program effectiveness, and presents a reasonable plan for: (1) Establishing the three program components and measuring their effectiveness; (2) Utilizing the three program components to share information on health promotion and disease prevention activities with the African American community. For example, how will information sharing be increased as a result of the program? What type of databases or materials will be created to facilitate information sharing? How will the program handle referrals? (3) Evaluating the effectiveness of collaborative processes, i.e., developing partnerships and types of organizations involved, providing training, continuity, and involvement e.g., frequency of meetings, participation of group members, etc.; (4) Obtaining, reporting and sharing programmatic results.

6. Budget (Not Scored)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

The recipient is required to provide CDC with an original plus two copies of semi-annual progress reports 30 days after the end of each semi-annual time period. An original and two copies of a progress report and financial status report are required no later than 90 days after the end of each budget period. Final financial status and performance reports are required no later than 90 days after the end of the project period.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment (List all applicable requirements by number and title. The Grants Management Branch will include the applicable descriptions in the application kit.)

AR98–4 HIV/AIDS Confidentiality Provisions

AR98–9 Paperwork Reduction Act Requirements

AR98–10 Smoke-Free Workplace Requirements

AR98–11 Healthy People 2000

AR98–12 Lobbying Restrictions

AR98–14 Accounting System Requirements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a) and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a) and 247b(k)(2), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call toll-free 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office [Program Announcement 99148], Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2735, Email: ayc1@cdc.gov.

For program technical assistance, contact: Yvonne H. Lewis, Minority Health Program Specialist, Centers for Disease Control and Prevention, Room 4326, 1600 Clifton Road, N.E., M/S D39, Atlanta, GA 30333, Telephone: 404–639–7220, Email: yal0@cdc.gov.

See also the CDC home page on the Internet. You may view and/or download the program announcement and application forms here: http://www.cdc.gov.

Dated: July 20, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–18941 Filed 7–23–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Mechanistic-Based Cancer Risk Assessment Methods.

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: Mechanistic-Based Cancer Risk Assessment Methods, RFA OH–99–003.

Time and Dates: 8 a.m.—8:30 a.m., August 24, 1999 (Open); 8:30 a.m.—5 p.m., August 24, 1999 (Closed).

Place: Embassy Suites Hotel, 1900 Diagonal Rd., Alexandria, Va. 22134.

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 Associate Director for Management and Operations, 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 the RFA OH–99–003.

Contact Person for More Information: Michael J. Galvin, Jr., Ph.D., Health Scientist Administrator, Office of Extramural Coordination and Special Projects, NIOSH, CDC, 1600 Clifton Rd., Atlanta, Ga. 30333. Telephone 404/639–3525, e-mail mtg3@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 20, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–18940 Filed 7–23–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: 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 Injury Prevention and Control (ACIPC).

Times and Dates: 1:30 p.m.–4:30 p.m., August 3, 1999. 8:30 a.m.–3:00 p.m., August 4, 1999.

Place: JW Marriott Hotel at Lenox, 3300 Lenox Road, NE, Atlanta, Georgia 30326.

Status: Closed: 1:30 p.m.–2:30 p.m., August 3, 1999, and 8:30 a.m.–9 a.m., August 4, 1999; Open: 2:30 p.m.–4:30 p.m., August 3, 1999, and 9 a.m.–3:00 p.m., August 4, 1999.

Purpose: The Committee advises and makes recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance and mix of intramural and extramural research, including laboratory research, and provides guidance on intramural and extramural scientific program matters, both present and future, particularly from a long-range viewpoint. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee recommends areas of research to be supported by contracts and provides concept review of program proposals and announcements.

Matters to be Discussed: The meeting will convene in closed session from 1:30 p.m. to 2:30 p.m. on August 3, 1999. The purpose of this closed session is for the Science and Program Review Work Group (SPRWG) to consider individual injury control research grant applications recommended for further consideration by the CDC Injury Research Grant Review Committee. On August 4, 1999, from 8:30 a.m. to 9 a.m., the ACIPC voting members will convene in closed session to vote on a funding recommendation. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Following the SPRWG closed session, there will be a program oversight session which will include discussion of a biomechanics review update, status of program announcements for fiscal year 2000, whiplash project, research agenda for the National Center for Injury Prevention and Control (NCIPC), and progress on standing Work Group issues. The Committee will also discuss (1) an update from the Director, National Center for Injury Prevention and Control (NCIPC); (2) strategic planning update and (3) SPRWG report on the results of their August 3 meeting.

Agenda items are subject to change as priorities dictate.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Contact Person for More Information: Mr. Wayne Stephens, Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1465.

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 21, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–19083 Filed 7–23–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Development Fund Financial Reporting Form.

OMB No.: 0970–0163.

Description: The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW, Washington DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Attn: ACF Desk Officer.

Dated: July 20, 1999.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 99–18986 Filed 7–23–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0780]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 25, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers (21 CFR 108.25(c)(1) and (c)(2), (d), (e), (g); 108.35(c)(1), (c)(2), (d), (e), (f), (h); 113.60(c); 113.83; 113.87; 113.89; 113.100; 114.80(b); 114.89; 114.100(a) through (d)) (OMB Control Number 0910–0037—Extension)

Under section 402 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342), FDA is authorized to prevent the interstate distribution of food products that may be injurious to health or that are otherwise adulterated. Under the authority granted to FDA by section 404 of the act (21 U.S.C. 344), FDA's regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit FDA to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum*. The spores of *C. botulinum* must be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, FDA's regulations require that each firm that manufactures, processes or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with the agency using Form FDA 2541 (§§ 108.25(c)(1) and 108.35(c)(2)) (21 CFR 108.25(c)(1) and 108.35(c)(2))). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Form FDA 2541a for all methods except aseptic processing, or Form FDA 2541c for aseptic processing of low-acid foods in hermetically sealed containers §§ 108.25(c)(2) and 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product and operating processes and procedures must be posted near the processing equipment or made available to the operator (21 CFR 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms are also required to document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§§ 113.60(c) (thermally processed foods) and 114.80(b) (acidified foods)).

In the **Federal Register** of April 30, 1999 (64 FR 23334), the agency requested comments on the proposed collections of information. No comments were received.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2541 (Registration)	108.25(c)(1) and 108.35(c)(1)	300	1	300	.17	51
Form FDA 2541a (Process Filing)	108.25(c)(2) and 108.35(c)(2)	1,000	6.5	6,500	.333	2,165
Form FDA 2541(c) (Process Filing)	108.35(c)(2)	1,000	.50	500	.75	375
Total						2,591

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

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
108, 113, and 114	5,865	1	5,865	250	1,466,250

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

The reporting burden for §§ 108.25(d) and 108.35(d) and (e) is insignificant because notification of spoilage, process deviation, or contamination of product in distribution occurs less than once a year. Most firms discover these problems before the product is distributed and, therefore, are not required to report the occurrence. To avoid double counting, estimates for §§ 108.25(g) and 108.35(h) have not been included because they merely cross-reference recordkeeping requirements contained in parts 113 and 114.

Dated: July 19, 1999

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–18925 Filed 7–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0296]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 25, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Regulations Under the Federal Import Milk Act—21 CFR Part 1210 (OMB Control Number 0910–021)—Extension

Under the regulations (part 1210 (21 CFR part 1210)) implementing the Federal Import Milk Act (21 U.S.C. 141–149), milk or cream may be imported into the United States only by the holder of a valid import milk permit. Before such permit is issued: (1) All cows from which import milk or cream is produced must be physically examined and found healthy; (2) if the milk or cream is imported raw, all such cows must pass a tuberculin test; (3) the dairy farm and each plant in which the milk or cream is processed or handled must be inspected and found to meet certain sanitary requirements; (4) bacterial counts of the milk at the time of importation must not exceed specified limits; and (5) the temperature of the milk or cream at time of importation must not exceed 50 °F. In addition, the regulations require that dairy farmers and plants maintain pasteurization records (§ 1210.15) and that each container of milk or cream imported into the United States bear a tag with the product type, permit number, and shipper's name and address.

In the **Federal Register** of April 30, 1999 (64 FR 23333), the agency requested comments on the proposed collections of information. No comments were received.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 1815/Permits granted on certificates	1210.23	4	1	4	0.5	2.0
FDA 1993/Applicant of permit	1210.20	4	4	4	0.5	2.0
FDA 1994/Tuberculin test[2]	1210.13					
FDA 1995/Physical examination of cows[2]	1210.12					
FDA 1996/Sanitary inspection of dairy farms	1210.11	4	200[3]	800	1.5	1200.0
FDA 1997/Sanitary inspection of plants	1210.14	4	1	4	2.0	8.0
Total						1212.0

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

[2]No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used.

[3]Due to a clerical error, the reporting burden hours for FDA 1996/Sanitary inspection of daily farms that appeared in a notice issued in the FEDERAL REGISTER of April 30, 1999 (64 FR 23333) were incorrect. Table 1 of this document contains the correct estimates.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1210.15	4	1	4	0.05	0.20

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

No burden has been estimated for the tagging requirement in § 1210.22 because the information on the tag is either supplied by FDA (permit number) or is disclosed to third parties as a usual and customary part of the shipper's normal business activities (type of product, shipper's name and address). No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used. The Secretary of Health and Human Services has the discretion to allow Form FDA 1815, a duly certified statement signed by an accredited official of a foreign Government, to be submitted in lieu of Forms FDA 1994 and 1995. To date, Form FDA 1815 has been submitted in lieu of these forms.

Dated: July 19, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–18927 Filed 7–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cooperative Agreement to Support the Joint Institute for Food Safety and Applied Nutrition; Notice of Intent to Supplement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to noncompetitively supplement the cooperative agreement with the University of Maryland, College Park (UMCP) for up to an estimated $2 million per annum. These funds will provide additional support to the UMCP's Joint Institute for Food Safety and Applied Nutrition (JIFSAN) for the purpose of addressing emerging health issues and crises that are related to food safety and applied nutrition and animal health sciences, and expanding the current scope to include other agency programs such as cosmetics.

DATES: Submit the application by August 25, 1999. If this date falls on a weekend, it will be extended to Monday; if this date falls on a holiday, it will be extended to the following workday.

ADDRESSES: An application is available from and should be submitted to: Maura C. Stephanos, Office of Regulatory Affairs Support and Assistance Management Branch (HFA–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7183. If the application is hand carried or commercially delivered, it should be addressed to Maura C. Stephanos, 5630 Fishers Lane, rm. 2129, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura C. Stephanos (address above).

Regarding the programmatic aspects: Elizabeth M. Calvey, Center for Food Safety and Applied Nutrition (HFS–6), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4716.

SUPPLEMENTARY INFORMATION: This project is authorized under section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). This activity is generally described in the Catalog of Federal Domestic Assistance at No. 93.103. The application will not be subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Program (45 CFR part 100).

I. Restricted Eligibility

In the **Federal Register** of May 22, 1997 (62 FR 28049), FDA announced that a single source application for a cooperative agreement to support the JIFSAN at the UMCP would be accepted. Supplemental funding referenced herein will provide for the implementation and enhancement of activities associated with the JIFSAN projects described and authorized under the original award (FD–U–001418–01) dated September 29, 1997.

II. Availability of Funds

FDA will provide supplemental funding up to an estimated $2 million per annum to the cooperative agreement, which is at a level greater than the 25 percent of the original award currently provided under agency policy. Supplemental funding will provide support of the JIFSAN programs primarily through available Food Safety Initiative funds and funds from other government agencies.

The original cooperative agreement was approved for 5 years of funding and currently has 3 years of noncompetitive support remaining, which is contingent upon the availability of fiscal year appropriations and successful performance. FDA anticipates that supplemental funding of the cooperative agreement will commence on or before September 30, 1999.

III. Background

JIFSAN was established between FDA and the UMCP in April 1996, through a formal Memorandum of Understanding (MOU), to create a partnership that allows for more efficient use of research resources, thereby enhancing overall public health by expanding and improving food safety and nutrition research as well as research in other program areas that impact on public health policy. As the role of FDA research scientists in regulatory activities increases (e.g., petition review, rulemaking, enforcement compliance standards, hazard analysis critical control point performance standards), it is vital that these same scientists have ready access to very specialized research facilities and expertise that are in close proximity to FDA's administrative offices. The unique needs for research in support of regulatory programs has been one of the key reasons for maintaining a strong FDA research program. JIFSAN is a jointly administered, multi-disciplinary research and outreach program. JIFSAN was established as part of FDA's consolidation project affecting FDA's Center for Food Safety and Applied Nutrition and Center for Veterinary Medicine. The primary focus of JIFSAN is food safety and nutrition, specifically as related to risk analysis, applied microbiology, natural toxins, chemical contaminants, animal health sciences, and food composition and nutrition. JIFSAN also encompasses other agency programs such as cosmetics, dietary supplements, and food labeling.

IV. Purpose

Supplemental funding to FDA's current cooperative agreement will provide the UMCP with the necessary resources to conduct further research related to the goals of the National Food Safety Initiative and to leverage additional resources for applied nutrition, animal health science activities, and other agency programs. These resources would: (1) Expand the expertise for public health research and risk assessment initiatives, (2) support the Risk Assessment Consortium, and (3) increase innovative public/private research and education partnerships. Because international safety regulations must be founded on science-based risk assessments, FDA's scientists must have a lead role in their development.

Additionally, supplemental funding will provide resources to identify gaps in risk analysis to: (1) Minimize/reduce uncertainty in risk management decisions; (2) improve the quality of risk assessments applied to agency

programs, principally but not limited to food safety and applied nutrition (e.g., microbial pathogens, natural toxins, chemical contaminants, and food composition and nutrition); and (3) enhance risk communication, through outreach and public information programs, that will help the mass media and consumers understand and act on public health concerns. Innovative research and outreach efforts, made possible by the supplemental funding, will complement existing efforts under FDA's current cooperative agreement with the UMCP and will provide public health officials with the appropriate knowledge to formulate regulatory decisions and enhanced capabilities to communicate with their stakeholders.

V. Substantive Involvement by FDA

All terms and conditions of the current award shall remain in full force and effect for the supplemental awards.

VI. Review Procedure

The application submitted by the UMCP will undergo a noncompetitive, dual peer review. The application will be reviewed for scientific and technical merit by a panel of experts based on applicable evaluation criteria. If the application is recommended for approval it will then be presented to the National Advisory Environmental Health Sciences Council.

VII. Reporting Requirement

All terms and conditions of the current award shall remain in full force and effect for the supplemental awards.

VIII. Mechanism of Support

Support will be in the form of supplements to FDA's cooperative agreement with the UMCP. This agreement will be subject to all policies and requirements that govern the research grant program of the Public Health Service, including provisions of 42 CFR part 52 and 45 CFR part 74.

Dated: July 15, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–18929 Filed 7–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2096]

Draft ''Guidance for Industry: Interpreting Sameness of Monoclonal Antibody Products Under the Orphan Drug Regulations;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Interpreting Sameness of Monoclonal Antibody Products Under the Orphan Drug Regulations.'' The draft guidance document is intended to provide sponsors and manufacturers FDA's current thinking on the criteria by which two monoclonal antibody products would be considered the same under the Orphan Drug Act and implementing regulations.

DATES: Written comments may be submitted at any time, however, comments should be submitted by October 25, 1999, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of ''Guidance for Industry: Interpreting Sameness of Monoclonal Antibody Products Under the Orphan Drug Regulations'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–940), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance. Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Interpreting Sameness of Monoclonal Antibody Products Under the Orphan Drug Regulations.''

In the **Federal Register** of December 29, 1992 (57 FR 62076), FDA published the orphan drug regulations final rule. The final rule established in part 316 (21 CFR part 316) regulations that prescribe certain incentives for the development of ''orphan drugs,'' drugs which are intended for use in rare diseases or conditions. One of the incentives for orphan drug development is to obtain exclusive approval for the pioneer product for a period of 7 years during which no approval will be given to a subsequent sponsor of the same drug product for the same indication unless it proves to be clinically superior, as defined in § 316.3(b)(3). In determining whether or not two products would be considered the same, FDA recognized that different criteria were necessary for macromolecules versus small molecules (§ 316.3(b)(13)). Macromolecules include a variety of structures including proteins, nucleic acids, carbohydrates and closely related, complex, partly definable drugs such as vaccines or surfactants. The current definition of sameness for protein drugs (§ 316.3(b)(13)(ii)(A)) however, does not consider the unique nature of antibodies. The draft document is intended to describe FDA's thinking on the criteria by which two monoclonal antibody products would be considered the same under the Orphan Drug Act and its implementing regulations.

This draft guidance document represents the agency's current thinking on the interpretation of the orphan drug regulations as they pertain to monoclonal antibodies. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written

comments regarding this draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by October 25, 1999, to ensure adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: July 14, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–18928 Filed 7–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; National Institutes of Health Undergraduate Scholarship Program for Individuals From Disadvantaged Backgrounds

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of the Director (OD), the 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: The National Institutes of Health Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP). Type of Information Collection Request: Extension of OMB No. 0925–0438, expiration date of November 30, 1999. Need and Use of Information Collection: The UGSP is authorized by § 487D of the Public Health Service (PHS) Act (42 U.S.C. 288–2), as amended by the NIH Revitalization Act of 1993 (Pub. L. 103–43). This program intends to provide scholarships, in an amount not to exceed $20,000 per academic year, toward expenses associated with full-time attendance at an accredited undergraduate institution, including tuition and reasonable educational and living expenses. For each year of scholarship support from the NIH, the recipient agrees to two service obligations or pay-back requirements: (1) ten consecutive weeks of pay-back as a full-time NIH employee during the months of June–August during the academic year (in-school service obligation) and (2) one year (12 months) of pay-back as a full-time NIH employee after graduation from the undergraduate institution (post-graduation service obligation. The post-graduation service obligation or pay-back requirement may be deferred, at the request of the scholarship recipient and with the approval of the Secretary, Department of Health and Human Services, during continuous period of graduate or medical/dental/veterinarian school training. The UGSP is designed to provide an incentive to undergraduate students from disadvantaged backgrounds to pursue studies which will prepare them for careers in biomedical research at the NIH. The information proposed for collection will be used to determine an applicant's eligibility for participation in the UGSP. Frequency of Response: Initial application and annual renewal application. Affected Public: Applicants (High School or undergraduate level students), Undergraduate Institutions. Type of Respondents: The UGSP application consists of two parts: Part I (Information About the Applicant) is completed by the applicant; and Part II (Verification) is completed by the Undergraduate Institution. The annual reporting burden estimates are as follows:

Type of respondent	Number of respondents	Numbr of responses per respondent	Average burden per response (Hrs)
Applicant	500	1	3.0
Undergraduate Institution	500	1	0.5

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Marc S. Horowitz, J.D., Director, Office of Loan Repayment and Scholarship, Office of Intramural Research, OD, NIH, 7550 Wisconsin Avenue, Room 604, Bethesda, MD 20814–9121, or call non-toll-free number (301) 402–5666 or E-mail your request, including your address to: MHorowitz@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before September 24, 1999.

Dated: July 16, 1999.

Ruth L. Kirschstein,

Deputy Director, National Institutes of Health.

[FR Doc. 99–19038 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: August 13, 1999.

Time: 10:30 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 20, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–19035 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel RFP–NIH–HG–99–30 Contract Review.

Date: July 27, 1999.

Time: 1 PM to 2 PM.

Agenda: To review and evaluate contract proposals.

Place: NIEHS–East Campus, 79 TW Alexander Drive, Building 4401, Room 3446, Research Triangle Park, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: J. Patrick Mastin, PHD, Scientific Review Administrator, NIEHS, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709 (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazard; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: July 20, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–19036 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Institute of Dental Research Special Emphasis Panel, August 15, 1999, 8:30 a.m. to August 16, 1999, 5:00 p.m., Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202 which was published in the **Federal Register** on July 1, 1999, FR 35674.

The meeting is cancelled due to application withdrawn by applicant.

Dated: July 20, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–19037 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, National Heart Attack Alert Program Phase II.

Date: July 29, 1999.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892.

Contact Person: Peter Clepper, Program Officer, National Library of Medicine, Extramural Programs, Rockledge One, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: July 20, 1999.

LaVerne Y. Stringfield,

Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–19034 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 29, 1999.
Time: 2:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7840, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 1999.
Time: 11 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, 6701 Rockledge Drive, Conference Room 3087, Bethesda, MD 20892.
Contact Person: David M. Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7770, Bethesda, MD 20892, (301) 435–0684, monseesd@drg.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 1999.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–8367.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 1999.
Time: 3 PM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Nancy Pearson, PhD, Chief, Genetic Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7890, Bethesda, MD 20892, (301) 435–1047.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2–4, 1999.
Time: 5 PM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: Edgewater Hotel, 666 Wisconsin Avenue, Madison, WI 53703.
Contact Person: Nancy Lamontagne, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1726.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3–4, 1999.
Time: 8:30 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: N. Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3–4, 1999.
Time: 8:30 AM to 12:30 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave., N.W. Washington, DC 20007.
Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3, 1999.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Bethesda, MD 20814.
Contact Person: Carole L. Jelsema, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7850, Bethesda, MD 20892, (301) 435–1249, jelsemac@drg.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–IFCN5–03.
Date: August 3, 1999.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3, 1999.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call.
Contact Person: Sami A. Mayyasi, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3, 1999.

Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Anita Corman Weinblatt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7778, Bethesda, MD 20892, (301) 435–1124.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3, 1999.
Time: 2 PM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eugene Zimmerman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, (301) 435–1220, zimmerng@csr.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 4, 1999.
Time: 1 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David M. Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7770, Bethesda, MD 20892, (301) 435–0684, monseesd@drg.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 4, 1999.
Time: 1 PM to 2 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 4, 1999.
Time: 3 PM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Syed Quadri, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 20, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–19033 Filed 7–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–014844–0

Applicant: John A. Ebrey, Jacksonville, Illinois.

The applicant requests a permit to purchase, in interstate commerce, two female and two male captive bred Hawaiian (=nene) geese (*Nesochen* [=*Branta*] *sandvicensis*) for the purpose of enhancing its propagation and survival.

DATES: Written comments on these permit applications must be received on or before August 25, 1999.

ADDRESSES: Written data or comments should be submitted to the Chief-Endangered Species, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: July 16, 1999.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–18942 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–014711

Applicant: Betty Ann Weintraub, Poolesville, MD

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–014959

Applicant: James Alan Sojka, Canterbury, NJ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Barbara Dicely, dba Leopards, Etc., Occidental, CA

PRT–013568

The applicant requests a permit to import 1.1 captive-born cheetah (*Acinonyx jubatas*) from DeWildt's Cheetah Research and Breeding Center, DeWildt, South Africa, for the purpose of enhancement of the survival of the species through conservation education.

PRT–14918

Applicant: Alexandria Zoological Park, Alexandria, LA

The applicant requests a permit to export two captive bred Ringtail Lemur (*Lemur catta*) to the Calgary Zoo, Calgary, Alberta, Canada for breeding purposes.

PRT–013951

Applicant: Henry Doorly Zoo, Omaha, Nebraska

The applicant requests a permit to import blood, skin biopsy, hair and fecal samples from Asian Elephant (*Elephus maximus*) collected in the wild in Thailand and Indonesia, and from captive held specimens removed from the wild in Indonesia, for scientific research.

PRT–013445

Applicant: Henry Doorly Zoo, Omaha, Nebraska

The applicant requests a permit to import blood samples from Hicatee (*Dermatemys mawii*), collected in the wild in Belize for scientific research.

PRT–014861

Applicant: Wayne Pocius, Pennsburg, PA

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement of the survival of the species.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–012337

Applicant: Aquarium of the Americas

Permit Type: Public Display of Marine Mammals.

Name and Number of Animals: Northern Sea Otter (Enhydra lutris) 3.

Summary of Activity to be Authorized: The applicant requests a permit for public display of 3 sea otter pelts.

Source of Marine Mammals: Seized goods.

Period of Activity: Up to 5 years, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: July 21, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–19039 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Cancellation of Federal Aid in Sport Fish and Wildlife Restoration Administrative Project Funding

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service is canceling funding for Federal Aid in Wildlife Restoration and Sport Fish Restoration administrative projects. Existing grants for projects approved for funding in Fiscal Year 1999, or prior years, will not be affected by this notice.

DATES: This action takes effect July 26, 1999.

ADDRESSES: U.S. Fish and Wildlife Service, Chief, Division of Federal Aid.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Lange, Jr., Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, MS 140 ARLSQ, 4401 North Fairfax Drive, Arlington, Virginia, 22203: (703) 358–2156.

SUPPLEMENTARY INFORMATION: Administrative funds are authorized by the Federal Aid in Wildlife Restoration and Federal Aid in Sport Fish Restoration Acts to pay expenses incurred by the Fish and Wildlife Service in administering these programs. We may deduct up to eight percent for the Wildlife Restoration program and up to six percent for the Sport Fish Restoration program, with remaining funds apportioned to State fish and wildlife agencies for fish and wildlife restoration and management projects. We have used our discretionary authority to disperse some of the funds deducted for administration to support important national fish and wildlife projects, within the scope of the Acts, that provide collective benefits for a majority of the States.

In the past, we have published an annual notice in the **Federal Register** announcing a deadline for project proposals, the amount of administrative funds available for Sport Fish and Wildlife Restoration projects, and procedures to be followed for submitting proposals. States, local governments, charitable organizations, educational institutions, and other authorized groups have applied for grants according to those procedures.

On September 16, 1998, we published alternatives to Federal Aid Administrative Grants in the **Federal Register**. That notice identified five alternative procedures for administering those grants. Public comments were invited through November 16, 1998. Twenty-two of the twenty-five comments received identified Alternative 3 (enhance existing program without **Federal Register** Notice) as the preferred alternative. However, subsequent to the analysis of comments, we determined that increased costs for administering the Wildlife Restoration and Sport Fish Restoration programs precludes further funding of administrative grants. The increased costs arise from three pressing needs. First, the costs of automating the grants delivery system are more than expected—much greater than two years ago when the process began. Second, the audits of State systems by the Defense Contract Audit Agency are a substantial cost that was not present several years ago. Third, the cost of administering the small grants programs, created by amendments to the Sport Fish Restoration Act (Clean Vessel Act Pumpout Program, the Boating Infrastructure Program, and the Coastal Wetlands Planning, Protection and Restoration Program) must be assessed against the Sport Fish Restoration Program. One of the actions being taken to balance the administrative expenses budget is to cancel the Federal Aid in Sport Fish and Wildlife Restoration administrative project funding effective in Fiscal Year 2000. Projects approved for funding in Fiscal 1999 will not be affected by this decision.

Dated: July 19, 1999.

John G. Rogers,

Acting, Director.

[FR Doc. 99–19040 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Operation and Maintenance Rate Adjustment: Colorado River Irrigation Project, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed irrigation operation and maintenance rate adjustment.

SUMMARY: The Bureau of Indian Affairs proposes to adjust the assessment rates for operating and maintaining the Colorado River Irrigation Project for the CY 2000 irrigation season.

DATES: Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before September 24, 1999.

ADDRESSES: All comments concerning the proposed rate adjustment must be in writing and addressed to: Director, Office of Trust Responsibilities, Attn.: Irrigation and Power, MS 4513–MIB, Code 210, 1849 C Street, NW, Washington, DC 20240; Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona 85001; Telephone (602) 379–6956.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

This notice is given in accordance with §§ 171.1(e) and 171.1(g) of part 171, Subchapter H, Chapter 1, of Title 25 of the Code of Federal Regulations, which provides for fixing and announcing the rates for annual operation and maintenance assessments and related information of Bureau of Indian Affairs irrigation projects.

The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance mean the expenses we incur to provide direct support or benefit to the project's activities for administration, operation, maintenance, and rehabilitation. We must include at least:

(a) Personnel salary and benefits for the project engineer/manager and our employees under his management/control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(e) Capitalization expenses;

(f) Acquisition expenses; and

(g) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

Payments

The irrigation operation and maintenance assessments become due based on locally established payment requirements. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest, penalty, and administrative fees will be assessed, where required by law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, Title 4, part 102, Federal Claims Collection Standards and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures. Beginning 30 days after the due date, interest will be assessed at the rate of the current value of funds to the U.S. Treasury. An administrative fee of $12.50 will be assessed each time an effort is made to collect a delinquent debt; a penalty charge of 6 percent per year will be charged on delinquent debts over 90 days old and will accrue from the date the debt became delinquent. No water shall be delivered to any farm unit until all irrigation charges have been paid. After 180 days a delinquent debt will be forwarded to the United States Treasury for further action in accordance with Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

Rate Adjustment

The following table illustrates the impact of the rate adjustment:

COLORADO RIVER IRRIGATION PROJECT, IRRIGATION RATE PER ASSESSABLE ACRE

	Present 1999	Proposed 2000
Up to 5 acre-feet/acre.	$36.00	$38.50.
Excess Water/acre-foot.	$17.00	Unchanged.

Executive Order 12988

The Department has certified to the Office of Management and Budget (OMB) that this rate adjustment meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866

This rate adjustment is not a significant regulatory action and has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Executive Order 12630

The Department has determined that this rate adjustment does not have significant ''takings'' implications.

Executive Order 12612

The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

NEPA Compliance

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

Paperwork Reduction Act of 1995

This rate adjustment does not contain collections of information requiring approval under the Paperwork Reduction Act of 1995.

Unfunded Mandates Act of 1995

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

Dated: July 15, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–19023 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1990–02–24 1A; OMB Approval Number 1004–0169]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) On April 27, 1999, BLM published a notice in the **Federal Register** (64 FR 22639) requesting comment on this proposed collection. The comment period ended on June 28, 1999. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0169), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of BLM, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Use and Occupancy (43 CFR 3715, OMB approval number: 1004–0169.

Abstract: The Bureau of Land Management is proposing to renew the approval of an information collection for an existing rule at 43 CFR 3715. It defines acceptable, reasonably incident use and occupancy of unpatented mining claims and mill sites on Federal lands. The rule provides field managers with the tools necessary to manage existing and proposed use and occupancy. The rule defines those activities that are reasonably incident to prospecting, mining, or processing operations. The rule establishes conditions for determining whether these criteria are met, procedures for initiation of occupancy, standards for the use or occupancy, prohibited acts, procedures for inspection and enforcement. It established procedures for recognizing and managing existing occupancies. It would also provide for penalties and appeals procedures. The rules only applies to public land under the administration of the Bureau of Land Management.

Bureau Form Number: None.

Frequency of Response: Once.

Description of Respondents: Respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations.

Estimated completion time: 2 hour(s).

Annual Responses: 280.

Annual Burden Hours: 560.

Collection Clearance Officer: Carole Smith, 202–452–0367.

Dated: July 9, 1999.

Carole Smith,

Bureau of Land Management Information Clearance Officer.

[FR Doc. 99–19005 Filed 7–23–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations in the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Publication of revised Outer Continental Shelf leasing maps and official protraction diagrams.

SUMMARY: Notice is hereby given that effective with this publication, the following Louisiana and Texas Leasing Maps and Protraction Diagrams last revised on the date indicated, are on file and available for information only, in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, these official Protraction Diagrams are the basic record for the description of mineral and oil and gas lease sales in the geographic areas they represent.

REVISED MAPS

	Latest revision date
Leasing maps:	
1 West Cameron Area West Addition, LA1A	May 30, 1997.
1 West Cameron Area South Addition, LA1B	May 30, 1997.
2 South Timbalier Area, LA6	December 30, 1994.
2 Bay Marchand Area, LA6C	December 30, 1994.
1, 2 Sabine Pass Area, LA12	May 30, 1997.
4 South Padre Island Area East Addition, TX1A	September 9, 1998.
1 High Island Area East Addition, TX7A	May 30, 1997.
1, 3 High Island Area South Addition, TX7B	March 15, 1999.
1, 3 High Island Area East Addition South Extension, TX7C	March 15, 1999.
1, 2 Sabine pass Area, TX8	May 30, 1997.
Official protraction diagrams:	
4 Port Isabel, NG14–06	September 9, 1998.
1, 3 Garden Banks, NG15–02	March 15, 1999.
4 Aliminos Canyon, NG15–04	September 9, 1998.

Revisions

1. Revised to digital format and correct or clarify the depiction of the Louisiana/Texas Lateral Administrative Boundary.
2. Revised to digital format and separated into a single map.
3. Revised to digital format and depicts Flower Garden Banks National Maritime Sanctuary.
4. Revised to digital format and reflect the ratification of the United States-Mexico Maritime Boundary.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and Official Protraction are $2.00 each. Complete sets of Louisiana maps are $32.00, and Texas map sets are $18.00. These may be purchased from our Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: Technical comments or questions pertaining to these maps should be directed to the Office of Leasing and Environment, Supervisor, Sales and Support Unit at (504) 736–2768.

Dated: July 19, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–18943 Filed 7–23–99 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundatable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable will meet on August 10, 1999, to discuss several issues including a process for setting priorities for FY 2000, a report from the Roundtable Issues Subcommittee, and a long-term strategy for environmental water acquisition. This meeting is open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The Ecosystem Roundtable will be held from 9:30 a.m. to 12 p.m. on August 10, 1999.

ADDRESSES: This meeting will meet at the Resources Building, Room 1131, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Wendy Halverson Martin, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, Ninth Street, Sacramento, CA 95814, and will be available for public inspection regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: June 20, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99–18949 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[AG Order No. 2234–99]

RIN 1125–AA23

Motion To Reopen: Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Notice.

SUMMARY: This notice relates to certain aliens who filed an abbreviated motion to reopen their cases, on or before September 11, 1998, in order to apply for benefits under section 203(c) of the Nicaraguan Adjustment and Central American Relief Act (NACARA). A deadline to complete the motion to reopen has been set. The 150-day period for the submission of an application of suspension of deportation or cancellation of removal began June 21, 1999, and ends (150 days from the June 21, 1999, effective date of INS Rule No. 1915–98, RIN 1115–AF14).

FOR FURTHER INFORMATION CONTACT: For matters relating to the Executive Office for Immigration Review—Charles Adkins-Blanch, Acting General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470. For matters relating to the Immigration and Naturalization Service—Mary Giovagnolia, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

To Whom Does This Notice Apply?

This notice applies to those aliens who filed an abbreviated NACARA motion to reopen by September 11, 1998, as provided in 63 FR 31890 (June 11, 1998).

What Does This Notice Do?

This notice clarifies the deadline to submit an application for suspension of deportation or special rule cancellation of removal and supporting documentation to complete a NACARA motion to reopen. Initially, the Department established a February 8, 1999, deadline for eligible aliens to submit the application for suspension of deportation or special rule cancellation of removal and all the accompanying documentation in support of the NACARA motion to reopen. *See* 63 FR 31890, 31895 (June 11, 1998). In the final NACARA motion to reopen rule, the Department extended the deadline to complete a NACARA motion to reopen to 150 days after the rule implementing section 203 of NACARA becomes effective. *See* 64 FR 13663 (March 22, 1999). The rule implementing section 203 of NACARA was published on May 21, 1999, and the effective date is June 21, 1999. This notice will alert those eligible aliens that the 150-day period to complete the NACARA motion to reopen has started to run.

When Is the Deadline to Complete a NACARA Motion To Reopen?

The final motion to reopen rule requires an applicant to submit his or her application and accompanying documentation no later than 150 days after the rule implementing section 203 of NACARA becomes effective. The rule implementing section 203 of NACARA became effective June 21, 1999. Accordingly, all suspension of deportation and special rule cancellation of removal applications and accompanying documentation needed to complete a properly filed NACARA motion to reopen must be filed by (150 days from the June 21, 1999, effective date of INS Rule No. 1915–98, RIN 1115–AF14).

Dated: July 15, 1999.

Janey Reno,

Attorney General.

[FR Doc. 99–18930 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Pursuant to Section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on June 30, 1999, a proposed Consent Decree in *United States* v. *Bronson Plating Company, et al.* Civil Action No. 1:99–CV–490, was lodged with the United States District Court for the Western District of Michigan for a period of thirty days to facilitate public comment.

The settlement embodied in the proposed Consent Decree requires the settling defendants, Bronson Plating Company, the City of Bronson, ITT Automotive, Inc., L.A. Darling Company, and The Scott Fetzer Company (the ''Settling Defendants''), to implement the estimated $4 million remedy selected by EPA for the first of two operable units for the North Bronson Industrial Area Site (''Site''), located in Branch County, Michigan Site. The Settling Defendants also agree to pay the United States $1,629,114.88 for past response costs through March 31, 1997, as well as future costs of overseeing the implementation of the remedial action. The remedy for the first operable unit includes excavating contaminated eastern lagoon soil and sludge and covering this area with clean soil; dredging sediment from County Drain #30; consolidating contaminated waste from the eastern lagoons and County Drain #30 in the western lagoons; covering the western lagoons; installing a French Drain between the western lagoons and county Drain #30 to capture contaminated groundwater; and treating contaminated groundwater in a treatment wetland before discharging the water into County Drain #30. The selected remedy also includes monitoring groundwater and surface water quality; placing institutional controls on the western lagoon area and the treatment wetland; and placing restrictions on future groundwater use throughout the Site.

The past cost payment includes a settlement with the City of Bronson (''the City'') based on its ability to pay, which will pay $118,074 plus interest over a three-year period. The Consent Decree further includes a settlement of a natural resource damages claim of the U.S. Department of the Interior (''DOI''), for either a cash payment of $100,000, plus DOI's assessment costs, or an agreement to conduct compensatory restoration by acquiring replacement habitat of at least 20 acres within the State of Michigan, and to pay DOI's oversight assessment costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bronson Plating, et al.*, DOJ No. 90–11–2–1311.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Michigan, 330 Ionia Avenue, Grand Rapids, Michigan 49503, at the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604–3590, and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy, please refer to the above-referenced case and enclose a check in the amount of $22.00 (25 cents per page reproduction cost, without exhibits) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–19006 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement in Re Continental Airlines, Inc. Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Settlement Agreement (''Agreement'') in *In re Continental Airlines, Inc., et al.*, Nos. 90–932 through 984. (Bankr. D. Del.,), has been entered into by the United States on behalf of U.S. EPA and Continental Airlines, Inc. and certain of its subsidiaries (collectively the ''Debtors'') and was lodged with the United States Bankruptcy Court for the United States Bankruptcy Court for the District of Delaware on June 30, 1999. The Agreement relates to liabilities under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.* The Agreement resolves CERCLA claims against the Debtors for the following six hazardous waste sites, denominated as ''Liquidated Sites'' under the Agreement: The Operating Industries, Inc. Site in Monterey Park, CA; the Lowry Landfill Site in Denver, CO; the Rocky Flats Industrial Park Site in Jefferson County, CO; the Chemical Handling Corp. Site in Broomfield, CO; the Omega Chemical Corp. Site in Whittier, CA; and the Environmental Pacific Corp. Site in Amity, OR.

Under the Agreement, Continental has agreed to allowed general unsecured claims in the total amount of $1,290,000 and allowed claims to be paid in full as administrative expense claims in the total amount of $229,084.37 as specified in the Agreement. The Agreement also contains provisions pertaining to the treatment of Debtor-Owned Sites and Additional Sites.

The Department of Justice will receive comments relating to the proposed Agreement for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re Continental Airlines, Inc.*, D.J. Ref. No. 90–11–2–1231.

The proposed Agreement may be examined at the Office of the United States Attorney for the District of Delaware, 1201 Market Street, Suite 1100, Chemical Bank Plaza, Wilmington, DE 19899–2046; the United States Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy of the proposed Amended Settlement Agreement, please enclose a check in the amount of $6.75 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–19009 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that a proposed consent decree in *United States* v. *Coon Refrigeration, et al.*, Civil Action No. 90–212 (W.D. Pa.), was lodged on July 1, 1999 with the United States District Court for the Western District of Pennsylvania. The United States filed its action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act to recover costs incurred and to be incurred in cleaning up the Pagan Road Superfund Site in western Pennsylvania. The proposed consent decree requires Marlin Coon and Coon Refrigeration to pay a minimum of $1,002 in reimbursement of past response costs incurred at the Site. The Consent Decree also requires Marlin Coon and Coon Refrigeration to sell the Pagan Road Site and pay seventy-five percent of the proceeds of that sale to the United States in further reimbursement of past response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Coon Refrigeration, et al.*, DOJ Ref. #90–11–2–619.

The proposed consent decree may be examined at the office of the United States Attorney, 100 State Street, Suite 302, Erie, PA 16507, the Regional Office of the Environmental Protection Agency, 615 Arch Street, Philadelphia, PA 19103, and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.00 for the consent decree (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–19007 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on July 9, 1999, a proposed Consent Decree in *United States and the State of Ohio* v. *City of Port Clinton*, Civil Action Nos. 3:99CV7434 and 3:99CV7435, was lodged with the United States District Court for the Northern District of Ohio, Western Division.

In these consolidated actions, the United States and the State of Ohio sought injunctive relief and penalties against the City of Port Clinton (''Port Clinton'') for claims arising in connection with Port Clinton's wastewater treatment plant in Port Clinton, Ohio, under the Clean Water Act, 33 U.S.C. 1251 *et seq.* Under the Consent Decree, Port Clinton will engage in short-term compliance measures that include inspecting and sampling a primary bypass outfall during periods of operation, sampling at a public beach, and permanently improving or closing all combined sewer overflow stations. Port Clinton's long-term compliance measures include submitting plans and construction schedules to eliminate primary bypassing, to disinfect and dechlorinate all secondary bypasses, and to assure that effluent limitations will continue to be met. Port Clinton also must submits a plan to study the feasibility of eliminating secondary bypassing. Port Clinton will pay a civil penalty of $60,000, one-half of which will be paid to the United States,and the other half of which will be paid to Ohio.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and State of Ohio* v. *City of Port Clinton*, D.J. No. 90–5–1–1–4501.

The Consent Decree may be examined at the Office of the United States Attorney, Four Seagate, Suite 308, Toledo, Ohio, 43604–2624, at the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604–3590, and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy, please refer to the above-referenced case and enclose a check in the amount of $24.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–19008 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 169–99]

Privacy Act of 1974; Privacy Act System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, the Executive Office for United States Trustees (EOUST), U.S. Department of Justice, has reviewed its Privacy Act systems of records and identified minor changes that will clarify, update, and more accurately describe their systems of records.

As result, the EOUST is reporting minor modifications to the system of records JUSTICE/UST–003 U.S. Trustee Timekeeping System, to reflect records storage on computer disks and on paper. Any comments may be addressed to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Suite 1400, National Place Building).

Dated: July 9, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/UST–003

SYSTEM NAME:

U.S. Trustee Timekeeping System.

SYSTEM LOCATION:

The Executive Office for United States Trustees (EOUST) and various offices of the United States Trustees depending upon where an employee has been assigned for duty. (Field offices can be located on the Internet at http://www.usdoj.gov/ust).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nonclerical employees of the U.S. Trustees' offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' names and a record of their work time by program activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

This system is established and maintained pursuant to 11 U.S.C., and 28 U.S.C. 586.

PURPOSE:

This system consists of a record of the work time, by program activity, of nonclerical employees of the U.S. Trustee program. The system is used by the EOUST to analyze workload as a basis for requesting and allocating personnel and other resources. This information is compiled in each of the field offices and forwarded to EOUST for analysis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ACHIEVES AND RECORDS ADMINISTRATION (NARA) AND THE GENERAL SERVICES ADMINISTRATION (GSA):

A record from the system of records may be disclosed to the NARA and GSA for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer disks and on paper.

RETREIVABILITY:

Information is maintained alphabetically by the name of the employee. In EOUST, duplicate records are maintained and organized by judicial district.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Time and Attendance Reports are destroyed by shredding and burning after GAO audit or when three years old.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office, is the U.S. Trustee and in the Executive Office, the Deputy Director. (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked ''Privacy Access Request''.

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Nonclerical employees of the U.S. Trustee's offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–19010 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[A.G. Order No. 2235–99]

Certification of the Attorney General, Leake County, Mississippi

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments of the Constitution of the United States in Leake County, Mississippi. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: July 16, 1999.

Janet Reno,

Attorney General of the United States.

[FR Doc. 99–18931 Filed 7–23–99; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation

program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before September 24, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Karin G. Kurz, BLS Clearance Officer. (See **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

I. Proposed Collection

Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Cognitive and Psychological Research.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

II. Background

The Bureau of Labor Statistics' Behavior Science Research Laboratory (BSRL) conducts theoretical, applied, and evaluative research aimed at improving the quality of data collected and published by the BLS. Since its creation in 1988, the BSRL has advanced the study of survey methods research, approaching issues of non-sampling error within a framework that draws heavily on the theories and methods of the cognitive, statistical and social sciences. The BSRL research focuses primarily on the assessment of survey instrument design and survey administration, as well as on issues related to interviewer training and the interview process. Improvements in these areas result in better accuracy and response rates of BLS surveys, frequently reduce costs in training and survey administration, and further ensure the effectiveness of the overall BLS mission.

III. Current Actions

The purpose of this request for clearance is to conduct cognitive and psychological research designed to enhance the quality of BLS data collection procedures and overall data management. The BLS is committed to producing the most accurate and complete data within the highest quality assurance guidelines. The BSRL was created to aid in this effort, and over the past decade it has demonstrated the effectiveness and value of its approach. Over the next few years, demand for BSRL consultation is expected to rise, as information processing approaches to survey methods research become more common. Moreover, as the use of computers and web-based surveys continues to grow, so too will the need for careful tests of instrument design and usability, human-computer interactions, and other potential problems in data quality that these technologies bring. The BSRL is uniquely equipped to accommodate these demands.

Much of the work done by the BSRL is conducted under controlled laboratory conditions, and relies on the participation of volunteer subjects recruited from the general public. Retaining subjects as BSRL participants for multiple studies is necessary to minimize the costs of recruitment, and is often methodologically essential for studies investigating temporal effects or the effects of multiple treatments on subject responses. Competition with private research establishments, a perceived high burden to compensation ratio, and travel or scheduling constraints often result in individuals dropping from BSRL rolls after only one study.

The revisions in this submission reflect an effort to reverse recent trends in BSRL subject attrition, and to accommodate increasing interest by BLS statistical program offices and other agencies in the methods used and results obtained by the BSRL. This submission reflects planned research and development activities for Fiscal Year 2000 through Fiscal Year 2002; its approval will enable the continued productivity of a state-of-the-art, multi-disciplinary program of behavioral science research to improve BLS survey methodology.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Cognitive and Psychological Research.

OMB Number: 1220–0141.

Affected Public: Individuals and Households; business and other for-profit; not-for-profit institutions; State, Local, or Tribal Government.

Total Respondents: 4,000.

Frequency: On occasion.

Total Responses: 4,000.

Average Time Per Response: 60 minutes.

Estimated Total Burden Hours: 4,000 hours.

Total Burden Cost (capital/startup): $0

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 20th day of July 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–19003 Filed 7–23–99; 8:45 am]

BILLING CODE 4510–24–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390]

Tennessee Valley Authority; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U. S. Nuclear Regulatory Commission (the Commission) has granted a request to the Tennessee Valley Authority (the Licensee) to withdraw its December 23, 1998,

application for proposed amendment to Facility Operating License No. NPF–90 for the Watts Bar Nuclear Plant, located in Rhea County, Tennessee.

The proposed amendment would have provided a temporary change, until the next time the unit entered Mode 3, to the ice condenser inlet door position monitoring system channel check methodology to account for the impact of an annunciator ground on the existing channel check methods.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 31, 1998 (63 FR 72339). However, by letter dated March 9, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 23, 1998, and the licensee's letter dated March 9, 1999, which withdrew the application for this license amendment. The above 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 local public document room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Dated at Rockville, Maryland, this 16th day of July, 1999.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–18984 Filed 7–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Comment on the Pilot Program for the New Regulatory Oversight Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing significant revisions to its processes for overseeing the safety performance of commercial nuclear power plants that include integrating the inspection, assessment, and enforcement processes. As part of its proposal, the NRC staff established a new regulatory oversight framework with a set of performance indicators and associated thresholds, developed a new baseline inspection program that supplements and verifies the performance indicators, and created a continuous assessment process that includes a method for consistently determining the appropriate regulatory actions in response to varying levels of safety performance. The changes are the result of continuing work on concepts as described in SECY–99–007, ''Recommendations for Reactor Oversight'' dated January 8, 1999, and SECY–99–007A, ''Recommendations for Reactor Oversight Improvements (Follow-Up to SECY–99–007)'' dated March 22, 1999. In June 1999, the NRC began a six-month pilot program with two sites participating from each region. The purpose of the pilot program is to exercise the new oversight process, identify problems, develop lessons learned, and make any necessary changes before full implementation at all sites. The NRC is soliciting comments from interested public interest groups, the regulated industry, States, and concerned citizens. The NRC staff will consider comments it receives for further development and refinement of the new oversight process.

DATES: The comment period expires November 30, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail.

Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC's Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

Comments may be submitted electronically at the ''NRC Initiatives 1999'' web page at: http://www.nrc.gov/NRC/COMMISSION/INITIATIVES/1999/COMMENTS/ 2a__cmt.html

Copies of the Pilot Program Guidelines may be obtained at the following web site: http://www.nrc.gov/NRR/OVERSIGHT/index.html

Additional information on the pilot program may be obtained from the NRC's Public Document Room at 2120 L St., NW, Washington, DC 20003–1527, telephone 202–634–3272.

FOR FURTHER INFORMATION CONTACT: Alan Madison, Mail Stop: O–5 H4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1490.

SUPPLEMENTARY INFORMATION:

Background

In September 1997, the NRC began an integrated review of the process used for assessing safety performance by commercial nuclear power plant licensees. The NRC staff presented a conceptual design for a new integrated assessment process to the Commission in Commission paper SECY–98–045, dated March 9, 1998.

In parallel with the staff's work on the integrated review of the assessment processes (IRAP) and the development of other assessment tools, the nuclear power industry independently developed a proposal for a new assessment and regulatory oversight process. This proposal, developed by the Nuclear Energy Institute (NEI), took a risk-informed and performance-based approach to the inspection, assessment, and enforcement of licensee activities on the basis of the results of a set of performance indicators.

The staff set out to develop a single set of recommendations for making improvements to the regulatory oversight processes in response to NEI's proposal, the Commission's comments on the IRAP proposal, comments made at a Commission meeting on July 17, 1998, with public and industry stakeholders and the hearing before the Senate on July 31, 1998. The IRAP public comment period (which ended in October 1998), during which the NRC conducted a four day public workshop in the Fall of 1998, was used to facilitate internal and external input into the development of these recommendations.

Following the public workshop, the NRC staff formed three task groups to complete the work begun at the workshop and to develop the recommendations for the integrated oversight processes: A technical framework task group, an inspection task group, and an assessment process task group. The technical framework task group was responsible for completing the assessment framework and for identifying the performance indicators (PIs) and appropriate thresholds that could be used to measure safety performance. The inspection task group was responsible for developing the scope, the depth, and the frequency of a risk-informed baseline inspection program that would be used to supplement and verify the PIs. The assessment process task group developed methods for integrating PI data and inspection data, determining

NRC action on the basis of assessment results, and communicating results to licensees and the public. Other staff activities to improve the enforcement process were coordinated with these three task groups to ensure that changes to the enforcement process were properly evaluated in the framework structure and that changes to the inspection and assessment programs were integrated with the changes to the enforcement program.

The task groups completed their work between October and December 1998, and developed recommendations to be presented to the Commission. On January 20, 1999, the staff briefed the Commission on the staff's proposal as described in SECY–99–007, ''Recommendations for Reactor Oversight Improvements.''

The follow-up recommendations for an integrated oversight process are presented in SECY–99–007A, ''Recommendation for Reactor Oversight Process Improvements (Follow-Up to SECY–99-007)'' dated March 22, 1999, and its attachments. This paper includes further information on the development of the Significance Determination Process (SDP) and the revised enforcement policy.

Scope of the Public Comment Period

This public comment period will focus on obtaining industry and public views on the new oversight process as implemented during the Pilot Program and any additional issues that need to be addressed prior to full implementation of the new oversight process. To assist respondents the following questions are included as a guide. Comments should be as specific as possible and the use of examples is encouraged.

1. Does the new oversight process provide adequate assurance that plants are being operated safely?

2. Does the new oversight process enhance public confidence by increasing the predictability, consistency, clarity and objectivity of the NRC's oversight process?

3. Does the new oversight process improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance?

4. Does the new oversight process reduce unnecessary regulatory burden on licensees?

5. The new oversight process does not currently provide an overall assessment of performance of an individual safety cornerstone other than a determination that the cornerstone objectives have or have not been met. However, it does identify regulatory actions to be taken for degraded performance within the safety cornerstones. Is an overall safety cornerstone assessment warranted or appropriate?

6. Licensee findings as well as NRC inspection findings are candidates for being evaluated by the significance determination process. Does this serve to discourage licensees from having an aggressive problem identification process?

7. In the new oversight program, positive inspection observations are not included in NRC inspection reports and the plant issues matrix (PIM) due to a lack of criteria and past inconsistencies and subjectivity in identifying such issues. Previous feedback on this issue indicated that the vast majority of commenters believed positive inspection findings should not be factored into the assessment process. Does the available public information associated with the revised reactor oversight process, including the NRC's web page which includes information on performance indicators and inspection findings, provide an appropriately balanced view of licensee performance? If not, should positive inspection findings be captured and incorporated into a process to reach an overall inspection indicator for each cornerstone?

8. The staff has established several mechanisms such as public meetings held in the vicinity of the plants, this **Federal Register** Notice, and the NRC's website to solicit public feedback on the Pilot Program. Are there any other appropriate means by which the agency could solicit stakeholder feedback, in a structured and consistent manner, on the Pilot Program?

9. Are there any additional issues that the agency needs to address prior to full implementation of the new oversight process at all sites?

Dated at Rockville, Maryland, this 19th day of July 1999.

For the Nuclear Regulatory Commission.

William M. Dean,

Chief, Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–18983 Filed 7–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Severe Accident Management; Notice of Meeting

The ACRS Subcommittee on Severe Accident Management will hold a meeting on August 9–10, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Monday, August 9, 1999—8:30 a.m. until the conclusion of business

Tuesday, August 10, 1999—8:30 a.m. until the conclusion of business

The Subcommittee will review: (1) The proposed final revision of the Source Term Rule and draft versions of the associated regulatory guide and Standard Review Plan Section; (2) the proposed revision to Regulatory Guide 1.78, ''Assumptions for Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Hazardous Chemical Release''; and (3) the status of issues associated with the Office of Nuclear Regulatory Research Severe Accident Research Program. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review. Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above

named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: July 20, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–18982 Filed 7–23–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1999.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of July 1, 1999, of three rescission proposals and three deferrals contained in two special messages for FY 1999. These messages were transmitted to Congress on October 22, 1998, and February 1, 1999.

Recissions (Attachments A and C)

As of July 1, 1999, three rescission proposals totaling $35 million have been transmitted to the Congress. Attachment C shows the status of the FY 1999 rescission proposals.

Deferrals (Attachments B and D)

As of July 1, 1999, $682 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1999.

Information from Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Fedeal Register** cited below:

63 FR 63949, Tuesday, November 17, 1998
64 FR 6721, Wednesday, February 10, 1999

Jacob J. Lew,

Director.

Attachment A

STATUS OF FY 1999 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Recisions proposed by the President	35.0
Rejected by the Congress	.....
Amounts rescinded by P.L. 106–31, the FY 1999 Emergency Supplemental Appropriations and Rescissions Act	−16.8
Currently before the Congress	18.2

Attachment B

STATUS OF FY 1999 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,680.7
Routine Executive releases through June 1999 (OMB/Agency releases of $1,082.3 million, partially offset by a cumulative positive adjustment of $83.6 million)	−998.7
Overturned by the Congress	* * * * * * * *
Currently before the Congress	682.0

BILLING CODE 3110–01–P

ATTACHMENT C
Status of FY 1999 Rescission Proposals - As of July 1, 1999
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of Lands and Resources	R99-1		6,800	2-1-99	*		6,800	P.L. 106-31
EXECUTIVE OFFICE OF THE PRESIDENT								
Unanticipated Needs								
Unanticipated Needs for Natural Disasters	R99-2		10,000	2-1-99	*		10,000	P.L. 106-31
INTERNATIONAL ASSISTANCE PROGRAMS								
International Security Assistance								
Foreign Military Financing Loan Program Account	R99-3		18,240	2-1-99	*			
TOTAL, RESCISSIONS			**35,040**				**16,800**	

* No funds were withheld.

ATTACHMENT D
Status of FY 1999 Deferrals - As of July 1, 1999
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-99
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D99-1	82,858		10-22-98					
			17,724	2-1-99	92,724				7,858
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D99-2	84,777		10-22-98					
			1,310,376	2-1-99	819,658			83,606	659,102
Agency for International Development									
International Disaster Assistance	D99-3	185,000		2-1-99	169,900				15,100
TOTAL, DEFERRALS		**352,635**	**1,328,100**		**1,082,282**			**83,606**	**682,059**

[FR Doc. 99–18935 Filed 7–23–99; 8:45 am]
BILLING CODE 3110–01–C

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, 450 5th Street, NW, Washington, DC 20549–0102

Extension:
Rule 19b–1, SEC File No. 270–312, OMB Control No. 3235–0354

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 (''OMB'') a request for extension of the previously approved collections of information discussed below.

Rule 19b–1 is entitled ''Frequency of Distribution of Capital Gains.'' The rule prohibits registered investment companies (''funds'') from distributing long-term capital gains more than once every twelve months unless certain conditions are met. Rule 19b–1(c) permits unit investment trusts (''UITs'') engaged exclusively in the business of investing in certain eligible fixed-income securities to distribute long-term capital gains more than once every twelve months, if (i) the capital gains distribution falls within one of several categories specified in the rule [rule 19b–1(c)(1)] and (ii) the distribution is accompanied by a report to the unitholder that clearly describes the distribution as a capital gains distribution [rule 19b–1(c)(2)] (the ''notice requirement''). The purpose of this notice requirement is to ensure that unitholders understand that the source of the distribution is long-term capital gains.

Rule 19b–1(e) permits a fund to apply for permission to distribute long-term capital gains more than once a year if the funds did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution. An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application. The Commission uses, the information required by rule 19b–1(e) to facilitate the processing of requests from funds for authorization to make a distribution that would not otherwise be permitted by the rule.

The Commission staff estimates the time required to comply with the notice requirement of rule 19b–1(c) to be one hour or less for each additional distribution of long-term capital gains. As of December 31, 1998, there were approximately 11,500 UIT portfolios that may be eligible to use the rule. The staff estimates that on average each UIT may be required to prepare a notice under the rule one time each year. Therefore, the estimated total annual maximum reporting burden is 11,500 hours.

The Commission staff estimates that the time required to prepare an application under rule 19b–1(e) if approximately four hours. The staff estimates that on average six funds each file one application per year under this rule. Based on these estimates, the total paperwork burden is 24 hours for paragraph (e) of rule 19b–1.

Based on these calculations, the total number of respondents for rule 19b–1 is estimated to be 11,506 (11,500 UIT portfolios + 6 funds filing applications) and the total number of burden hours is estimated to be 11,524 (11,500 hours for the notice requirement + 24 hours for applications). This estimate of burden hours represents a decrease of 2,651 hours from the current allocation of 14,175 burden hours. This decrease is attributable to a decrease in the estimated total number of respondents to rule 19b–1.

These estimates of average burden hours are made solely for purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

The collections of information required by 19b–1(c) and 19b–1(e) are necessary to obtain the benefits described above. Responses will not be kept confidential. 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.

Please direct general comments regarding the above information 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, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 16, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–18988 Filed 7–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27050]

Filings Under the Public Utility Holding Company Act of 1935, As Amended (''Act'')

July 16, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by August 10, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 10, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

West Penn Power Company

(70–7888)

West Penn Power Company (''West Penn''), 800 Cabin Hill Drive, Greensburg, PA 15601, a wholly owned electric public utility subsidiary of Allegheny Energy, Inc., a registered holding company, has filed a post-effective amendment under sections 6(a) and 7 of the Act on an application-declaration originally filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rule 45 under the Act.

By orders dated January 29, 1992 (HCAR No. 25462), February 28, 1992 (HCAR No. 25481), July 14, 1992 (HCAR No. 25581), November 5, 1993 (HCAR

No. 25919), November 28, 1995 (HCAR No. 26418), April 18, 1996 (HCAR No. 26506), and December 23, 1997 (HCAR No. 26804) (collectively ''Prior Orders''), West Penn was authorized, among other things, to issue up to $182 million in short-term debt through December 31, 2001. West Penn now proposes to: (1) Income the amount of short-term debt that West Penn may issue from $182 million up to $500 million under the terms and conditions stated in the Prior Orders; and (2) extend the period of authorization through December 31, 2007.

West Penn states that the increase is necessary to enhance its ability to participate in evolving energy markets resulting from deregulation and, upon subsequent application and approval, to support acquisition and diversification plans.

Conectiv, et al. (70–9069)

Conectiv, a registered holding company, and its nonutility subsidiaries, Conctiv Services, Inc. (''CSI''), a nonutility subsidiary of Conectiv engaged in energy-related services, Delmarva Capital Investment, Inc. (''DCI''), and Conectiv Solutions, Inc. (''Solutions''), an energy marketing subsidiary of Conectiv (together, ''Applicants''), all located at 800 King Street, Wilmington, Delaware 19899, have filed a post effective amendment to an application previously filed under sections 9(a) and 10 of the Act, and rule 54 under the Act.

Conectiv holds interests in certain direct and indirect nonutility subsidiary companies, including ATE Investments, Inc. (''ATE''), a direct subsidiary of Conectiv. ATE owns equity interests in three leveraged leases and a 94% limited partnership interest in EnerTech Capital Partners, L.P. (''EnerTech''), a company that invests in companies developing energy-related technologies. By order dated December 16, 1998 (HCAR No. 26953) (the ''Restructuring Order''), the Commission authorized Conectiv to restructure its nonutility subsidiaries in two phases that would ultimately result in, among other things, ATE being acquired by DCI (to be renamed Conectiv Property and Investments, Inc. (''CPI'')). Conectiv states that it intended to use CPI to hold passive investments. As a result of the restructuring, Conectiv would reduce its active direct nonutility subsidiaries to just three companies: CPI, CSI, and Conectiv Energy Supply, Inc., a company directly and indirectly engaged in the marketing of energy.

Conectiv now proposes for Solutions or CSI,[1] to acquire the common stock of ATE. Applicants state that the technology investments held by ATE through EnerTech are more directly related to the energy-related services conducted by CSI and, therefore, should be a CSI subsidiary.

Alliant Energy Corporation, et al. (70–9513)

Alliant Energy Corporation (''Alliant''), a registered holding company, 222 West Washington Avenue, Madison, Wisconsin 53703 and its wholly owned public utility subsidiary, IES Utilities, Inc. (''IES''),[2] Alliant Tower, Cedar Rapids, Iowa 52401, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, 90 and 91 under the Act.

Alliant indirectly owns undivided interest in two nuclear power facilities, the Kewaunee Nuclear Power Plant (''KNPP''),[3] located in the Town of Carlton, Wisconsin, and the Duane Arnold Energy Center (''DAEC''),[4] located in Palo, Iowa.

Alliant request authority to acquire all of the voting securities of a Alliant Nuclear, a to-be-formed subsidiary that will be organized under Wisconsin law. Through Alliant Nuclear, Alliant proposes to acquire a 25% membership interest in Nuclear Management Company, LLC (''NMC''),[5] a Wisconsin limited liability company, formed for the purpose of consolidating specialized employees and resources of IES and certain other unaffiliated nuclear power plant owners. The current members of NMC or their utility affiliates and IES (collectively, ''NMC Plant Owners''), own interests and operate seven nuclear generating units at five locations,[6] (collectively, ''NMC Plants'').

NMC will be managed by a board of directors comprised of representatives of each of its members and will be capitalized with contributions from each of its members, as provided for in the NMC Limited Liability Company Operating Agreement (''Operating Agreement''). It is intended that the capital contributions of members will be equal, the profits and losses of NMC will be allocated to the members in accordance with their percentage interests and additional capital contributions will be made by capital calls, also in accordance with percentage interests. The Operating Agreement further contemplates the admission of other utilities as members. The Operating Agreement requires a supermajority vote of members to make a capital call greater than $250,000 annually per member and the rate of return on NMC's equity capital used to serve the NMC Plants will not exceed the average of the most recent rates of return allowed by the public service commissions that regulate the NMC members.[7]

NMC will provide certain services to NMC Plant Owners, including IES, as stated in a service agreement (''Service Agreement''). The services provided under the Service Agreement include fuel management, procurement and warehousing, licensing, outage support, quality assurance, records management, safety assessment and oversight, security, training and special projects (''Services''). The Service Agreement further allows for a period of time for Service Development Teams to determine whether Services or a group of Services can be provided on a centralized basis. If it is determined that a Service or group of Services can be provided by NMC on an integrated basis, then an implementation plan for transitioning these Services to NMC will be developed. NMC Plant Owners will be obligated to make good faith efforts to take Services from NMC. IES however, will not be obligated to take Services if it believes that to do so would jeopardize the safety, integrity, or reliability of DAEC or compliance with

[1] Under the Restructuring Order, Solutions is to be merged into CSI.

[2] Alliant's other public utility subsidiaries include: Wisconsin Power & Light Company (''WP&L''); South Beloit Water, Gas and Electric Company; and Interstate Power Company (collectively, including IES (''Operating Companies'').

[3] KNPP is a 532 megawatt pressurized water reactor, operated by Wisconsin Public Service Corporation (''WPSC''), a subsidiary of WPS Resources Corporation (''WPS Resources'') and jointly owned by WPSC, 41.2%, WP&L, 41.0%, and Madison Gas & Electric Company, 17.8%.

[4] DAEC is a 535 megawatt boiling water reactor, operated and 70% owned by IES. The remaining 30% ownership interest is held by two generation and transmission cooperatives.

[5] Current members of NMC include: WEC Nuclear Corp. a subsidiary of Wisconsin Energy Corporation; WPS Nuclear Corporation, a subsidiary of WPS Resources and an affiliate of WPSC; and Northern States Power Company (''NSP'').

[6] NSP owns and operates the Prairie Island Units 1 and 2, located near Red Wing, Minnesota. Both units are pressurized water reactors having a combined net generating capacity of 1,003 megawatts, and the Monticello generating station, located near Monticello, Minnesota, a boiling water reactor with a net generating capacity of 536 megawatts. Wisconsin Electric Power Company, a subsidiary of WEC, owns and operates two units at the Point Beach nuclear generating station located near Two Rivers, Wisconsin. Both units are pressurized water reactors and have a combined net generating capacity of 970 megawatts. DAEC and KNPP comprise the remaining two units.

[7] At present, NMC members are regulated by the Iowa Utilities Board, the Minnesota Public Service Commission and the Public Service Commission of Wisconsin.

government regulations, NMC may also offer other categories of services to NMC Plant Owners which NMC Plant Owners may choose to take, however, they will not be obligated to do so.

IES's commitments to purchase services from and provide personnel and other resources to NMC are stated in the Service Agreement and an Employee Lease Agreement[8] which will be substantially identical to those between NMC and each of the other NMC Plant Owners.

In the near term, it is anticipated that IES employees involved in the operation and management of DAEC will continue to devote most of their time to those duties, however, as NMC develops, service delivery will likely become more integrated among the NMC Plant Owners, and IES employees will devote more of their time to the performance of Services for other NMC Plant Owners.

NMC Plant Owners will be committed under the Service Agreement to make available to NMC personnel and other resources as reasonably necessary to enable NMC to provide Services. Personnel resources may be provided under employee leases, direct employee charges to NMC or transfer of employees to NMC. Other resources made available to NMC may include the use of office space, vehicles, furniture, equipment, informational systems and computer time. The NMC Plant Owners providing services or other resources to NMC will be reimbursed for the cost thereof in accordance with rules 90 and 91.

All of the Services furnished by NMC to the NMC Plant Owners will be at cost, fairly and equitably allocated. NMC will submit monthly statements to each NMC Plant Owners for the Services rendered during the previous month. The monthly payment and billing procedure is expected to minimize the need for substantial working capital by NMC.[9] In the case of Services rendered by NMC in respect to DAEC and KNPP, both of which are jointly owned with other utility companies, costs will be reallocated among the plant owners in proportion to their respective ownership shares in the manner provided in the participation or ownership agreement among the owners of those plants.

NMC will maintain its books, records, and system of accounts in substantial conformity with the Uniform System of Accounts for Mutual Services and Subsidiary Service Companies, as in effect from time to time.[10]

To the extent that costs incurred by NMC can be identified to a particular NMC Plant or Plants, these costs will be directly assigned to the owner or owners of the respective NMC Plant or Plants as appropriate. Costs which cannot be directly assigned to a particular Plant will be allocated through a loading on direct labor costs charged to each of the NMC Plant Owners for Services performed. The loading will be based on estimates of direct labor dollars made at the beginning of each year and will be adjusted annually based on actual indirect charges for common costs incurred and actual labor dollars charged for Services in that year. Certain other costs which provides benefits to all NMC Plant Owners will be allocated equitably among the NMC Plant Owners. Subject to the availability of resources and its commitment to the NMC Plant Owners, NMC may also provide services to nonaffiliated companies at rates other than cost, provided that the ultimate purchaser of the services is not an Operating Company.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–18989 Filed 7–23–99; 8:45 am]

BILLING CODE 8010–01–M

[8] The Employee Lease Agreement confirms that each IMC Plant Owner will retain direction and control over its employees and that employees shall continue to be employed by the respective NMC Plant Owners, not NMC. It also enumerates all employee-related expenses which would be included in the determination of a fully loaded, fully allocated cost and incorporates various terms from the Service Agreement to coordinate the Employee Lease Agreement with the Service Agreement.

[9] To the extent that working capital is required, it is anticipated that NMC will borrow funds from lenders as permitted under rule 52.

[10] IES will have full access to NMC's books and records.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Uniprime Capital Acceptance, Inc.; Order of Suspension of Trading

July 21, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Uniprime Capital Acceptance, Inc. (''Uniprime'') because of questions regarding the accuracy of statements by Uniprime to investors concerning, among other things, a product developed by a subsidiary for treating human immunodeficiency virus (HIV).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, July 22, 1999 through 11:59 p.m. EDT, on August 4, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–19099 Filed 7–22–99; 11:21 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41627; File No. 600–24]

Self-Regulatory Organization; Delta Clearing Corp.; Notice of Expiration of Temporary Registration as a Clearing Agency

July 20, 1999.

Notice is hereby given that Delta Clearing Corp's (''DCC'') temporary registration as a clearing agency will expire on July 31, 1999.[1] DCC has informed the staff of the Securities and Exchange Commission (''Commission'') that it will not file an application requesting that the Commission extend its registration as a clearing agency.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Susan Petersen, Staff Attorney, at 202/942–4187, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

Background

On January 12, 1990, pursuant to Sections 17A and 19(a) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 17Ab2–1(c) thereunder,[3] the Commission granted DCC's application for registration as a clearing agency on a temporary basis for a period of thirty-six months.[4] Since that time, the Commission has extended DCC's temporary registration through July 31, 1999.[5]

[1] Securities Exchange Act Release No. 40112 (June 23, 1998), 63 FR 35298 [File No. SR–DCC–600–24] (order approving DCC's extension of temporary registration).

[2] 15 U.S.C. 78q–1 and 78s(a).

[3] 17 CFR 240.17Ab2–1(c).

[4] Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890. Prior to a 1996 name change, DCC was named Delta Government Options Corp.

[5] See Securities Exchange Act Release Nos. 31856 (February 11, 1993), 58 FR 9005 (order extending

Continued

On October 26, 1998, DCC informed the Commission staff[6] that it would not accept new transactions after October 29, 1998, and would cease to carry transactions on its books after June 30, 1999. On October 29, 1998, DCC issued a notice to its participants to inform them of its decision to cease operations. DCC in fact ceased operations on January 30, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–18990 Filed 7–23–99; 8:45 am]

BILLING CODE 8010–01–M

registration until January 12, 1995); 35198 (January 6, 1995), 60 FR 3286 (order extending registration until January 31, 1997); 38224 (January 31, 1997), 62 FR 5869 (order extending registration until July 31, 1997); 38869 (July 24, 1997), 62 FR 40871 (order extending registration until July 31, 1998); and 40112 (June 23, 1998) 63 FR 35298 (order extending registration until July 31, 1999).

[6] Telephone conversation between Ronald H. Buckner, President, DCC, and Commission staff (October 26, 1998).

[7] 17 CFR 200.30–3(a)(16).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3196]

State of Georgia

Fulton County and the contiguous counties of Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, and Gwinnett in the State of Georgia constitute a disaster area as a result of damages caused by severe storms and flooding, and resulting fires, that occurred on July 6, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on Sept. 16, 1999 and for economic injury until the close of business on April 16, 2000 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.875
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.437
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.000
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster are 319611 for physical damage and 9D2300 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 16, 1999.

Michael D. Schattman,

Acting Administrator.

[FR Doc. 99–18950 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3189, Amdt. 2]

State of North Dakota

In accordance with a notice received from the Federal Emergency Management Agency dated July 13, 1999, the above-numbered Declaration is hereby amended to include the following areas as a disaster area due to damages caused by severe storms, flooding, snow and ice, ground saturation, landslides, mudslides, and tornadoes beginning on March 1, 1999 and continuing: Cavalier, Eddy, and Morton Counties.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 6, 1999, and for economic injury the deadline is March 8, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 13, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–18952 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3189, Amdt. 1]

State of North Dakota

In accordance with a notice received from the Federal Emergency Management Agency dated July 6, 1999, the above-numbered Declaration is hereby amended to include the following areas as a disaster area due to damages caused by severe storms, flooding, snow and ice, ground saturation, landslides, mudslides, and tornadoes beginning on March 1, 1999 and continuing: Burke, Divide, Mercer, Sioux, and Williams Counties, and the Indian Reservation of the Standing Rock Sioux (that portion of the Reservation within the State of North Dakota).

In addition, applications for economic injury loans from small businesses located in the following contiguous areas may be filed until the specified date at the previously designated location: Adams, Grant, and Stark Counties in North Dakota; Richland, Roosevelt, and Sheridan Counties in Montana; and Corson and Perkins Counties in South Dakota, as well as that portion of the Standing Rock Sioux Indian Reservation located in South Dakota.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 6, 1999, and for economic injury the deadline is March 8, 2000.

The economic injury number for the State of Montana is 9D2200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 9, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–18953 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3191, Amdt. 1]

State of South Dakota

In accordance with a notice received from the Federal Emergency Management Agency, with an effective date of June 18, 1999, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on June 4 and continuing through June 18, 1999.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 7, 1999, and for economic injury the deadline is March 9, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 9, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–18954 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Delegation of Authority No. 235]

Delegation of Responsibility Under Section 2106 of the Foreign Affairs Reform and Restructuring Act of 1998, as Contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277)

By virtue of the authority vested in me as Secretary of State, including the authority of section 1 of the State Department Basic Authorities Act of 1956, (22 U.S.C. 2651a), as amended, and the authority of the Presidential Memorandum of May 26, 1999, I hereby delegate to the Assistant Secretary for International Organization Affairs the functions of section 2106 of the Foreign Affairs Reform and Restructuring Act of 1998, as contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277) and vested in the Secretary of State by Presidential Memorandum dated May 26, 1999.

Notwithstanding this delegation of authority, the Secretary of State may at any time exercise any function delegated by this Delegation.

This delegation of authority shall be published in the **Federal Register**.

Dated: July 7, 1999.

Strobe Talbott,

Acting Secretary, Department of State.

[FR Doc. 99–19004 Filed 7–23–99; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 6, 1999, [FR 64, page 24447].

DATES: Comments must be submitted on or before August 25, 1999. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviator Safety Studies.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0587.

Forms(s): N/A.

Affected Public: General aviation pilots.

Abstract: In order to develop effective intervention programs to improve aviation safety, data are required on the type and range of various pilot attributes related to their skill in making safety-related aeronautical divisions. The information collected will be used to develop new training methods particularly suited to general aviation pilots.

Estimated Annual Burden Hours: 13,333 burden hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on July 20, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–18994 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Fairbanks International Airport, Fairbanks, AK

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 Fairbanks International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 25, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ronnie V. Simpson, Manager, Alaskan Region Airports Division, Federal Aviation Administration; 222 West 7th, Box 14; Anchorage, AK 99513–7587.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bill O'Leary, Controller, Alaska International Airport System, at the following address: State of Alaska Department of Transportation and Public Facilities, P.O. Box 196960, Anchorage, AK 99519–6960.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the State of Alaska Department of Transportation and Public Facilities under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Debbie Roth, Program Specialist, Alaskan Region Airports Division, Planning and Programming Branch, AAL–611A, 222 W 7th, Box 14, Anchorage, AK, 99513–7578, (907) 271–5543. 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 (#99–01–C–00–FAI) to impose and use the revenue from a PFC at Fairbanks International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the

Federal Aviation Regulations (14 CFR part 158).

On July 15, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by State of Alaska, Department of Transportation and Public Facilities, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 28, 1999.

The following is a brief overview of the application.

Application number: 99–01–C–00–FAI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 2000.

Proposed charge expiration date: March 1, 2006.

Total estimated PFC revenue: $5,460,000.

Brief description of proposed projects: Terminal Improvements; Acquire Snow Removal Equipment and Airport Rescue and Fire Fighting Vehicle; Construct Maintenance Facility.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Passengers enplaned by any class of carriers or foreign air carrier if the passengers are enplaned on a flight to an airport serving a community which has a population of less than 10,000 and is not connected by a land highway to the land-based National Highway System (as defined by section 103(b)(5) of Title 23.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** at the FAA, Alaskan Region Airports Division, Anchorage, Alaska.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Fairbanks International Airport. 6450 Airport Way #1, Fairbanks, Alaska, 99709.

Issued in Anchorage, Alaska on July 16, 1999.

Ronnie V. Simpson,

Manager, Airports Division, Alaskan Region.

[FR Doc. 99–18993 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–99–5748]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of petitions and intent to grant applications for exemption; request for comments.

SUMMARY: This notice announces the FHWA's preliminary determination to grant the applications of 33 individuals for an exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). Granting the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before August 25, 1999.

ADDRESSES: Your written, signed comments must refer to the docket number at the top of this document, and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Motor Carrier Research and Standards, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the office of the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

Thirty-three individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FHWA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FHWA has evaluated each of the 33 exemption requests on its merits, as required by 49 U.S.C. 31315 and 31136(e), and preliminarily determined that exempting these 33 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Qualifications of Applicants

1. Terry James Aldridge

Mr. Aldridge is a 35 year-old individual who has operated straight trucks and tractor-trailer combinations for more than 10 years. Because his left eye was removed at eight months of age, Mr. Aldridge is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination by the optometrist reveals Mr. Aldridge's best-corrected vision in his right eye is 20/20, and no pathological conditions were detected during this examination. In the optometrist's opinion, Mr. Aldridge has adequate vision to operate a CMV safely.

Mr. Aldridge holds a Mississippi commercial driver's license (CDL). He has driven more than one-million miles and his official driving record for the past 3 years contains one accident and no traffic violations in a CMV. Mr. Aldridge was not issued a citation.

2. Jerry D. Bridges

Mr. Bridges, 41, has had amblyopia in his left eye since early childhood. A 1999 medical examination indicates that he has 20/20 corrected acuity in his right eye and 20/100 corrected acuity in his left eye. According to his

optometrist, the condition in his left eye is stable, visual fields are full and normal in each eye, and no significant ocular problems were discovered. In the optometrist's opinion, Mr. Bridges' ''visual condition should present no difficulties in operating a commercial vehicle.''

Mr. Bridges has been a professional truck driver for 20 years and has driven straight trucks and tractor-trailer combinations more than one-million miles. He holds a Texas CDL, and a review of his State driving record indicates no moving violations and no accidents in any vehicle in the last 3 years.

3. Michael L. Brown

Mr. Brown is 51 years old and has been employed as a commercial truck driver for 25 years. He has 20/400 vision in his left eye and therefore cannot meet the vision requirement of 49 CFR 391.41(b)(10).

A 1999 examination indicates Mr. Brown injured the left eye at age 4, and that he underwent corneal transplantation and lens implantation in 1988. Confrontational fields are within normal limits in both eyes. In his ophthalmologist's opinion, Mr. Brown's ''visual efficiency is adequate to operate a commercial vehicle.''

Mr. Brown holds a Kansas CDL. He has driven straight trucks more than 800,000 miles since 1973. His official driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle.

4. Duane D. Burger

Mr. Burger, 60, is blind in his right eye due to an accident in 1965. A 1999 examination indicates the best corrected vision in his left eye is 20/20. His optometrist says, ''It is my impression that Mr. Burger's ocular health and peripheral vision are normal'' and ''considering Mr. Burger's safety record, I feel there is no reason that he cannot safely continue operating a tractor-trailer.''

Mr. Berger has a Kansas CDL. He has driven straight trucks and tractor-trailer combinations for Consolidated Industrial Services since 1985. According to the company safety director, ''Mr. Burger has an excellent driving record—an estimated 100,000 accident free miles per year—and is a valued employee.'' His official State driving record for the past 3 years contains no traffic violations and no accidents in a CMV.

5. Charlie Frank Cook

Mr. Cook, 52, has been employed as a commercial truck driver for 30 years. According to his ophthalmologist, Mr. Cook was treated from 1988 through 1992 for an inflammation in his left eye which damaged his central vision. As a result, he cannot meet the vision requirement of 49 CFR 391.41(b)(10).

A 1999 medical report indicates Mr. Cook's best corrected vision is 20/20 in the right eye and 20/80 in his left eye. In the ophthalmologist's opinion, Mr. Cook's ''vision deficiency is stable'' and ''he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

He has driven straight trucks and tractor-trailer combinations for more than 3 million miles. Mr. Cook holds a Georgia CDL, and his driving record for the past 3 years reflects no traffic violations and no accidents.

6. Greg L. Dinsmore

Mr. Dinsmore is 39 years old and has been employed as a commercial truck driver for 22 years, driving straight trucks as well as tractor-trailer combinations. He has had limited visual perception in his left eye since the age of two as a result of an injury. Mr. Dinsmore has 20/20 vision in his right eye. In the optometrist's opinion, Mr. Dinsmore has sufficient vision to operate a commercial vehicle. Mr. Dinsmore holds an Oklahoma CDL. He has driven commercial vehicles more than 1 million miles since 1977. His official driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle.

7. Donald D. Dunphy

Mr. Dunphy, 45, has amblyopia in his right eye. A 1999 examination by an ophthalmologist revealed the vision in his right eye to be 20/200 with or without correction and the vision in his left eye to be 20/20 with correction. The ophthalmologist stated Mr. Dunphy has ''adapted very well to this level of vision'' and has ''sufficient vision to operate a commercial motor vehicle.''

Mr. Dunphy holds a Virginia CDL. He has operated tractor-trailer combinations for 18 years and straight trucks for 5 years. His official State driving record reflects no traffic citations and no accidents in a CMV for the past 3 years.

8. Ralph E. Eckels

Mr. Eckels, 55, has amblyopia in his left eye. A 1999 examination indicates Mr. Eckels has 20/70 corrected vision in his left eye and 20/20 corrected vison in his right eye. According to the optometrist, Mr. Eckels' ''eye condition is considered stable'' and he ''has acceptable vision for safe driving of commercial vehicles.''

Mr. Eckels holds a Kentucky CDL. He has driven straight trucks during a 36-year career. For the last 18 years, he has operated a tandem-axle truck full time for the Union County Road Department. His official State driving record reveals no traffic citations or accidents in any vehicle in the last 3 years.

9. Jerald C. Eyre

Mr. Eyre, 60, has amblyopia in his right eye. Because of this eye condition, Mr. Eyre is unable to meet the Federal vision requirement. He has 20/20 corrected vision in his left eye according to a 1999 examination. In his optometrist's opinion, Mr. Eyre has ''sufficient vision and visual skills to perform the driving tasks required to operate a commercial vehicle.''

Jerald C. Eyre holds a Montana CDL. He has been a professional truck driver for 40 years and has operated straight trucks, tractor-trailer combinations and buses. His official State driving record contains no moving violations and no accidents in any vehicle in the last 3 years.

10. Russell W. Foster

Mr. Foster, 61, has worn a prosthetic device in his right eye since 1976. His vision in the left eye is 20/20 with corrective lens, according to a 1999 examination. His ophthalmologist states ''Mr. Foster is qualified for commercial driving activities.''

Russell Foster holds an Ohio CDL with a tank vehicle endorsement. He has driven straight trucks and tractor-trailer combination vehicles during a 45-year career. For the last 10 years, he has operated mainly tractor-trailers for a total of approximately 45,000 to 60,000 miles per year. His official State driving record reveals no traffic citations or accidents in any vehicle in the last 3 years.

11. Arnold D. Gosser

Mr. Gosser, 58, has been employed as a commercial driver for 25 years. His right eye was injured in 1949, resulting in a traumatic cataract which was removed in 1993. The vision in his right eye is 20/200 with glasses. Therefore, Mr. Gosser is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination revealed Mr. Gosser has 20/20 vision in his left eye with glasses. According to the optometrist, he has more than sufficient vision to perform the tasks required to operate a CMV.

Arnold Gosser holds a Kansas CDL with a tank vehicle endorsement. He has driven tractor-trailer combination vehicles approximately 2.5 million miles and straight trucks approximately

150,000 miles. There are no moving violations or accidents in any vehicle in the past 3 years on his official driving record. His employer states that ''in my 17 years spent in the trucking industry, I have never met a safer driver than Arnold Gosser.''

12. Eddie Gowens

Mr. Gowens, 48, has amblyopia in his left eye. Because of this condition, he is unable to meet the Federal vision standard in 49 CFR 391.41(b)(10). An optometrist examined Mr. Gowens in 1999, and found his best corrected vision is 20/100 in the left eye and 20/20 in the right eye. According to the optometrist, ''Mr. Gowens'' condition will not affect his driving because he has always driven under these conditions.''

Eddie Gowens has operated tractor-trailer combinations for Spring Industries, Inc. for 16 years. His employer states Mr. Gowens has done a ''wonderful job driving for us and training new drivers.'' He holds an Alabama CDL, and his official driving record for the past 3 years reflects no moving violations and no accidents in a CMV.

13. Gary R. Gutschow

Mr. Gutschow, 40, has amblyopia in his left eye. He has 20/20 vision in his right eye without correction. An optometrist examined him in 1999 and stated Mr. Gutschow has sufficient vision to perform the driving tasks requried to operate a CMV.

Gary Gutschow has 18 years of experience operating tractor-trailer combinations and 3 years' experience operating straight trucks. He holds a Wisconsin CDL with tank vehicle and hazardous materials endorsements and has driven more than 1.6 million miles in commercial vehicles. His official State driving record contains two accidents in a CMV; in each case, Mr. Gutschow was not issued a citation. In one incident, Mr. Gutschow's vehicle was struck from behind when he had to abruptly stop to avoid colliding with a vehicle whose operator had disregarded a red light. In the other incident, the driver of the other vehicle made a lane change into the side of Mr. Gutschow's vehicle. No other violations in any vehicle are reflected in his official driving record for the past 3 years. BSV Transportation, his employer since 1993, states Mr. Gutschow is ''an excellent and courteous driver with a good driving record.''

14. Richard J. Hanna

Mr. Hanna is a 58-year-old individual who has amblyopia in his left eye. He has 20/20 minus 2 corrected vision in his right eye, according to a 1999 examination. The optometrist who conducted the examination indicates Mr. Hanna has sufficient vision to drive a CMV.

Mr. Hanna has a 30-year career operating tractor-trailer combinations more than 2 million miles. He holds an Oregon CDL and has had no traffic violations or accidents in any vehicle in the past 3 years.

15. Jack L. Henson

Mr. Henson, 45, has been blind in his left eye since 1988 due to an accident involving some tools. A 1999 examination by an optometrist revealed the vision in his right eye to be 20/20 without correction. The optometrist stated Mr. Henson has sufficient vision to perform the driving task required to operate a CMV.

Mr. Henson holds a Texas CDL with a tank vehicle endorsement. He has operated straight trucks and tractor-trailer combinations during a professional driving career spanning more than 20 years. His official State driving record reflects no traffic citations and no accidents in any vehicle for the past 3 years.

16. Richard K. Jensrud

Mr. Jensrud, 30, has operated CMVs for 6 years. He has 20/100 vision in the right eye and therefore cannot meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination indicates Mr. Jensrud suffered a traumatic macular hole in the right eye for which he underwent vitrectomy surgery in 1994. His ophthalmologist states ''the vision in his left eye had continued to be excellent at 20/20'' and ''he [Mr. Jensrud] should have no problems driving a CMV.''

Richard Jensrud has a Minnesota CDL with tank vehicle and hazardous materials endorsements. He has driven tractor-trailer combination vehicles for approximately 1.8 million miles. His official State driving record for the past 3 years reveals one accident and no traffic violations in a CMV. Mr. Jensrud's CMV struck the right rear of the other vehicle as both vehicles were leaving a gas station. Although Mr. Jensrud was initially cited for inattentive driving, the case was dismissed. The accident resulted in no injuries.

17. David R. Jesmain

Mr. Jesmain, 54, has amblyopia in his left eye. The vision in his right eye was 20/20 with glasses in a 1999 examination. His optometrist says Mr. Jesmain has sufficient vision to perform the tasks necessary to operate a CMV.

David Jesmain holds a New York CDL. He has 17 years' experience driving straight trucks. His official State driving record contains no traffic violations and no accidents in any vehicle in the past 3 years.

18. Albert E. Malley

Mr. Malley, 57, has glaucoma and an amblyopic left eye, conditions which have been present since birth. Because of these conditions, Mr. Malley is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination at the Mayo Clinic indicates Mr. Malley had cataract and glaucoma surgery on June 30, 1998. According to the ophthalmologist, the vision in his left eye remains poor (20/400) due to amblyopia but ''it is now stable.'' The vision in his right eye is 20/20 with glasses. The ophthalmologist says Mr. Malley is able to perform the tasks required to operate a CMV.

Mr. Malley has a Minnesota CDL with a tank vehicle/hazardous materials endorsement. He has been a professional truck driver for 35 years and has driven tractor-trailer combination vehicles approximately 4 million miles and straight trucks approximately 30,000 miles. There are no traffic violations or accidents in any vehicle in the past 3 years on his official driving record.

19. Clifford E. Masink

Mr. Masink, 41, has had a macular defect in his left eye for 32 years. Because of this condition, he is unable to meet the Federal vision standard in 49 CFR 391.41(b)(10). An optometrist examined Mr. Masink in 1999, and found his best corrected vision is 20/200 in the left eye and 20/20 in the right eye. The optometrist states Mr. Masink ''has sufficient vision to operate a commercial vehicle.''

Clifford Masink has operated straight trucks for 20 years and tractor-trailer combinations for 15 years. He holds an Ohio CDL, and his official driving record for the past 3 years reflects no moving violations and no accidents in a CMV.

20. Tyrone O. Mayson

Mr. Mayson, 57, has been employed as a commercial truck driver for Aiken County Roads and Bridges since 1993. He has driven straight trucks and tractor-trailer combinations more than 3 million miles. Mr. Mayson has been blind in his left eye since he was a child.

A 1999 medical report indicates Mr. Mayson has 20/30 corrected vision in

the right eye. His ophthalmologist states Mr. Mayson has ''functioned as a commercial driver for many years being monocular'' and recommended that ''Mr. Mayson be granted a renewal of his commercial driver's license.''

Tyrone Mayson holds a South Carolina CDL. His driving record for the past 3 years reflects no traffic violations and no accidents in a CMV.

21. Rodney M. Mimbs

Mr. Mimbs is a 33-year-old individual who has amblyopia in his left eye and cannot meet the Federal vision requirement. Mr. Mimbs' best corrected vision in his left eye is 20/200 and 20/25 in his right eye, according to a 1999 examination. According to the optometrist who conducted the examination, Mr. Mimbs' ''eyes are healthy and stable'' and ''he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Mimbs holds a Georgia CDL with tank vehicle, hazardous materials and passenger transportation endorsements. He has 5 years' experience operating straight trucks and 4 years' experience operating tractor-trailer combinations. He has driven these CMVs almost 700,000 miles. His official State driving record contains no traffic violations or accidents in any vehicle for the past 3 years. His employer reports Mr. Mimbs is a ''safe, consistent and dependable driver.''

22. Charles E. O'Dell

Mr. O'Dell, 62, has amblyopia in his right eye. Vision in the right eye is 20/200 and 20/20 in the left eye, according to a 1999 examination. His optometrist states Mr. O'Dell ''has been driving interstate vehicles since at least 1980,'' and he does not ''see any reason he [Mr. O'Dell] can not safely continue to do so.''

Charles O'Dell has a Kansas CDL. He has 21 years' experience operating straight trucks and tractor-trailer combinations. Since 1980, Mr. O'Dell has driven a CMV over 2 million miles for Keim TS, Inc., his employer. His official State driving record reveals no traffic citations or accidents in any vehicle in the past 3 years.

23. Richard W. O'Neill

Mr. O'Neill is a 50-year-old individual who has operated CMVs for 25 years. He has been blind in the right eye since age 12 due to an accident. Because of this condition, Mr. O'Neill is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination reveals Mr. O'Neill has 20/20 corrected vision in his left eye. The ophthalmologist who conducted the examination states Mr. O'Neill has driven ''monocularly for many years'' and ''he is totally qualified to drive a motor vehicle, commercially.''

Mr. O'Neill holds a Washington CDL. He has driven straight trucks and tractor-trailer combinations approximately 2 million miles. His official driving record for the past 3 years contains no moving violations and no accidents.

24. Jerry L. Reese

Mr. Reese, 41, has amblyopia in his left eye. His vision in the right eye is 20/20 with correction, according to a 1999 examination. His optometrist states ''Mr. Reese is an experienced truck driver with a safe driving record'' and ''should be allowed to operate a commercial vehicle.''

Jerry Reese holds a Mississippi CDL. He is a self-employed owner-operator who has driven straight trucks and tractor-trailer combination vehicles during a 25 year career. His official State driving record reveals no traffic citations or accidents in a CMV in the last 3 years.

25. Frances C. Ruble

Ms. Ruble, 53, has amblyopia in her right eye. A 1999 medical examination indicates she has 20/15 corrected vision in her left eye. In the optometrist's opinion, there is ''no ocular reason that Ms. Ruble cannot operate a commercial vehicle.''

Frances Ruble holds an Iowa CDL. She has been operating a tractor-trailer combination for the same employer since 1995. Her official State driving record reflects no moving violations and no accidents in any vehicle in the last 3 years.

26. Johnny L. Stiff

Mr. Stiff is 56 years old and has been employed as a commercial truck driver for 26 years. According to a 1999 examination, Mr. Stiff's central visual acuity in his left eye is limited to finger counting due to an injury in 1986. The peripheral vision in his left eye is intact. The vision in his right eye is 20/15 with glasses. According to his optometrist, Mr. Stiff's vision is ''stable in both eyes'' and he is ''capable of performing the task of driving a commercial vehicle.''

Johnny Stiff holds an Illinois CDL with a tank vehicle/hazardous materials endorsement. He has driven CMVs more than 1 million miles since 1973 and his official driving record for the past 3 years reflects no traffic violations and no accidents in a CMV.

27. Robert J. Townsley

Mr. Townsley, 50, has 20/200 vision in his left eye due to a retinal detachment in 1963 and therefore cannot meet the vision requirement in 49 CFR 391.41(b)(10).

He has 20/20 vision in his right eye, according to a 1999 examination.

The optometrist who conducted the examination asserts Mr. Townsley has sufficient vision to drive a CMV.

Mr. Townsley has a Virginia CDL with a tank vehicle endorsement. He has driven straight trucks for 5 years and tractor-trailer combinations for 10 years. His official State driving record for the past 3 years contains no traffic violations and no accidents in any vehicle.

28. Thomas R. Trumpeter

Mr. Trumpeter, 48, is blind in his left eye due to an injury in 1961. According to a 1999 examination, the vision in his right eye was 20/15 with glasses. His optometrist says Mr. Trumpeter has sufficient vision to perform the tasks necessary to operate a CMV.

Mr. Trumpeter holds a Washington CDL with tank vehicle and hazardous materials endorsements. He has 20 years' experience driving tractor-trailer combinations and straight trucks. His official State driving record contains no traffic violations and no accidents in any vehicle in the past 3 years. Mr. Trumpeter has driven intrastate for United Motor Freight since 1992. The company's president says he has ''performed all assigned tasks with the utmost safety'' and ''never had an accident or damaged any expensive machinery.''

29. Steven M. Veloz

Mr. Veloz, 43, has amblyopia in his left eye. A 1999 medical examination indicates he has 20/20 vision in his right eye. In the optometrist's opinion, Mr. Veloz has sufficient vision to operate a CMV.

Steve Veloz holds a California CDL with a tank vehicle endorsement. He has driven tractor-trailer combinations more than 1.4 million miles since 1981, and his official driving record for the past 3 years contains no accidents and one conviction for violating weight limits for a commercial vehicle.

30. Thomas E. Walsh

Mr. Walsh is a 43 year old individual who has operated CMVs for 18 years. He has amblyopia in his right eye and is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination by the optometrist reveals Mr. Walsh has 20/20 vision in his left eye with correction. In

the optometrist's opinion, Mr. Walsh has sufficient vision to perform the tasks necessary to operate a CMV.

Thomas Walsh holds a California CDL. He has driven straight trucks and tractor-trailer combinations for a total of 900,000 miles and his official driving record for the past 3 years reveals one accident and no traffic violations in a CMV. The driver of the other vehicle involved in the accident failed to yield to oncoming traffic when pulling onto the roadway from private property. Mr. Walsh was not issued a citation for the accident.

31. James T. White

Mr. White, 58, has been driving a tractor-trailer combination approximately 55,000 miles per year for the past 25 years. Mr. White holds a Georgia CDL. Blind since birth in the left eye, Mr. White has vision correctable to 20/15 in the right eye. According to his optometrist, Mr. White has sufficient vision to be a safe commercial driver. ''His vision is good and his driving record is clean due to the fact that he has learned to live with his lack of vision in the left eye over the years.'' His official driving record contains no traffic violations and no accidents in the past 3 years.

32. Harry Ray Littlejohn

Mr. Littlejohn, 50, has amblyopia in his right eye. The vision in his left eye is 20/20 with correction according to a 1998 examination. His ophthalmologist says he has sufficient vision to operate a commercial vehicle.

Harry Littlejohn holds a Louisana CDL. He is self-employed and has driven tractor-trailer combinations over 1.3 million miles. His official driving record contains no traffic violations and no accidents in a CMV in the past 3 years.

33. Mark K. Cheely

Mr. Cheely, 35, has mild corneal dystrophy and amblyopia in his left eye. A 1999 medical report indicates he has 20/20 vision in his right eye without correction. In his optometrist's opinion, Mr. Cheely's condition is stable and he is capable of operating a CMV.

Mark Cheely has 9 years' experience operating tractor-trailer combinations and 2 years' experience operating straight trucks, accumulating almost 400,000 miles. His employer since 1991, Pecht Distributors, Inc., says Mr. Cheely ''maintains an excellent safety record'' and is a ''superior performer.'' He has a Virginia CDL and his official driving record reveals no traffic citations in any vehicle in the past 3 years. In 1997, his CMV was involved in an accident. There was property damage but no injuries, and he did not receive a citation.

Basis for Preliminary Determination to Grant Exemptions

Independent studies support the principle that past driving performance is a reliable indicator of an individual's future safety record. The studies are filed in FHWA Docket No. FHWA–97–2625 and discussed at 63 FR 1524, 1525 (January 9, 1998). We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The 33 applicants represented here have qualifications similar to those possessed by drivers in the waiver program. Their experience and safe driving record operating CMVs demonstrate that they have adapted their driving skills to accommodate their vision deficiency. Since past driving records are reliable precursors of the future, there is no reason to expect these individuals to drive less safely after receiving their exemptions. Indeed, there is every reason to expect at least the same level of safety, if not a greater level, because the applicants can have their exemptions revoked if they compile an unsafe driving record.

For these reasons, the FHWA believes exempting the individuals from 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as vision in their better eye continues to meet the standard specified in § 391.41(b)(10). As a condition of the exemption, therefore, the FHWA proposes to impose requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to his or her employer for retention in its driver qualification file or keep a copy in his or her driver qualification file if he or she becomes self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), the proposed exemption for each person will be valid for 2 years unless revoked earlier by the FHWA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is effective at the end of the 2-year period, the person may apply to the FHWA for a renewal under procedures in effect at that time.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FHWA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue exemptions from the vision requirement to the 33 applicants and publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information which becomes available after the closing date. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 31136 and 31315; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: July 16, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–18991 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–1999–5102]

Notice of Public Hearing; The Southeastern Pennsylvania Transportation Authority

The Southeastern Pennsylvania Transportation Authority (SEPTA) has petitioned the Federal Railroad Administration (FRA) seeking a waiver of compliance with the requirements of Title 49 CFR 213.233(c). SEPTA proposes to substitute the operation of a track geometry measuring car over main track and sidings constructed with continuously welded rail in place of one of the currently required twice weekly visual inspections.

The FRA issued a public notice seeking comments of interested parties. After examining the railroad's proposal and the available facts, FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 9:00 a.m. EDT, on Wednesday, August 25, 1999 in the Wanamaker Building, 100 Penn Square East, Tenth Floor Training Center, in Philadelphia, Pennsylvania. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (Title 49 CFR Part 211.25), by a representative designated by the FRA.

Issued in Washington, DC on July 16, 1999.

Edwards R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 99–19032 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5628.

Applicant: Burlington Northern and Santa Fe Railway, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

Burlington Northern and Santa Fe Railway seeks approval of the proposed modification of the signal systems, on the single main track and sidings, between milepost 636.5, South Denison, Texas and milepost 650.9, near South Sherman Junction, Texas, on the Texas Division, Madill Subdivision, associated with the removal of the crossing diamond and Tower 16 Interlocking at Sherman, Texas. The proposed changes consist of the following:

1. Conversion of the power-operated switches at South Sherman Junction, Hank, Old Frisco Main, and TNER to hand operation, including removal of all associated signals;

2. Discontinuance and removal of the derails at existing TNER and South Sherman siding;

3. Conversion of the power-operated switches at North Sherman and South Sherman to spring switches;

4. Removal of the ''Restricted Limits'' between mileposts 650.9 and 649.9, the traffic control system between mileposts 649.9 and 647.7, the ''Restricted Limits'' between mileposts 647.7 and 645.6, and the traffic control system between mileposts 645.6 and 644.2, associated with the conversion to a track warrant control method of operation; and

5. Removal of the traffic control system between mileposts 644.2 9 and 637.1, and the ''Restricted Limits'' between mileposts 637.1 and 636.5, associated with the conversion to a track warrant control, supplemented by an automatic block signal system, method of operation.

The reason given for the proposed changes is that the switches involved in the application are now controlled by the interlocking operator at Tower 16, which will be retired with the removal of the crossing diamond.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19031 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1999–5623.

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 4901 Belfort Road, Suite 130 (S/C J–350), Jacksonville, Florida 32256.

CSX Transportation Incorporated seeks approval of the proposed modification of the traffic control system, on the two main tracks, at E.E. Hurricane, West Virginia, milepost CA–477.9, on the Kanawha Subdivision, C&O Business Unit, consisting of the following:

1. Conversion of the power-operated switch to hand operation;

2. Discontinuance and removal of absolute controlled signals 40RA, 40RC, and 40L; and

3. Installation of new double track, back to back, automatic signals at milepost CA–477.9.

The reasons given for the proposed changes is to increase operating efficiency.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19026 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5627.

Applicant: CSX Transportation, Incorporated, Mr. E. G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256.

CSX Transportation Incorporated seeks approval of the proposed modification of the traffic control system, on the two main tracks, between milepost A487.7 and milepost A489.3, on the Charleston Subdivision, Florence Service Lane, near Savannah, Georgia, consisting of the following:

1. Discontinuance and removal of absolute controlled signals 46R, 46L, 44R, and 44L at Galatia, near milepost A487.75;

2. Discontinuance and removal of intermediate signal 489–5, at milepost A489.44; and

3. Installation of double track, back to back, intermediate signals, at milepost A487.71.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19027 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5624.

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 4901 Belfort Road, Suite 130 (S/C J–350), Jacksonville, Florida 32256.

CSX Transportation Incorporated seeks approval of the proposed modification of the traffic control system, on the side tracks, at KV Cabin, West Virginia, milepost CA–511.80, on the Kanawha Subdivision, C&O Business Unit, consisting of the conversion of the No. 13 power-operated crossover switches to hand operation.

The reason given for the proposed changes is the elimination of facilities no longer needed for present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after

that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19028 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5625.

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 4901 Belfort Road, Suite 130 (S/C J–350), Jacksonville, Florida 32256.

CSX Transportation Incorporated seeks approval of the proposed modification of the traffic control system, on the single main track, between North Earlington, milepost H–272.4 and South Earlington, milepost H–270.7, near Earlington, Kentucky, on the Henderson Subdivision, Chicago Service Lane, consisting of the following:

1. Conversion of the power-operated switch at North Earlington to hand operation, equipped with an electric lock;

2. Discontinuance and removal of absolute controlled signals 99RA, 99RB, 99L, 97L, and 97R; and

3. Installation of back to back intermediate signals 2721 and 2722 at milepost H–272.4.

The reason given for the proposed changes is to increase operating efficiency.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19029 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5626.

Applicant: CSX Transportation, Incorporated, Mr. E. G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256.

CSX Transportation Incorporated seeks approval of the proposed modification of the signal system, on the single main track, at Beach Island, South Carolina, milepost AK–455.4, on the Augusta Subdivision, Florence Service Lane, consisting of the discontinuance and removal of absolute controlled signals 2R, 2LA, and 2LC, and conversion of the power-operated switch to hand operation.

The reason given for the proposed changes is to improve operations and increase efficiency.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19030 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5629.

Applicant: Norfolk Southern Corporation, Mr. W.C. Johnson, Chief Engineer-S&E Engineering, 99 Spring Street, SW, Atlanta, Georgia 30303.

Norfolk Southern Corporation seeks approval of the proposed modification of the traffic control system, on the Addison Siding, between CP Jack, milepost N88.2 and CP Addison, milepost N86.9, near Petersburg, Virginia, on the Virginia Division, Norfolk District, consisting of the discontinuance and removal of the switch point protection, on the hand-operated switches, associated with aspect modifications.

The reason given for the proposed changes is that the modification of the signal aspects to provided restricting indications for train movements, through the OS's at each end of the siding, does not require switch point protection and will reduce maintenance costs.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401(Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19024 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No.: FRA–1999–5621

Applicant: Red River Valley and Western Railroad Company, Mr. Dennis W. McLeod, President, 501 Minnesota Avenue, Breckenridge, Minnesota 56520.

The Red River Valley and Western Railroad Company (RRVW) seeks approval of the proposed discontinuance and removal of the automatic interlocking plant, near Davenport, North Dakota, where a single main track of the RRVW Second Subdivision, milepost 39.6, crosses at grade, a single main track of the RRVW Fourth Subdivision, milepost 18.2.

The reason given for the proposed changes is the high cost of rehabilitation of the interlocking; the original signal system was installed in 1906, and the pole line is old, worn, and in need of major repair.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at http://dms.dot.gov.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 19, 1999.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–19025 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 383X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Washington County, OR

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.38-mile line of its railroad between milepost 27.84 and milepost 28.22 near Banks, in Washington

County, OR. The line traverses United States Postal Service Zip Code 97106.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 25, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 5, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 16, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Sarah Whitley Bailiff, Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, 3107 Lou Menk Drive, Fort Worth, TX 76131–2830.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 30, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by July 26, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 19, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–18875 Filed 7–23–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

federal register

Monday
July 26, 1999

Part II

Department of Commerce

International Trade Administration

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Italy, France, India, Republic of Korea, and Indonesia; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–827]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Michael Grossman, Office of CVD/AD Enforcement II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from Italy. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a Unit of USX Corporation, Gulf States, Inc., IPSCO Steel Inc., and the United Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea, 64 FR 12996 (March 16, 1999) (Initiation Notice)), the following events have occurred: On March 19, 1999, we issued countervailing duty questionnaires to the Government of Italy (GOI), the European Commission (EC), and the producers/exporters of the subject merchandise (CTL plate). On April 21, 1999, we postponed the preliminary determination of this investigation until no later than July 16, 1999. *See Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigations,* 64 FR 23057 (April 29, 1999).

We received responses to our initial questionnaires from the EC on May 6, 1999, and the GOI on May 10 and 28, 1999. Palini & Bertoli S.p.A. (Palini & Bertoli), a producer of the subject merchandise which had exports to the United States in 1998, submitted its questionnaire response on May 11, 1999. ILVA Lamiere e Tubi S.p.A. and ILVA S.p.A. (collectively referred to as ILVA/ILT) submitted their joint questionnaire response on May 13, 1999. (ILT produced the subject merchandise which was exported to the United States by ILVA in 1998.) On May 25, 1999, we issued a supplemental questionnaire to Palini & Bertoli, and received the company's response on June 14, 1999. On June 1, 1999, we issued supplemental questionnaires to the EC, GOI, and ILVA/ILT. The supplemental questionnaire responses were submitted by the EC on June 15, 1999, by ILVA/ILT on June 21, 1999, and by the GOI on June 22, 1999. We also issued supplemental questionnaires on June 22, 1999, to Palini & Bertoli, and June 29, 1999, to the EC, GOI, and ILVA/ILT. The responses were submitted on July 6, 1999, by Palini & Bertoli and the EC, on July 8 and 9, 1999, by the GOI, and July 9, 1999, by ILVA/ILT. On July 13 and 14, 1999, ILVA/ILT submitted additional information on the record.

In its supplemental response, Palini & Bertoli indicated that the company received benefits under two regional government laws during the POI, *i.e.*, Law 25/65 and Law 30/84. The Department did not receive a request by petitioners to examine these potential benefits, hence we did not initiate on these laws in the *Initiation Notice*. Law 25/65, adopted by the Regional Government of Friuli-Venezia Giulia, provides interest contributions on loans taken by small- and medium-sized enterprises for the construction, enlargement, or technical renovation of industrial plants throughout the region. Palini & Bertoli received interest contributions during the POI on one loan contracted in 1990. Palini & Bertoli also received a capital grant under Law 30/84 of the Regional Government of Friuli-Venezia Giulia. Regional Law 30/84 provides capital grants to industrial and handicraft enterprises intending to open new productive sites or to restructure existing plants within certain mountainous areas of the region. Due to the fact that this information was brought to the Department's attention just prior to the preliminary determination, the Department is unable to make a determination on the countervailability of these programs at this time. More specifically, the Department does not have sufficient information to perform an appropriate specificity analysis of the above mentioned programs. We will request additional and clarifying information with regard to these programs from Palini & Bertoli and the Regional Government of Friuli-Venezia Giulia, and will present our findings in the Final Determination of this investigation.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or

0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA/ILT, a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4″ or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope should be timely raised with Department officials.

ILVA/ILT requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA/ILT, the billets are converted into wide flats and bar products (a type of long product). ILVA/ILT notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA/ILT, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA/ILT states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA/ILT itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because Italy is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Italy of the subject merchandise (*see Certain Cut-to-Length Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia; Determinations*, 64 FR 17198 (April 8, 1999)).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion

antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Republic of Korea, and the Former Yugoslav Republic of Macedonia,* 64 FR 12959 (March 16, 1999). In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of certain cut-to-length carbon-quality steel plate.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Corporate History of ILVA/ ILT [1]

Prior to 1981, the Italian government holding company Istituto per la Ricostruzione Industriale (IRI), controlled Italy's nationalized steel industry through its wholly-owned subsidiary, Finsider S.p.A (Finsider). The steel operations of Finsider were subdivided into three main companies: Italsider (carbon steel); Terni (stainless and special steel); and Dalmine (pipe and tube). Italsider was the sector leader and the primary producer of the subject merchandise. In 1981, the GOI implemented a restructuring plan, and Finsider was restructured into several operating companies including Nuova Italsider (carbon steel flat products); Terni (speciality flat steels); Nuova Sias (special long products); and other steel product divisions. In the course of the 1981 Restructuring Plan, Italsider transferred all of its assets, with the exception of certain plants, to Nuova Italsider. Italsider became a one-company holding company with Nuova Italsider's stock as its primary asset.

During 1987, Finsider restructured three of its main operating companies: Nuova Italsider, Deltasider, and Terni. Nuova Italsider spun-off its assets to Italsider and transferred its shares in Italsider to Finsider. Nuova Italsider ceased operations after this divestment and Finsider had direct ownership of Italsider. Upon completion of the 1987 restructuring, Italsider re-emerged as the steel sector's carbon steel products producer.

Later in 1987, Finsider and its main operating companies (Italsider, TAS, and Nuova Deltasider) were placed in liquidation and the GOI subsequently implemented the 1988 Restructuring Plan. The goal of the 1988 Restructuring Plan was to restructure Finsider and its operating companies, assembling the group's most productive assets into a new operating company, ILVA S.p.A. (ILVA S.p.A. or (old) ILVA), which began operations on January 1, 1989. The 1988 Restructuring Plan, like the 1981 plan, was submitted and approved by the EC. In accordance with the plan, ILVA S.p.A. took over some of the assets and liabilities of the liquidating companies, and Finsider closed certain facilities to comply with the EC's requirements. With respect to Italsider, part of the company's liabilities and the majority of its viable assets, including all the assets associated with the production of carbon steel flat-rolled products, were transferred to ILVA S.p.A. on January 1, 1989. Non-productive assets and a substantial amount of liabilities were left behind with Finsider and the liquidating operating companies.

The facilities retained by ILVA S.p.A were organized into four primary operating groups: Carbon steel flat products, stainless steel flat products, stainless steel long products, and seamless pipe and tube. In 1992, ILVA Lamiere e Tubi (ILT), a carbon steel flat products operation, was created as a wholly-owned subsidiary of ILVA S.p.A. ILVA S.p.A. was also the majority owner of a large number of separately incorporated subsidiaries. Some of these subsidiaries produced various types of steel products. Others constituted service centers, trading companies, and an electric power company, among others. ILVA S.p.A., together with its subsidiaries, constituted the ILVA Group. The ILVA Group was wholly-owned by IRI.

Although, ILVA S.p.A. was profitable in 1989 and 1990, the company encountered financial difficulties in 1991, and became insolvent by 1993. In October 1993, ILVA S.p.A. entered into liquidation and became known as ILVA Residua (a.k.a., ILVA in Liquidation). In December 1993, IRI initiated the splitting of ILVA S.p.A.'s main productive assets into two new companies: ILVA Laminati Piani (carbon steel flat products) (ILP) and Acciai Speciali Terni (AST) (speciality and stainless steel flat products). On December 31, 1993, ILP and AST became separately incorporated firms in advance of privatization. ILT, the carbon flat steel products operation, was transferred to ILP as its wholly-owned subsidiary. The remainder of ILVA S.p.A.'s productive assets and existing liabilities, along with much of the redundant workforce, was placed in ILVA Residua.

On January 1, 1994, ILP was formally established as a separate corporation. In 1995, 100 percent of ILP was sold through a competitive public tender managed by IRI with the assistance of Istituto Mobiliare Italiano (IMI). The sale of ILP was executed through a share purchase agreement between IRI and a consortium of investors led by Riva Acciaio S.p.A. (RIVA) and investment companies. The contract of sale was signed on March 16, 1995, and all shares of ILP were transferred to the consortium on April 28, 1995. As of that date, the GOI no longer maintained any ownership interest in ILP or had any ownership interest in any of ILP's new owners.

On January 1, 1997, RIVA changed the name of ILP to ILVA S.p.A (creating the ''new'' ILVA, referred to hereafter as ILVA or (new) ILVA). ILVA continues to wholly-own ILT. Within RIVA's corporate structure, ILT, at its Taranto Works facility, produces the subject merchandise, which is exported to the United States. ILVA, with the assistance of ILVA Commerciale S.p.A. (ICO), a sales company wholly-owned by ILVA, is responsible for selling and exporting the subject merchandise to the United States and other markets.

As of 1998, RIVA owns and/or controls 82.0 percent of ILVA and two foreign-incorporated investment companies own the remaining 18.0 percent of ILVA.

According to ILVA/ILT, Sidercomit Taranto C.S. Lamiere S.r.l. (Sidercomit) was created in 1992, as an indirect subsidiary of (old) ILVA. Sidercomit became an operating unit within (new) ILVA in 1997, and currently operates service centers for the distribution of merchandise, including the subject merchandise for ILVA/ILT. Any benefits to Sidercomit under programs that have preliminarily been found countervailable have been mentioned separately within those program sections below.

Corporate History of Palini & Bertoli

Palini & Bertoli, a 100 percent privately-owned corporation, was incorporated in December 1963. Palini & Bertoli has never been part of the Italian state-owned steel industry.

Change in Ownership

In the General Issues Appendix (GIA), appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37217, 37226 (July 9, 1993) (*Certain Steel from Austria*), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of a government-owned

[1] As discussed in this section, ILVA/ILT's carbon steel predecessor companies are: Nuova Italsider (1981–1987), Italsider (1987–1988), ILVA S.p.A. (1989–1993), and ILP (1994–1996).

company to a private entity (*i.e.*, privatization), or the spinning-off (*i.e.*, sale) of a productive unit from a government-owned company to a private entity.

Under this methodology, we estimate the portion of the purchase price attributable to prior subsidies. We do this by first dividing the sold company's subsidies by the company's net worth for each year during the period beginning with the earliest point at which non-recurring subsidies would be attributable to the POI and ending one year prior to the sale of the company. We then take the simple average of these ratios. This averaged ratio serves as a reasonable estimate of the percent that subsidies constitute of the overall value of the company. Next, we multiply this ratio by the purchase price to derive the portion of the purchase price attributable to the payment of prior subsidies. Finally, we reduce the benefit streams of the prior subsidies by the ratio of the repayment amount to the net present value of all remaining benefits at the time the company is sold.

With respect to the spin-off of a productive unit, consistent with the Department's methodology set out above, we analyze the sale of a productive unit to determine what portion of the sales price of the productive unit can be attributable to the repayment of prior subsidies. To perform this calculation, we first determine the amount of the seller's subsidies that the spun-off productive unit could potentially take with it. To calculate this amount, we divide the value of the assets of the spun-off unit by the value of the assets of the company selling the unit. We then apply this ratio to the net present value of the seller's remaining subsidies. The result of this calculation yields the amount of remaining subsidies attributable to the spun off productive unit. We next estimate the portion of the purchase price going towards repayment of prior subsidies in accordance with the methodology set out above, and deduct it from the maximum amount of subsidies that could be attributable to the spun-off productive unit.

Use of Facts Available

Both the GOI and ILVA/ILT failed to fully respond to the Department's questionnaires concerning the program ''Debt Forgiveness: 1981 Restructuring Plan.'' Section 776(a)(2) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. In such cases, the Department must use the facts otherwise available in reaching the applicable determination. Because the GOI and ILVA/ILT failed to submit the information that was specifically requested by the Department, we have based our preliminary determination for this program on the facts available. In addition, the Department finds that by not providing the requested information, respondents have failed to cooperate to the best of their abilities.

In accordance with section 776(b) of the Act, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available when the party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See* 19 CFR 351.308(c). In the absence of information from the GOI and ILVA/ILT, we consider the petition, as well as our findings from the final determination of Certain Steel from Italy to be appropriate bases for a facts available countervailing duty rate calculation.

The Statement of Administrative Action accompanying the URAA clarifies that information from the petition and prior segments of the proceeding is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103–316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value. However, where corroboration is not practicable, the Department may use uncorroborated information. With respect to the program for which we did not receive complete information from the respondents, the secondary information was corroborated through exhibits (*i.e.*, financial statements) attached to the petition. The financial transactions discussed within Finsider's 1984 and 1985 financial statements confirm that the GOI engaged in transactions which are tantamount to the assumption of debt and debt forgiveness. Based on such review of the transactions discussed in the financial statements, we find that the secondary information (*i.e.*, the petition and *Certain Steel from Italy*) has probative value and, therefore, the information regarding the debt forgiveness provided under the 1981 Restructuring Plan has been corroborated.

Claims for ''Green Light'' Subsidy Treatment

Section 771(5B) of the Act describes subsidies that are non-countervailable, the so-called ''green light'' subsidies. Among these are subsidies to disadvantaged regions. The GOI has requested that certain of their regional subsidies be considered non-countervailable under the green light provisions of section 771(5B).

The GOI has maintained a system of ''extraordinary intervention'' in southern Italy since the 1950's, authorizing aid to the disadvantaged region. Over time, various laws were passed, including Decree 218/78, relating to the extraordinary intervention in the South. In 1986, Law 64/86 was passed in order to consolidate all laws relating to the extraordinary intervention in the south into one development policy. Tax exemptions under Decree 218/78, for which the GOI has requested green light treatment, is considered part of Law 64/86 for this reason.

In determining whether a specific subsidy should be accorded green light status, section 771(5B)(C) of the Act establishes the threshold that the subsidy be provided pursuant to a general framework of regional development, *i.e.*, must be part of an internally consistent and generally applicable regional development policy. The region must be considered disadvantaged on the basis of neutral and objective criteria which do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within this framework. In *Certain Pasta from Italy*, 61 FR at 30307, the Department determined that the GOI did not perform a systematic analysis, using neutral and objective criteria, in order to identify the regions which would receive regional development assistance under Law 64/86. There is no evidence on the record of this investigation that the GOI performed this necessary analysis. While detailed analysis may have been done by the EC with respect to its own regional development policy

concerning Italy, there is no indication that the GOI undertook the same or similar efforts on a national level.

In addition, the Act outlines that a subsidy program cannot provide more aid than is appropriate for reduction of regional disparities and must include ceilings on the amount of assistance for each project. There is no evidence on the record that the GOI has given any consideration to a limit on the amount of assistance that could be awarded with regard to the program in question. Furthermore, there is no evidence that the GOI may have been concerned about awarding potentially disproportionate amounts to particular enterprises or industries.

Based on this analysis, we preliminarily determine that subsidies received under this program do not meet the standard for green light treatment. Our treatment of the benefits provided under this program is discussed below in the ''Programs Determined To Be Countervailable'' section of our notice.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

On June 21, 1999, ILVA/ILT submitted to the Department four tables illustrating its company-specific AUL calculations for (old) ILVA, ILP, ILT, and (new) ILVA, both separately and in combination. Based upon our analysis of the data submitted by ILVA/ILT regarding the AUL of its assets, we preliminarily determine that the calculation which takes into consideration all producers of the subject merchandise over the past 10 years is the most appropriate AUL calculation. However, because this calculation does not yield a company-specific AUL which is significantly different from the AUL listed in the IRS tables, we are using the 15 year AUL as reported in the IRS tables to allocate non-recurring subsidies under investigation for ILVA/ILT in the preliminary calculations.

Equityworthiness

In measuring the benefit from a government equity infusion, in accordance with § 351.507 (a)(2) of the Department's CVD Regulations, the Department compares the price paid by the government for the equity to actual private investor prices, if such prices exist. According to § 351.507(a)(3) of the Department's CVD Regulations, where actual private investor prices are unavailable, the Department will determine whether the firm was unequityworthy at the time of the equity infusion. In this case, private investor prices were unavailable. Therefore, our review of the record has not led us to change our finding from prior investigations, in which we found ILVA/ILT's predecessor companies, Nuova Italsider and (old) ILVA, unequityworthy from 1984 through 1988, and from 1991 through 1992. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy,* 58 FR 37327, 37328 (July 9, 1993) (*Certain Steel from Italy*); *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy,* 63 FR 40,474, 40,477 (July 29, 1998) (*Wire Rod from Italy*); and *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy,* 64 FR 30624, 30627 (June 8, 1999) (*Sheet and Strip from Italy*).

Section 351.507(a)(3) of the Department's CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with usual investment practices of private investors. The Department will then apply the methodology described in § 351.507(a)(6) of the regulations, and treat the equity infusion as a grant. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France,* 58 FR 37304 (July 9, 1993), and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela,* 62 FR 55014 (October 21, 1997). The Department will consider a firm to be uncreditworthy if it is determined that, based on information available at the time of the government-provided loan, the firm could not have obtained a long-term loan from conventional sources. *See* § 351.505(a)(4)(i) of the CVD Regulations.

Italsider, Nuova Italsider, and (old) ILVA were found to be uncreditworthy from 1977 through 1993. *See Certain Steel from Italy,* 58 FR at 37328–29, *Wire Rod from Italy,* 63 FR at 40477, and *Sheet and Strip from Italy,* 64 FR at 30627. No new information has been presented in this investigation that would lead us to reconsider these findings. Therefore, consistent with our past practice, we continue to find Italsider, Nuova Italsider, and (old) ILVA uncreditworthy from 1977 through 1993. We did not analyze ILP's, (new) ILVA's, or ILT's creditworthiness in the years 1994 through 1998, because the companies did not negotiate new loans with the GOI or EC during these years.

Benchmarks for Long-Term Loans and Discount Rates

Consistent with the Department's finding in *Wire Rod from Italy,* 63 FR at 40477 and *Sheet and Strip from Italy,* 64 FR at 30626–30627, we have based our discount rates on the Italian Bankers' Association (ABI) rates. The ABI rate represents a long-term interest rate provided to a bank's most preferred customers with established low-risk credit histories. In calculating the interest rate applicable to a borrower, commercial banks typically add a spread ranging from 0.55 percent to 4.0 percent onto the ABI rate, which is determined by the company's financial health.

Additionally, information on the record indicates that the published ABI rates do not include amounts for fees, commissions, and other borrowing expenses. While we do not have information on the expenses that would be applied to long-term commercial loans, the GOI supplied information on the borrowing expenses on overdraft loans for 1997, as an approximation of expenses on long-term commercial loans. This information shows that expenses on overdraft loans range from 6.0 to 11.0 percent of interest charged. Such expenses, along with the applied spread, raise the effective interest rate

that a company would pay. Because it is the Department's practice to use effective interest rates, where possible, we are including an amount for these expenses in the calculation of our effective benchmark rates. *See* § 351.505(a)(1) of the CVD Regulations. Therefore, we have added the average of the spread (*i.e.,* 2.28 percent) and borrowing expenses (*i.e.,* 8.5 percent of the interest charged) to the yearly ABI rates to calculate the effective discount rates.

For the years in which ILVA/ILT or their predecessor companies were uncreditworthy (see Creditworthiness section above), we calculated the discount rates in accordance with the formula for constructing a long-term interest rate benchmark for uncreditworthy companies as stated in section 351.505(a)(3)(iii) of the CVD Regulations. This formula requires values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we relied on the average cumulative default rates reported for the Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998). For the probability of default by a creditworthy company, we used the average cumulative default rates reported for the Aaa to Baa-rated categories of companies as reported in this study.[2] For non-recurring subsidies, the average cumulative default rates for both uncreditworthy and creditworthy companies were based on a 15 year term, since all of ILVA/ILT's allocable subsidies were based on this allocation period.

In addition, ILVA/ILT had two long-term, fixed-rate loans under ECSC Article 54 outstanding during the POI, each denominated in U.S. dollars. Therefore, we have selected a U.S. dollar-based interest rate as our benchmark. *See § 351.505(a)(2)(i) of the CVD Regulations. Consistent with Wire Rod from Italy,* 63 FR at 40486, we have used as our benchmark the average yield to maturity on selected long-term corporate bonds as reported by the U.S. Federal Reserve, since both of these loans were denominated in U.S. dollars. We used these rates since we were unable to find a long-term borrowing rate for loans denominated in U.S. dollars in Italy. Because ILVA was uncreditworthy in the year these loans were contracted, we calculated the uncreditworthy benchmark rates as per § 351.505(a)(3)(iii) of the CVD Regulations.

I. Programs Determined To Be Countervailable

Government of Italy Programs

A. Equity Infusions to Nuova Italsider and (old) ILVA [3]

The GOI, through IRI, provided new equity capital to Nuova Italsider or (old) ILVA in every year from 1984 through 1992, except in 1987, 1989, and 1990. We preliminarily determine that these equity infusions constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. These equity infusions constitute financial contributions, as described in section 771(5)(D)(i) of the Act. Because they were not consistent with the usual investment practices of private investors (*see* Equityworthiness section above), the equity infusions confer a benefit within the meaning of section 771(5)(E)(i) of the Act. Because these equity infusions were limited to Finsider and its operating companies, Nuova Italsider and (old) ILVA, we preliminarily determine that they are specific within the meaning of section 771(5A)(D)(iii) of the Act.

We have treated these equity infusions as non-recurring subsidies given in the year the infusion was received because each required a separate authorization. We allocated the equity infusions over a 15 year AUL. Because Nuova Italsider and (old) ILVA were uncreditworthy in the years the equity infusions were received, we constructed uncreditworthy discount rates to allocate the benefits over time. *See* ''Subsidies Valuation Information'' section, above.

For equity infusions originally provided to Nuova Italsider, a predecessor company that produced carbon steel plate, we examined these equity infusions as though they had flowed directly through (old) ILVA to ILP when ILP took the carbon steel flat product assets out of (old) ILVA. Accordingly, we did not apportion to the other operations of (old) ILVA any part of the equity infusions originally provided directly to Nuova Italsider. While we acknowledge that it would be our preference to look at equity infusions into (old) ILVA as a whole and then apportion an amount to ILP when it was spun-off from (old) ILVA, we find our approach in this case to be the most feasible since information on equity infusions provided to the non-carbon steel operations of (old) ILVA is not available. For the equity infusions to (old) ILVA, however, we did apportion these by asset value to all (old) ILVA operations in determining the amount applicable to ILP.

We applied the repayment portion of our change in ownership methodology to all of the equity infusions described above to determine the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 2.76 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any equity infusions from the GOI.

B. Debt Forgiveness: 1981 Restructuring Plan

The GOI reported that the objective of the 1981 Restructuring Plan was to redress the economic and financial difficulties the iron and steel industry was realizing in the early 1980's. The GOI stated that this plan, which extended to 1985, due to the prolonged crisis within the sector, envisaged financial interventions to aid in the recovery of the Finsider group. As discussed above in the ''Use of Facts Available'' section, the GOI and ILVA/ILT failed to submit complete information in regard to the assistance provided under the 1981 Restructuring Plan. Therefore, based on the facts available, we preliminarily determine that certain financial transactions conducted in association with the 1981 Restructuring Plan are countervailable subsidies.

Following Italsider's transfer of all its company facilities to Nuova Italsider in September 1981, Italsider held 99.99 percent of Nuova Italsider's shares. In 1983, Italsider was placed in liquidation. While in liquidation, Italsider sold its shares of Nuova Italsider to Finsider in December 1994. The sales price was 714.6 billion lire. As part of this payment, Finsider assumed Italsider's debts owed to IRI of 696.4 billion lire. The difference between the 714.6 billion lire and 696.4 billion lire was paid directly by Finsider to Italsider.

On December 31, 1984, Finsider also granted to Italsider a non-interest bearing loan of 563.5 billion lire to cover losses realized from the liquidation. A matching provision was also made to Finsider's ''Reserve for

[2] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (at Exhibit 28).

[3] In the *Initiation Notice*, these equity infusions were separately listed as ''Equity Infusions into Italsider/Nuova Italsider'' and ''Equity Infusions into ILVA.''

Losses on Investments and Securities,'' to cover the losses of the liquidation of Italsider. Following a shareholders' meeting of Finsider on December 30, 1985, the amount of 563.5 billion lire was disbursed to cover the losses of Italsider and Italsider's state of liquidation was revoked.

In *Certain Steel from Italy,* the Department determined that the 1981 Restructuring Plan merely shifted assets and debts within a family of companies, all of which were owned by Finsider, and ultimately, by the GOI. Therefore, we determined that both the 696.4 billion lire assumption of debt and the 563.5 billion lire debt forgiveness were specifically limited to the steel companies and constitute countervailable subsidies. *See Certain Steel from Italy,* 58 FR at 37330. No new factual information or evidence of changed circumstances has been provided to the Department in this instant investigation to warrant a reconsideration of the earlier determination that the debt assumption and debt forgiveness are countervailable subsidies. Therefore, consistent with our treatment of these transactions in *Certain Steel from Italy,* we preliminarily determine that the 1984 assumption of debt and 1985 debt forgiveness constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. In accordance with *Certain Steel from Italy,* debt assumption and debt forgiveness are treated as grants which constitute financial contributions under section 771(5)(D)(i) of the Act. The transactions also confer benefits to the recipient within the meaning of section 771(5)(E)(i) of the Act, in the amount of the debt coverage. Because the debt assumption and debt forgiveness were limited to Italsider, ILVA/ILT's predecessor, we preliminarily determine that these transactions are specific within the meaning of section 771(5A)(D)(iii) of the Act.

To calculate the benefit, we have treated the assumption of debt and debt forgiveness to Italsider as non-recurring subsidies because each transaction was a one-time, extraordinary event. We allocated the 1984 debt assumption and 1985 debt forgiveness over a 15 year AUL. *See* the ''Allocation Period'' section, above. In our grant formula, we used constructed uncreditworthy discount rates based on our determination that Italsider was uncreditworthy in 1984 and 1985. *See* ''Benchmark for Long-Term Loans and Discount Rates'' and ''Creditworthiness'' sections, above. As with the equity infusions made into Nuova Italsider and (old) ILVA, we have treated the assumption of debt and debt forgiveness as though the transactions had flowed directly through (old) ILVA to ILP. To determine the amount appropriately allocated to ILP after its privatization, we followed the methodology described in the ''Change in Ownership'' section above. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 1.10 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefit under this program.

C. Debt Forgiveness: 1988 Restructuring Plan

As discussed above in the ''Corporate History of ILVA/ILT'' section of this notice, the GOI liquidated Finsider and its main operating companies in 1988, and assembled the group's most productive assets into a new operating company, ILVA S.p.A. (*i.e.,* (old) ILVA). The Finsider restructuring plan was developed at the end of 1987, and was approved by the GOI on June 14, 1988, and by the EC on December 23, 1988. The objective of the plan was to restore the industrial, financial, and economic balance to the public iron and steel-making sector in Italy. The restructuring plan included the voluntary liquidation by IRI of Finsider, and IRI's assumption of the debts not covered by the sale of assets of the companies being liquidated. IRI was the sole owner of Finsider, and therefore, the party responsible for payment of the debts of Finsider's liquidation.

A transfer of assets and liabilities from Finsider to (old) ILVA was to be accomplished at the latest by March 31, 1989. Upon completion of the 1988 Restructuring Plan, (old) ILVA owned Finsider's productive assets and a small portion of the group's liabilities. Included in the transfer were the productive portions of the flat-rolled facilities located at Taranto, Genoa, and Novi Ligure.[4] The liquidating companies retained the non-productive assets and the vast majority of the liabilities, which had to be repaid, assumed, or forgiven. Thus, while (old) ILVA emerged from the process with a positive net worth, the other companies were left with capital structures in which their liabilities greatly exceeded the liquidation value of their assets.

We preliminarily determine that certain financial transactions associated with the 1988 Restructuring Plan constituted countervailable subsidies. In 1988, IRI established a fund of 2,943 billion lire to cover losses which Finsider would realize while in liquidation. As of December 31, 1988, Finsider had accumulated losses in excess of its equity. In order to prevent Finsider from becoming insolvent during 1989, IRI utilized 1,364 billion lire of the fund to forgive debts it was owed by Finsider to cover the losses.

Later in 1990, IRI forgave debts it was owed by Finsider when it purchased (old) ILVA's stock from Finsider and Terni for 2,983 billion lire. The 2,983 billion lire was used to pay off the liquidation companies' debts which existed at the time of the sale.

In *Certain Steel from Italy,* we found IRI's purchase of ILVA's stock to be a countervailable subsidy because it effectively forgave Finsider's debts. Though ILVA/ILT, in its July 8, 1999 response, does not dispute that IRI purchased (old) ILVA's stock in 1990, the company disagrees with our earlier characterization that the share purchase was an act of debt forgiveness. We disagree with ILVA/ILT and preliminarily find that IRI's purchase of (old) ILVA's stock to be tantamount to debt forgiveness; however, we will seek further clarification of the stock purchase transaction from ILVA/ILT and the GOI.

In the February 16, 1999 petition, petitioners also alleged that IRI forgave approximately 1.9 trillion lire of Finsider's debt in 1991. They note that the Department countervailed such an amount in *Certain Steel from Italy.* In the instant investigation, both the GOI and ILVA/ILT reported that neither party has record information of such debt forgiven by IRI in 1991. We reviewed the petitioners' allegation and the documentation submitted to support their claim that IRI provided debt forgiveness of 1.9 trillion lire in 1991. In particular, we note that Finsider's 1989 Annual Report at page 12 states that: ''During the fiscal year, your company [Finsider] recorded losses totaling 1,568 billion lire; therefore, the circumstances reoccur for which the shareholder IRI later renounced its own credits necessary to cover the difference.''

Because Finsider realized a net loss of 1,568 billion lire for fiscal year 1989, in order to avoid insolvency of the company, as in 1988, IRI should have forgiven the 1,568 billion lire it was due from Finsider to cover the company's losses in excess of equity during 1990. However, according to IRI's 1990 Annual Report, IRI did not forgive the 1,568 billion lire by drawing down from the fund it established in 1988, to cover Finsider's losses while in liquidation. Since we cannot track with any degree

[4] The subject merchandise which ILT produced and (new) ILVA exported to the United States in 1998, was produced at the Taranto facilities.

of certainty what became of Finsider's indebtedness to IRI in 1990, or in subsequent fiscal years, we will gather information on what became of the 1,568 billion lire of losses in the context of seeking clarification of the assistance provided under the 1988 Restructuring Plan.

Also, in the GOI's July 8, 1999 response, the government reported that, in addition to the debt forgiveness IRI provided to Finsider in 1989, IRI disbursed 205 billion lire as authorized by the EC, to cover losses before plant closures. ILVA/ILT, however, in its July 8, 1999 response, stated that IRI provided 738 billion lire to cover losses and expenditures during the liquidation process. For purposes of this preliminary determination, we conclude, based on the information provided to the Department by ILVA/ILT, that IRI provided 738 billion lire to Finsider to cover losses in 1989. However, because the information submitted on the record with respect to the assistance IRI provided to cover losses during the liquidation process is ambiguous, we will seek further clarification of the assistance provided from the GOI and ILVA/ILT at verification.

Consistent with our determination in *Certain Steel from Italy,* we preliminarily determine that the debt forgiveness and coverage of losses, which IRI provided in 1989 and 1990, constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. In accordance with our practice, debt forgiveness and coverage of losses are treated as grants which constitutes a financial contribution under section 771(5)(D)(i) of the Act, and provides a benefit in the amount of the debt coverage. Because the debt forgiveness and coverage of losses were received by only (old) ILVA, a predecessor company of ILVA/ILT, we preliminarily determine that the debt coverage is specific under section 771(5A)(D)(iii) of the Act. *See Certain Steel from Italy,* 58 FR at 37330.

To determine the benefit from these subsidies, we have treated the amount of debt forgiveness and coverage of losses provided under the 1988 Restructuring Plan as non-recurring grants because they were one-time, extraordinary events. In its July 8, 1999 response, ILVA/ILT reported that (old) ILVA did not receive all of Finsider's assets when the company was established. ILVA/ILT provided an asset allocation table, which demonstrates that only 68.4 percent of Finsider's assets were transferred to (old) ILVA. In performing the preliminary calculations, we applied this percentage to the total amount of debt forgiveness and coverage of losses provided to Finsider in 1989 and 1990, to determine the amount of debt coverage attributable to (old) ILVA. Because (old) ILVA was uncreditworthy in 1989 and 1990, the years in which the assistance was provided, we used constructed uncreditworthy discount rates to allocate the benefits over time. We allocated the debt coverage provided in 1989 and 1990, over a 15 year AUL. *See* the ''Subsidies Valuation Information'' section, above.

We also apportioned the debt coverage by asset value to all (old) ILVA operations in determining the amount applicable to ILP. We next applied the repayment portion of our change in ownership methodology to the debt forgiveness to determine the amount of the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 3.64 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefit under this program.

D. Debt Forgiveness: 1993–1994 Restructuring Plan, ILVA-to-ILP [5]

During 1992 and 1993, (old) ILVA incurred heavy financial losses, which compelled IRI to place the company into liquidation. In December 1993, the Italian government proposed to the EC a plan to restructure and privatize (old) ILVA by the end of 1994. The reorganization provided for splitting (old) ILVA's main productive assets into two new companies, ILP and AST. ILP would consist of the carbon steel flat production of (old) ILVA, receiving the Taranto facilities. AST would consist of the speciality and stainless steel production. The rest of (old) ILVA's productive assets (*i.e.*, tubes, electricity generation, specialty steel long products, and sea transport), together with the bulk of (old) ILVA's existing debt and redundant work force were placed in a third entity known as ILVA Residua. Under the restructuring plan, ILVA Residua would sell those productive units it could and then would be liquidated, with IRI (*i.e.*, the Italian government) absorbing the debt.

As of December 31, 1993, the majority of (old) ILVA's viable manufacturing activities had been separately incorporated (or ''demerged'') into either AST or ILP; ILVA Residua was primarily a shell company with liabilities far exceeding assets, although it did contain some operating assets that were later spun-off. In contrast, AST and ILP, ready for sale, had operating assets and relatively modest debt loads. The liabilities remaining with ILVA Residua had to be repaid, assumed, or forgiven. On April 12, 1994, the EC, through the 94/259/ECSC decision, approved the GOI's restructuring and privatization plan for (old) ILVA and IRI's intention to cover ILVA Residua's remaining liabilities.

We preliminarily determine that ILP (and consequently the subject merchandise) received a countervailable subsidy in 1993, within the meaning of section 771(5)(B)(i) of the Act, when the bulk of (old) ILVA's debt was placed in ILVA Residua, rather than being proportionately allocated to AST and ILP. In addition to the debt that was placed in ILVA Residua, we preliminarily determine that the asset write-downs which (old) ILVA took in 1993, as part of the restructuring/privatization plan, are countervailable subsidies under section 771(5)(B)(i) of the Act. The write-down of assets in 1993 officially removed the assets from (old) ILVA's books and, thus, increased the losses to be covered in liquidation. It is the Department's position that when losses, which are later covered by a government, can be tied to specific assets those assets bear the liability for the losses that resulted from the write-downs. *See Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy*, 59 FR 18357, 18359 (April 18, 1994) (*Electrical Steel from Italy).* The 1993 financial statement of (old) ILVA identifies that the write-downs can be tied to the specific assets.

We preliminarily determine that the amount of debt and losses resulting from the asset write-downs that should have been attributable to ILP, but were instead placed with ILVA Residua, was equivalent to debt forgiveness for ILP at the time of its demerger. In accordance with our practice, debt forgiveness is treated as a grant which constitutes a financial contribution under section 771(5)(D)(i) of the Act, and provides a benefit in the amount of the debt forgiveness.

We also preliminarily determine, based on record evidence, that the liquidation process of (old) ILVA did not occur under the normal application of a provision of Italian law, and therefore, the debt forgiveness is *de facto* specific under section 771(5A)(D)(iii)(II) of the Act. As stated above, the liquidation of (old) ILVA was done in the context of a massive restructuring/privatization plan of the

[5] This program was referred to as ''Debt Forgiveness Given in the Course of Privatization in Connection with the 1993–1994 Restructuring Plan'' in the *Initiation Notice* (*see* 64 FR at 13000).

Italian steel industry undertaken by the GOI and approved and monitored by the EC. Because (old) ILVA's liquidation was part of an extensive state-aid package to privatize the Italian state-owned steel industry, and the debt forgiveness was received by only privatized (old) ILVA operations, we preliminarily find that the assistance provided under the 1993–1994 Restructuring Plan is *de facto* specific. In support of this preliminary finding, we note the EC's 94/259/ECSC decision, in which the Commission identified the restructuring of (old) ILVA as a single program, the basic objective of which was the privatization of the ILVA steel group by the end of 1994. As set forth in the EC's decision, the 1993–1994 Restructuring Plan was limited by its terms to (old) ILVA and the benefits of the plan were received by only (old) ILVA's successor companies.

Consistent with the methodology that we employed in the final determination of *Sheet and Strip from Italy*, the amount of liabilities that we attributed to ILP is based on the gross liabilities left behind in ILVA Residua, as reported in the EC's 10th Monitoring Report. *See* 64 FR at 30628. In calculating the amount of unattributable liabilities remaining after the demerger of ILP, we started with the most recent ''total comparable indebtedness'' amount from the 10th Monitoring Report, which represents the indebtedness, net of debts transferred in the privatization of ILVA Residua's operations and residual asset sales, of a theoretically reconstituted, pre-liquidation (old) ILVA. In order to calculate the total amount of unattributed liabilities which amount to countervailable debt forgiveness, we made the following adjustments to this figure: for the residual assets that had not actually been liquidated as of the 10th and final Monitoring Report; for assets that comprised SOFINPAR, a real estate company (because these assets were sold prior to the demergers of AST and ILP); for the liabilities transferred to AST and ILP; for income received from the privatization of ILVA Residua's operations; for the amount of the asset write-downs specifically attributable to AST, ILP, and ILVA Residua companies; and for the amount of debts transferred to Cogne Acciai Speciali (CAS), an ILVA subsidiary that was left behind in ILVA Residua and later spun off, as well as the amount of (old) ILVA debt attributed to CAS and countervailed in *Wire Rod from Italy*, (*see*, 63 FR at 40478).

The amount of liabilities remaining represents the pool of liabilities that were not individually attributable to specific (old) ILVA assets. We apportioned this debt to AST, ILP, and operations sold from ILVA Residua based on their relative asset values. We used the total consolidated asset values reported in AST's and ILP's financial statements for the year ending December 31, 1993. For ILVA Residua, we used the sum of the purchase price plus debts transferred as a surrogate for the viable asset value of the operations sold from ILVA Residua. Because we subtracted a specific amount of ILVA's gross liabilities attributed to CAS in *Wire Rod from Italy*, we did not include its assets in the amount of ILVA Residua's privatized assets. Also, we did not include in ILVA Residua's viable assets those assets sold to IRI, because the sale does not represent sales to a non-governmental entity. To the amount of liabilities apportioned to ILP, we added the write-downs that were tied to the asset pool which ILP took when it was separately incorporated from (old) ILVA.

We have treated the debt forgiveness to ILP as a non-recurring subsidy because it was a one-time, extraordinary event. The discount rate we used in our grant formula was a constructed uncreditworthy benchmark rate based on our determination that (old) ILVA was uncreditworthy in 1993. *See* ''Benchmarks for Long-Term Loans and Discount Rates'' and ''Creditworthiness'' sections, above. We followed the methodology described in the ''Change in Ownership'' section above to determine the amount appropriately allocated to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 12.40 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefits under this program.

E. Capital Grants to Nuova Italsider Under Law 675/77

The Department has investigated Law 675/77 in prior investigations. *See, e.g., Certain Steel from Italy*, 58 FR at 37330–31, and the *Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from Italy*, 64 FR 15508, 15513–14 (March 31, 1999) (*Plate in Coils from Italy*). *In Certain Steel from Italy*, we learned that Law 675/77 created a framework for planned intervention by the GOI in the economy. The law provided financial incentives to industrial firms in certain sectors that submitted development, restructuring, and conversion plans for production facilities. In total, eleven sectors were identified as eligible for assistance. The types of funding provided under Law 675/77 included: (1) Interest payments on bank loans and bond issues; (2) low interest loans granted by the Ministry of Industry; (3) grants for companies located in the South; (4) grants for personnel retraining; and (5) increased VAT reductions for firms located in the Mezzogiorno area. In that prior investigation, we found that (old) ILVA and its predecessor companies received direct mortgage loans, interest contributions, and capital grants between 1977 and 1991, under Law 675/77.

In *Certain Steel from Italy*, we verified that of the ten sectors which received Law 675/77 funding, steel accounted for 36.4 percent of the total funding provided under Law 675/77. On this basis we determined that assistance provided to steel companies under Law 675/77 is limited to a specific enterprise or industry, or group of enterprises or industries. We therefore found countervailable capital grants which (old) ILVA and its predecessor companies received under Law 675/77.

In the instant investigation, the GOI and ILVA/ILT reported that Italsider applied for a capital grant in 1981, for an investment project at the Taranto plant. The GOI approved the application in 1982, and awarded a grant of 125,040 million lire to Nuova Italsider. The capital grant was disbursed in four tranches in the years 1985 and 1987. The GOI stated that the capital grant program was established in 1977, to support the development of regions in the south of Italy. The only eligibility criterion for the receipt of this ''one-time'' assistance was the location of factories in the south of Italy.

Consistent with our finding in *Certain Steel from Italy*, we preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. The capital grants constitute a financial contribution under section 771(5)(D)(i) of the Act providing a benefit in the amount of the grants. Because the steel sector was found to be the dominant user of Law 675/77 and the capital grants were limited to enterprises located in the south of Italy, we preliminarily determine that the program is specific under section 771(5A)(D)(iii) of the Act.

To determine the benefit, we have treated the capital grants as non-recurring subsidies because the receipt of the grants was a one-time, extraordinary event. Because the benefit to Nuova Italsider is greater than 0.5 percent of the company's sales for 1982 (the year in which the grant was approved), we allocated the benefit over a 15 year AUL. *See* § 351.524(b)(2) of the CVD Regulations. We applied the

change in ownership methodology to the capital grant to determine the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.13 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

F. Early Retirement Benefits

Law 451/94 was created to conform with EC requirements of restructuring and capacity reduction of the Italian steel industry. Law 451/94 was passed in 1994, and enabled the Italian steel industry to implement workforce reductions by allowing steel workers to retire early. During the 1994–1996 period, and into January 1997, Law 451/94 provided for the early retirement of up to 17,100 Italian steel workers. Benefits applied for during this period continue until the employee reaches his/her natural retirement age, up to a maximum of ten years.

In the final determinations of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, 64 FR at 15514–15 and 64 FR at 30629–30, respectively, the Department determined that early retirement benefits provided under Law 451/94 are countervailable subsidies under section 771(5)(B)(i) of the Act. Law 451/94 provides a financial contribution, as described in section 771(5)(D)(i) of the Act, because Law 451/94 relieves the company of costs it would have normally incurred by having to employ individuals until the normal age of retirement. Also, because Law 451/94 was developed for, and exclusively used by, the steel industry, we determined that Law 451/94 is specific within the meaning of section 771(5A)(D)(iii) of the Act. No new factual information or evidence in the instant investigation has led us to change our prior findings that early retirements under Law 451/94 are countervailable.

As we have in the recent final determinations of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, we treated one-half of the amount paid by the GOI as benefitting the company. Recognizing that ILP [6] would have been required to enter into negotiations with the unions before laying off workers, it is impossible for the Department to determine the outcome of those negotiations absent Law 451/94. At one extreme, the unions might have succeeded in preventing any lay offs. If so, the benefit to ILP would be the difference between what it would have cost to keep those workers on the payroll and what ILP actually paid under Law 451/94. At the other extreme, the negotiations might have failed and ILP would have incurred only the minimal costs described under the so-called ''Mobility'' provision of Law 223/91, which identifies the minimum payment the company would incur when laying off workers permanently. Then the benefit to ILP would have been the difference between what it would have paid under Mobility and what the company actually paid under Law 451/94.

We have no basis for believing either of these extreme outcomes would have occurred. It is clear, given the EC regulations, that ILP would have laid off workers. However, we do not believe that ILP would have simply fired the workers without reaching accommodation with the unions. The GOI has indicated that failure to negotiate a separation package with the unions would likely lead to strikes, lawsuits and general social unrest. Therefore, we have proceeded on the assumption that ILP's early retirees would have received some support from ILP.

In attempting to determine the level of post-employment support that ILP would have negotiated with its unions, we examined the situation facing (old) ILVA before ILP and AST were spun off. By the end of 1993, (old) ILVA had established an overall plan for terminating redundant workers—a plan that would ultimately affect both ILP and AST. Under this plan, early retirees would first be placed on a temporary worker assistance measure under Law 223/91, Cassa Integrazione Guadagni—Extraordinario (CIG–E), while waiting for the passage of Law 451/94, and then would receive benefits under Law 451/94 when implemented. During the verification of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, the Department learned from AST officials that workers were indeed receiving temporary benefits under CIG–E while they were awaiting the passage of Law 451. *See Results of AST Verification*, Memorandum to the File, dated February 3, 1999 (public version of the document is available on the public file in the Central Records Unit (CRU) of the Department, Room B–099). This indicates that, at the time an agreement was being negotiated with the unions and the labor ministry on the terms of the lay offs, (old) ILVA and its workers were aware that government contributions would ultimately be made to workers' benefits. In such situations, *i.e.*, where the company and its workers are aware at the time of their negotiations that the government will be making contributions to the workers' benefits, the Department's prior practice was to treat half of the amount paid by the government as benefitting the company. We have stated that when the government's willingness to provide assistance is known at the time the contract is being negotiated, this assistance is likely to have an effect on the outcome of the negotiations. While we continue to adhere to this logic in the preamble to the CVD Regulations, we stated that we would examine the facts of each case to determine the appropriate portion of the funds to be considered countervailable. *See* CVD Regulations, 63 FR at 65380.

With respect to ILP and its workers, we preliminarily determine that, under Italian Law 223, ILP would be required to negotiate with its unions about the level of benefits that would be made to workers permanently separated from the company. Since (old) ILVA and its unions were aware at the time of their negotiations that the GOI would be making payments to those workers under Law 451/94, some portion of the payment is countervailable. However, based on the record before us, we have no basis for apportioning the benefit. Therefore, for the preliminary determination, we consider the benefit to ILVA/ILT to be one half of the amount paid to the workers by the GOI under Law 451/94. We will verify this program further to determine the appropriate benefit.

Consistent with the Department's practice, we have treated benefits to ILVA/ILT under Law 451/94 as recurring grants expensed in the year of receipt. To calculate the benefit received by ILVA/ILT during the POI, we multiplied the number of employees by employee type (blue collar, white collar, and senior executive) who retired early by the average salary by employee type. Since the GOI was making payments to these workers equaling 80 percent of their salary, we attributed one-half of that amount to ILVA/ILT. Therefore, we multiplied the total wages of the early retirees by 40 percent. We then divided this total amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy to be 1.41 percent *ad valorem* for ILVA/ILT.

As mentioned in the ''Corporate History of ILVA/ILT'' section of this notice, in October 1993, (old) ILVA entered into liquidation and became known as ILVA Residua (a.k.a., ILVA in Liquidation). In December 1993, IRI

[6] On December 31, 1993, (old) ILVA's main productive assets were spun into two new companies: ILVA Laminati Piani (carbon steel flat products) (ILP) and Acciai Speciali Terni (speciality and stainless steel products) (AST).

initiated the splitting of (old) ILVA's main productive assets into two new companies, ILP and AST. On December 31, 1993, ILP and AST became separately incorporated firms. The remainder of (old) ILVA's productive assets and existing liabilities, along with much of the redundant workforce, was placed in ILVA Residua. By placing much of this redundant workforce in ILVA Residua, ILP and AST were able to begin their respective operations with a relatively ''clean slate'' in advance of their privatizations. ILP and AST were relieved of having to assume their respective portions of those redundant workers that were placed in ILVA Residua and received early retirement benefits under Law 451/94. We have, therefore, determined that ILVA/ILT has received a countervailable benefit during the POI since it was relieved of a financial obligation that would otherwise have been due.

In order to calculate the benefit received by ILVA/ILT during the POI, we first needed to determine the appropriate number of early retirees in ILVA Residua that originally should have been apportioned to ILP. To determine this number, we took the asset value of ILP in relation to the asset value of (old) ILVA at the time of the spin-off of ILP. We multiplied this percentage by the total number of ILVA Residua early retirees. It was then necessary to estimate the numbers and salaries of early retirees by employee type since the GOI did not provide this information. To do this, we applied the same ratios of workers by employee type as ILP retired, and applied this to ILVA Residua. We also used the same salaries of ILVA/ILT employees by worker type. As we did with ILP early retirees, we then multiplied the number of employees, by employee type, by the average salary by employee type. Since the GOI was making payments to these workers equaling 80 percent of their salary, we attributed one-half of that amount to ILVA/ILT. Therefore, we multiplied the total wages of the early retirees by 40 percent. We then divided this total amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy to be 0.67 percent *ad valorem* for ILVA/ILT.

The Sidercomit unit of ILVA/ILT also received early retirement benefits under Law 451/94 separately from ILVA/ILT. As we did with ILVA/ILT, we multiplied the total wages of the early retirees by 40 percent and then divided this amount by the total consolidated sales of ILVA/ILT during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be less than 0.005 percent *ad valorem* for ILVA/ILT.

Upon consolidation of the above determined rates, we preliminarily determine a total net countervailable subsidy of 2.08 percent *ad valorem* for ILVA/ILT under Law 451/94 for the POI. Palini & Bertoli did not use this program.

G. Exemptions From Taxes

Presidential Decree 218/1978 exempted firms operating in the Mezzogiorno from the local income tax (ILOR) and the profits tax (IRPEG). Companies are eligible for full exemption from the 16.2 percent ILOR tax on profits arising from eligible projects in the Mezzogiorno and less developed regions of the center-north for ten consecutive years after profits first arise. New companies undertaking productive activities in the Mezzogiorno are entitled to a full exemption from the 37 percent IRPEG tax on profits for ten consecutive years after the project is completed. We preliminarily determine that exemptions from ILOR and IRPEG taxes are countervailable subsidies in accordance with section 771(5)(B)(i) of the Act. These tax exemptions constitute financial contributions under section 771(5)(D)(ii) of the Act since revenue that is otherwise due is being foregone. Because these exemptions are limited to a group of enterprises or industries within a designated geographical region, they are specific in accordance with section 771(5A)(D)(iv). Benefits resulting from ILOR and IRPEG tax exemptions were found to be countervailable in *Certain Steel from Italy*, 58 FR at 37334–35.

ILT received an exemption from the IRPEG tax in 1998. In order to calculate the benefit, we multiplied ILT's total profits that would otherwise have been subject to IRPEG by the IRPEG tax rate of 37 percent. We then divided the result by ILVA/ILT's total consolidated sales during the POI to determine the *ad valorem* benefit. On this basis, we preliminarily determine the net countervailable subsidy to be 1.07 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

H. Exchange Rate Guarantees Under Law 796/76

Law 796/76 established a program to minimize the risk of exchange rate fluctuations on foreign currency loans. All firms that contract foreign currency loans from the European Coal and Steel Community (ECSC) or the Council of Europe Resettlement Fund (CERF) could apply to the Ministry of the Treasury (MOT) to obtain an exchange rate guarantee. The MOT, through the Ufficio Italiano di Cambi (UIC), calculates loan payments based on the lire-foreign currency exchange rate in effect at the time the loan is contracted (i.e., the base rate). The program establishes a floor and ceiling for exchange rate fluctuations, limiting the maximum fluctuation a borrower would face to two percent above or below the base rate. If the lire depreciates more than two percent against the foreign currency, a borrower is still able to purchase foreign currency at the established (guaranteed) ceiling rate. The MOT absorbs the loss in the amount of the difference between the guaranteed rate and the actual rate. If the lire appreciates against the foreign currency, the MOT realizes a gain in the amount of the difference between the floor rate and the actual rate.

This program was terminated effective July 10, 1992, by Decree Law 333/92. However, the pre-existing exchange rate guarantees continue on any loans outstanding after that date. Italsider contracted two loans, one in 1978, the other in 1979. Both of these loans were ultimately transferred to ILVA/ILT. These two foreign currency denominated loans were outstanding during the POI and exchange rate guarantees applied to both.

We preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, to the extent that the lire depreciates against the foreign currency beyond the two percent limit. When this occurs, the borrower receives a benefit in the amount of the difference between the guaranteed rate and the actual exchange rate.

During the verification of the GOI in the *Plate in Coils from Italy* and *Sheet and Strip from Italy* investigations, GOI officials explained that over the last decade, roughly half of all guarantees made under this program were given to coal and steel companies. *See Results of Verification of the Government of Italy,* Memorandum to the File, dated February 3, 1999 (public version of the document is available on the public file in the CRU, Room B–099). This is consistent with the Department's finding in a previous proceeding that the Italian steel industry has been a dominant user of the exchange rate guarantees provided under Law 796/76. *See Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Italy,* 60 FR 31996 (June 19, 1995). Therefore, we determine that the

program is specific under section 771(5A)(D)(iii)(II) of the Act.

Once a loan is approved for exchange rate guarantees, access to foreign exchange at the established rate is automatic and occurs at regular intervals throughout the life of the loan. Therefore, we are treating the benefits under this program as recurring grants. ILVA/ILT and its predecessor companies from which these loans were transferred, paid a foreign exchange commission fee to the UIC for each payment made. We determine that this fee qualifies as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, for the purposes of calculating the countervailable benefit, we have added the foreign exchange commission to the total amount ILVA/ILT paid under this program during the POI. *See Wire Rod from Italy,* 63 FR at 40479.

Under this program, we have calculated the total countervailable benefit as the difference between the total loan payment due in foreign currency, converted at the current exchange rate, less the sum of the total loan payment due in foreign currency converted at the guaranteed rate and the exchange rate commission. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.07 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

European Commission Programs

A. ECSC Loans Under Article 54

Article 54 of the 1951 ECSC Treaty established a program to provide industrial investment loans directly to the member iron and steel industries to finance modernization and purchase new equipment. Eligible companies apply directly to the EC (which administers the ECSC) for up to 50 percent of the cost of an industrial investment project. The Article 54 loans are generally financed on a ''back-to-back'' basis. In other words, upon granting loan approval, the ECSC borrows funds (through loans or bond issues) at commercial rates in financial markets which it then immediately lends to steel companies at a slightly higher interest rate. The mark-up is to cover the costs of administering the Article 54 program.

We preliminarily determine that these loans constitute a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, which confers a benefit to the extent the interest rate is less than the benchmark interest rate. The Department has found Article 54 loans to be specific in several proceedings, including *Electrical Steel from Italy,* 59 FR at 18362, *Certain Steel from Italy,* 58 FR at 37335, and *Plate in Coils from Italy,* 64 FR at 15515, because loans under this program are provided only to iron and steel companies. The EC has also indicated on the record of this investigation that Article 54 loans are only available to steel and coal companies which fall within the scope of the ECSC Treaty. Therefore, we preliminarily determine that this program is specific pursuant to section 771(5A)(D)(i) of the Act.

ILVA/ILT had two long-term, fixed-rate loans outstanding during the POI, each denominated in U.S. dollars. These loans were contracted by Italsider, one in 1978 and one in 1979. Consistent with *Wire Rod from Italy,* 63 FR at 40486, we have used as our benchmark the average yield to maturity on selected long-term corporate bonds as reported by the U.S. Federal Reserve, since both of these loans were denominated in U.S. dollars. We used these rates since we were unable to find a long-term borrowing rate for loans denominated in U.S. dollars in Italy. The interest rate charged on both of ILVA/ILT's two Article 54 loans was lowered part way through the life of the loan. The interest rate on the loan contracted in 1978 was lowered in 1987, and the rate on the loan contracted in 1979 was lowered in 1992. Therefore, for the purpose of calculating the benefit, we have treated these loans as if they were contracted on the date of this rate adjustment. Because ILVA was uncreditworthy in the year these loans were contracted, 1987 and 1992 (based on the interest rate adjustments mentioned above), we calculated the uncreditworthy benchmark rate as per section 351.505 (a)(3)(iii) of the CVD Regulations. *See* ''Benchmark for Long-Term Loans and Discount Rates'' section, above.

To calculate the benefit under this program, pursuant to section 351.505(c)(2) of the CVD Regulations, we employed the Department's long-term fixed-rate loan methodology. We compared ILVA/ILT's interest rates on the two loans to our benchmark interest rate for uncreditworthy companies on interest paid by ILVA/ILT during the POI. We then divided the benefit by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

ILVA/ILT was also repaying four ECSC loans under Article 54 during the POI that were taken by ILP for the construction of housing for coal and steel industry workers. Funding for these loans came entirely from the ECSC operational budget, which is composed of levies imposed on coal and steel producers, investment income on those levies, guarantee fees and fines paid to the ECSC, and interest received from companies that have obtained loans from the ECSC. Consistent with previous determinations, because ECSC funding is based on producer levies, we find these loans to be not countervailable. *See Electrical Steel from Italy,* 59 FR at 18364 and Certain Steel from Italy, 58 FR at 37336.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Law 308/82

Law 308/82 was initiated on May 29, 1982, and repealed on January 15, 1991. The GOI and ILVA/ILT reported that Italsider was approved for a grant for investments that reduced energy consumption at the Taranto facilities in 1983. ILP received payment of the grant in 1996. In *Certain Steel from Italy,* we learned that Law 308/82 provided grants to encourage lower energy consumption and the use of renewable energy sources. In that prior investigation, we verified that Law 308 grants were provided to a wide range of industries and confirmed the amount of grants provided to each industrial sector. We found that benefits under Law 308/82 were widely and fairly evenly distributed throughout the sectors with no sector receiving a disproportionate amount. Therefore, because Law 308/82 grants were not limited to a specific enterprise or industry, or group of enterprises or industries, we determined them to be not countervailable. *See Certain Steel from Italy,* 58 FR at 37336. No new factual information or evidence of changed circumstances has been provided to the Department in this instant investigation to warrant the Department to revisit its earlier determination that grants provided under Law 308/82 are not countervailable.

B. Unpaid Portion of Payment Price for ILP

In the February 16, 1999 petition, petitioners alleged that the GOI effectively gave RIVA a zero-interest loan on a portion of the contract price agreed to by RIVA for ILP, because RIVA has not paid the full contract price for

ILP. RIVA reported that the company entered into arbitration after the transfer of ownership of ILP in April 1995. RIVA stated that it did not invoke arbitration to challenge the purchase price of ILP, but invoked arbitration to obtain an indemnity from pre-existing and unreported liabilities in accordance with the indemnification provision of the contract of sale. The dispute concerns whether IRI owes RIVA a sum of money as indemnification for liabilities, which RIVA has potentially incurred as a result of the acquisition of ILP. To preserve its leverage in the dispute and ensure that the company will obtain relief in the event that it is awarded indemnification by the arbitration panel, RIVA has withheld payment of amounts due to IRI under the contract of sale.

We inquired about the arbitration procedure and whether any Italian company which purchases either a government-owned or private entity can enter into arbitration to remedy a dispute. RIVA reported that Article 25 of the contract of sale provides for arbitration under the rules of the International Chamber of Commerce (ICC). Any company in Italy that purchases another company from either the government or a private seller can include such an arbitration provision in the contract of sale. Article 806 of the Italian Civil Code authorizes the use of arbitration to settle litigation. Because the arbitration which RIVA invoked to obtain an indemnity from liabilities was provided under the rules of the ICC and the Italian Civil Code, we preliminarily determine that the monetary amount, which RIVA has withheld from IRI for the purchase of ILP, is not tantamount to a zero-interest loan provided by the government.

III. Programs Preliminarily Determined To Be Not Used

Government of Italy Programs

1. Lending From the Ministry of Industry Under Law 675/77

ILVA/ILT reported that at the time of its privatization the company became responsible for certain loan obligations of its predecessor companies. ILVA/ILT were responsible for repaying the loans under Law 675/77, which were applicable to those facilities that produce the subject merchandise. Repayment obligations on these loans ended in December 1997. The GOI and ILVA/ILT both reported that no new loans have been provided under Law 675/77 since 1987. Because there were no loans provided under Law 675/77 outstanding in 1998, we preliminarily determine that the program was not used during the POI by ILVA/ILT.

2. Interest Contributions Under Law 675/77

ILVA/ILT reported that an interest contribution was received in 1998, against a loan provided under Law 675/77. Because the loan against which the interest contribution was received was repaid in full in December 1997, we preliminarily determine that this program was not used during the POI. It is the Department's policy to treat interest contributions as countervailable on the date the company made the corresponding interest payments, despite any delay in the receipt of the interest contributions. This is so because the company's entitlement to the interest contributions was automatic when it made the interest payments. Therefore, we find, for purposes of the benefit calculation, that the interest contributions were received at the time the interest payments were made. *See e.g., Stainless Steel Sheet & Strip,* and *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Italy,* 60 FR 33577, 33579 (June 28, 1995) (*Oil Country Tubular Goods from Italy*).

3. Law 305/89

ILVA/ILT reported that (old) ILVA, its predecessor company, applied for a grant under Law 305/89 in 1990. The GOI approved (old) ILVA's application in 1991, and awarded the company a grant of 2.2 billion lire. Because payment of the grant was delayed, ILP received a portion of the grant in 1994, and ILVA/ILT received payment of the remaining portion of the grant in 1996. We applied the 0.5 percent allocation test against the full grant amount approved in 1991. *See* section 351.524(b)(2) of the CVD Regulations. We calculated the benefit under Law 305/82 as less than 0.5 percent *ad valorem* of (old) ILVA's sales in 1991. Therefore, even if we preliminarily determined that Law 305/89 is countervailable, the grant would be expensed in the years of receipt, 1994 and 1996. Because the grant would be expensed and not provide any benefit to ILVA/ILT during the POI, we preliminarily determine that Law 305/89 was not used by ILVA/ILT.

4. Interest Grants for ''Indirect Debts'' Under Law 750/81

In 1984, Nuova Italsider received a residual payment of 25.3 billion lire against interest grants provided in the fiscal years 1982 and 1983. Because we do not know what portion of the 1984 payment was approved in 1982, and what portion was approved in 1983, to determine whether the 1984 grant payment should be allocated or expensed, we assumed, for purposes of the 0.5 percent allocation test, that the residual amount was approved in 1984. *See* § 351.524(b)(2) of the CVD Regulations. On this basis, we calculated the benefit of the 1984 interest grant to be less than 0.5 percent *ad valorem* of Nuova Italsider's sales in 1984. Therefore, because the interest grant is expensed in the year of receipt, we preliminarily determine that this program was not used during the POI by ILVA/ILT.

5. Capital Grants Under Law 218/78

The GOI reported that (old) ILVA received a grant in 1988, under Law 218/78. The original grant amount was approved in 1978. We applied the 0.5 percent test against the full grant amount approved in 1978. *See* § 351.524(b)(2) of the CVD Regulations. We calculated the benefit as less than 0.5 percent *ad valorem* of Italsider's sales in 1978. Additionally, Sidercomit received a grant in 1996, that was approved in 1995. We applied the 0.5 percent test against the full grant amount approved in 1995. We calculated the benefit as less than 0.5 percent *ad valorem* of ILP's sales in 1995. Therefore, even if we determined that this program is countervailable, the above-mentioned grants would be expensed in the respective years of receipt. Because the grants would be expensed and would not provide any benefit to ILVA/ILT during the POI, we preliminarily determine that capital grants were not used.

6. Urban Redevelopment Packages Under Law 181/89

ILVA/ILT and its predecessor companies, ILP and (old) ILVA, received grants under Law 181/89 between 1991 and 1997. No grants were received during the POI. Because the approved amount of each grant, separately, was less than 0.5 percent of total sales of ILVA/ILT (or predecessor company) in the corresponding year, we would expense the benefit of each approved grant in that year. *See* § 351.524(b)(2) of the CVD Regulations. Therefore, since the grants would be expensed in the years of receipt, and ILVA/ILT would not realize any benefit during the POI, we preliminarily determine that Urban Redevelopment Packages under Law 181/89 was not used.

7. Closure Payments Under Law 481/94 and Predecessor Law

8. Closure Grants Under Laws 46 and 706

9. Decree Law 120/89

10. Law 488/92

11. Law 341/95 Tax Concessions

12. Interest Rate Reductions Under Law 902

13. Interest Contributions Under the Sabatini Law

14. Export Marketing Grants Under Law 394/81

15. Law 549/95: Tax Exemptions on Reinvested Profits for Steel Producers in Objective 1, 2, and 5(B) Areas

European Commission Programs

1. European Social Fund (ESF)

The GOI has reported ESF grants were provided to Nuova Italsider, Italsider and (old) ILVA from 1985 through 1993. Because the amount of each grant, separately, was less than 0.5 percent of total sales of Nuova Italsider, Italsider or (old) ILVA (depending on the year of receipt) in the corresponding year, we would expense the benefit of each grant payment received in that year. *See* § 351.524(b)(2) of the CVD Regulations.

ILVA/ILT has reported that ESF payments were also made to ILP in 1994 and 1995, and to ILVA/ILT in 1998, for projects having taken place in 1994 and 1995. ILVA/ILT has reported that ESF funding was not used for training of ILVA/ILT employees, but for other initiatives in the Mezzogiorno region. ILVA/ILT has provided documentation that payments received by the company were solely for goods and services to IRI that were provided by ILP and ILVA/ILT.

With regard to ESF grants and payments received, because the amounts would either be expensed in the corresponding years of receipt, or were simply payments received for invoiced goods and services, ILVA/ILT would not see any benefit during the POI. Therefore, we preliminarily determine that the European Social Fund was not used.

2. Interest Rebates on ECSC Article 54 Loans

3. ECSC Conversion Loans, Interest Rebates, Restructuring Grants and Traditional and Social Aid Under Article 56

4. ERDF Aid

5. Resider and Resider II (Commission Decision 88/588)

IV. Programs Preliminarily Determined Not To Exist

1. Additional Debt Forgiveness in the Course of Privatization

2. Grants to ILVA to Cover Closure and Liquidation Expenses as Part of the 1993–1994 Privatization Plan

3. Working Capital Grants to ILVA in 1993

With respect to the programs 1, 2, and 3 listed above, the GOI reported in its May 10, 1999 questionnaire response that all monetary assistance (old) ILVA received in the course of the 1993–1994 Restructuring Plan was effected in the EC Decision 94/259/ECSC of April 12, 1994. There were no additional debt forgiveness or grants provided as part of the 1993–1994 Restructuring Plan. Therefore, we preliminary determine that these programs do not exist.

4. Personnel Retraining Grants Under Law 675/77

The GOI reported that personnel retraining grants provided under Law 675/77 were terminated in 1987. The government stated that the resources provided under this program were allocated over the years 1981 through 1987. The GOI reported that no other law providing personnel retraining grants or financial allocations under Law 675/77 have been approved since 1987.

5. VAT Reductions Under Law 675/77

The GOI reported that the tax reductions referred to in section 18 of Law 675 of August 12, 1977, were terminated effective March 29, 1991. Pursuant to section 14(3) of Law 64 of March 1, 1986, section 18 of Law 675/77, applied for a period of five years from the date of promulgation of the law.

6. Grants to ILVA

7. Grants to RIVA/ILP

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual subsidy rate for ILVA/ILT and Palini & Bertoli. We preliminarily determine that the total estimated net countervailable subsidy rate is 23.27 percent *ad valorem* for ILVA/ILT and 0.0 percent *ad valorem* for Palini & Bertoli. The All Others rate is 23.27 percent *ad valorem*, which is the rate calculated for ILVA/ILT. *See* section 705(c)(5)(A) of the Act.

Company	Net subsidy rate
ILVA/ILT	23.27% ad valorem.
Palini & Bertoli	0.0% ad valorem.
All Others	23.27% ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain cut-to-length carbon-quality steel from Italy, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts listed above. Since the estimated preliminary net countervailing duty rate for Palini & Bertoli is zero, the company will be excluded from the suspension of liquidation. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18853 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–817]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, Alysia Wilson, and Gregory Campbell, Office of Antidumping/Countervailing Duty Enforcement, Group I, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4087, 482–0108, or 482–2239, respectively.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers or exporters of certain cut-to length carbon-quality plate (''carbon plate'') from France. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

Petitioners

The petition in this investigation was filed by the Bethlehem Steel Corporation, U.S. Steel Group, Gulf States Steel, Inc., IPSCO Steel Inc., and the United Steel Workers of America. (collectively referred to hereinafter as the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred:

On March 25, 1999, we met with representatives from the Government of France (GOF) and the European Commission (EC) for a second round of consultations.

On March 17, 1999, we issued countervailing duty questionnaires to the GOF, EC, and the producers/exporters of the subject merchandise. On April 29, 1999, we postponed the preliminary determination of this investigation until July 16, 1999 (*see Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations*, 64 FR 23057 (April 29, 1999)).

On May 11, 1999, we received responses from the GOF and the responding companies (Usinor, Sollac S.A., Creusot Loire Industrie S.A. and GTS Industries S.A.). On June 4, 1999, we issued supplemental questionnaires to the GOF, and responding companies. On June 6, 1999, we issued a supplemental questionnaire to the EC.

In their petition, the petitioners asked the Department to reinvestigate whether the 1991 equity infusions by the GOF and Credit Lyonnais provided to Usinor conferred a subsidy. These investments were found not countervailable in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304, (July 9, 1993), (*Certain Steel From France*). At the time this proceeding was initiated, we determined that the petitioners had not submitted sufficient information to warrant a reinvestigation of these equity infusions. On June 10, 1999, the petitioners submitted additional information supporting their request. After a review of the petitioners' submission, we have determined that the information they have provided still does not warrant a reinvestigation of these investments. *See* Memorandum to Richard W. Moreland, Deputy Assistant Secretary for AD/CVD Enforcement, ''Petitioners'' Supplemental Allegations,'' dated July 16, 1999, on file in the Central Records Unit of the Department of Commerce.

On June 16, 1999, the Department invited interested parties to comment regarding the attribution of subsidies between GTS Industries (GTS), Sollac, and Creusot-Loire (CLI). Comments were submitted by petitioners and respondents on June 28, 1999.

On June 21, 1999, we received responses to the supplemental questionnaires from the EC and on June 23, 1999, from the responding companies and the GOF.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or

non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA/ILT, a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4″ or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope should be timely raised with Department officials.

ILVA/ILT requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA/ILT, the billets are converted into wide flats and bar products (a type of long product). ILVA/ILT notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA/ILT, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA/ILT states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA/ILT itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930,

as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to our regulations as codified at 19 CFR part 351 (1998) and *Countervailing Duties; Final Rule*, 63 FR 65348 (November 25, 1998) (*CVD Regulations*).

Injury Test

Because France is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from France materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from France of the subject merchandise. (*See Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia; Determinations*, 64 FR 17198 (April 8, 1999)).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping investigation of carbon plate from France.

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 1998.

Company History

The GOF identified Usinor, Sollac S.A., Creusot Loire Industrie S.A. (''CLI''), and GTS Industries S.A. (''GTS'') as the only producers of the subject merchandise that exported to the United States during the POI. Sollac and CLI are wholly-owned subsidiaries of Usinor (a holding company), and GTS is an affiliated company.

Usinor

In 1984, the GOF was a majority shareholder of Usinor. In 1986, Usinor was merged with another state-owned company, Sacilor, into a single company called Usinor Sacilor. Usinor Sacilor was 100 percent owned by the GOF.

In 1995, Usinor Sacilor was privatized, principally through the public sale of shares. In October 1997, the GOF reduced its direct shareholdings to 1 percent. As of August 1998, the GOF has no direct ownership interest in Usinor but retains a minority indirect interest in the company.

GTS

Prior to 1992, GTS was 89.73 percent owned by Sollac, a direct subsidiary of Usinor. In 1992, Sollac transferred its shares in GTS to AG der Dillinger Ḧttenwerke (''Dillinger''), a German steel producer. In return, Dillinger transferred shares it held in Sollac to Sollac which were of an equivalent value. At that time, Dillinger was majority owned by DHS-Dillinger Hütte Saarstahl AG (''DHS''), a German holding company, which, in turn, was 70 percent owned by Usinor.

In 1996, Usinor reduced its interest in DHS from 70 to 48.75 percent. At that time, DHS owned 95.3 percent of Dillinger, which in turn, owned 99 percent of GTS.

Attribution of Subsidies

The GOF has identified three producers of subject merchandise in this investigation: Sollac, CLI and GTS. During the POI, both Sollac and CLI are wholly-owned by and consolidated subsidiaries of Usinor. With respect to GTS, prior to 1996, it was majority owned by Usinor since Usinor held 70 percent of DHS, which in turn, held approximately 95 percent of Dillinger, GTS' direct parent company. However, since 1996 and during the entire POI, Usinor's interest in DHS is 48.9 percent, *i.e.*, slightly less than a majority.

The issue before the Department is whether the subsidies granted to Usinor are attributable to GTS given that GTS is no longer majority-owned by Usinor. Section 351.525 of the *CVD Regulations* states that the Department will attribute subsidies received by two or more corporations to the products produced by those corporations where cross ownership exists. According to § 351.525(b)(6)(vi) of the *CVD Regulations*, cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation in essentially the same ways it can use its own assets. The regulations state that this standard will normally be met where there is a majority voting ownership interest between two corporations. The preamble to the *CVD Regulations*, identifies situations where cross ownership may exist even though there is less than a majority voting interest between two corporations: ''in certain circumstances, a large minority interest (for example, 40 percent) or a 'golden share' may also result in cross-ownership.'' (63 FR 65401)

In this investigation, we have preliminarily determined that Usinor's 48.9 percent interest in DHS, the holding company of GTS' parent, Dillinger, is insufficient to establish cross-ownership between Usinor and GTS. We base this determination on the following facts: (1) Usinor has less than a majority voting ownership in DHS; (2) Usinor does not have a ''golden share'' in GTS; (3) there is another shareholder which effectively controls an equivalent amount of shares in DHS; and (4) information submitted by respondents indicates that there are certain limitations on the shareholders' ability to control Dillinger by virtue of labor's representation on its Supervisory and Management Boards. For more information, see Memorandum to Susan Kuhbach regarding Treatment of GTS Industries S.A. dated July 16, 1999.

Therefore, for purposes of this preliminarily determination, we have calculated a separate countervailing subsidy rate for GTS. However, since GTS was part of the Usinor group for much of the allocation period, we have attributed a portion of subsidies received by Usinor through 1996 to GTS, see the *Change in Ownership* section below.

Change in Ownership

In the *General Issues Appendix (GIA)* attached to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37217, 37226 (July 9, 1993), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of the company (privatization) or the spinning-off of a productive unit.

Under this methodology, we estimate the portion of the purchase price attributable to prior subsidies. We compute this by first dividing the privatized company's subsidies by the company's net worth for each year during the period beginning with the earliest point at which nonrecurring subsidies would be attributable to the POI (*i.e.*, in this case, 1985 for Usinor)

and ending one year prior to the privatization. We then take the simple average of the ratios. The simple average of these ratios of subsidies to net worth serves as a reasonable surrogate for the percent that subsidies constitute of the overall value of the company. Next, we multiply the average ratio by the purchase price to derive the portion of the purchase price attributable to repayment of prior subsidies. Finally, we reduce the benefit streams of the prior subsidies by the ratio of the repayment amount to the net present value of all remaining benefits at the time of privatization.

With respect to spin-offs, consistent with the Department's position regarding privatization, we analyze the spin-off of productive units to assess what portion of the sale price of the productive units can be attributable to payment for prior subsidies. To perform this calculation, we first determine the amount of the seller's subsidies that the spun-off productive unit could potentially take with it. To calculate this amount, we divide the value of the assets of the spun-off unit by the value of the assets of the company selling the unit. We then apply this ratio to the net present value of the seller's remaining subsidies. We next estimate the portion of the purchase price going towards payment for prior subsidies in accordance with the privatization methodology outlined above.

In accordance with the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from France*, 64 FR 30774, (June 8, 1999), (*French Stainless*), in this investigation we have applied the change-in-ownership methodology to the following transactions: (1) The sale of Ugine's shares in 1994; (2) the 1994 sale of Centrale Siderurgique de Richemont (CSR); (3) the privatization of Usinor which spans 1995, 1996, and 1997; (4) the spin-off of assets to Entreprise Jean LeFebvre in 1994; and (5) the spin-off of assets to FOS–OXY in 1993. Additionally, in this investigation, we have also applied our change-in-ownership methodology to Sollac's sale of GTS shares to Dillinger in 1992. In 1996, Usinor reduced its interest in GTS, see the *Attribution* section above. We applied our change-in-ownership methodology to this transaction. However, because of the lack of information on the record regarding the amount paid for the shares, we have not provided for any reallocation of subsidies to Usinor in this transaction. During the course of this investigation, we will further examine this transaction.

Subsidies Valuation Information

Allocation Period: The current investigation includes untied, non-recurring subsidies to Usinor that were found to be countervailable in *Certain Steel from France:* PACS, FIS, and Shareholders' Advances. Because we have already assigned a company-specific allocation period of 14 years to those subsidies, we have continued to allocate those subsidies over 14 years. *See, French Stainless.*

We have found no other allocable non-recurring subsidies received by Usinor and GTS in the instant proceeding. However, had there been other allocable non-recurring subsidies received we would apply the methodology stated in § 351.524(d)(2) of the *CVD Regulations*. Section 351.524(d)(2) states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

Creditworthiness: When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. See, § 351.595 of the *CVD Regulations*.

Usinor was found to be uncreditworthy from 1982 through 1988 in *Certain Steel from France*, 58 FR at 37306. No new information has been presented in this investigation that would lead us to reconsider these findings. Therefore, consistent with our past practice, we continue to find Usinor uncreditworthy from 1985 through 1988. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil*, 58 FR 37295, 37297 (July 9, 1993).

In the *Initiation Notice*, we stated that the petitioners provided sufficient information in the petition to believe or suspect that Usinor was uncreditworthy from 1992 through 1995. Our change-in-ownership methodology in addition to the fact that Usinor received a contingent liability interest free loan under the Myosotis project, require the Department to make a creditworthy determination for the 1992–1995 period.

Usinor did not provide the information requested by the Department to make a creditworthy determination, citing the ''formidable burdens which would be involved in responding to the Department's Creditworthiness questions.'' Consequently, the Department has decided to use facts available in accordance with section 776(a)(2)(A) of the Act. Section 776(b) of the Act permits the Department to draw an inference that is adverse to the interests of an interested party if that party has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' In this investigation, Usinor refused to answer on more than one occasion, the creditworthiness questions in the Department's original and supplemental questionnaires. Therefore, the Department determines it appropriate to use an adverse inference in concluding that the Usinor was uncreditworthy in 1992 through 1995.

Since there was no allegation regarding the creditworthiness of GTS, we have not examined whether GTS is creditworthy.

Benchmarks for Loans and Discount Rates: In accordance with §§ 351.505(a) and 351.524(c)(3)(i) of the *CVD Regulations*, we used Usinor's company-specific cost of long-term, fixed-rate loans, where available, for loan benchmarks and discount rates for years in which Usinor was creditworthy. For years where Usinor was creditworthy and a company-specific rate was not available, we used the rates for average yields on long-term private-sector bonds in France as published by the OECD.

For the years in which Usinor was uncreditworthy (*see* Creditworthiness section above), we calculated the discount rates in accordance with § 351.524(c)(3)(ii) of the *CVD Regulations*. To construct these benchmark rates, we used the formula described in § 351.505(a)(3)(iii) of the *CVD Regulations*. This formula requires values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we relied on the average cumulative default rated reported for Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997,'' (February 1998). For the probability of default by a creditworthy company we used the average cumulative default rates reported for the

Aaa to Baa-rated categories of companies as reported in this study.[1]

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

GOF Programs

A. Loans With Special Characteristics (PACS)

A plan was agreed upon in 1978 to help the principal steel companies, Usinor, Sacilor, Chatillon-Neuves-Maisons, and their subsidiaries, restructure their massive debt. This plan entailed the creation of a steel amortization fund, called the *Caisse d'Amortissement pour l'Acier* (CAPA), for the purpose of ensuring repayment of funds borrowed by these companies prior to June 1, 1978. In accordance with the restructuring plan of 1978, bonds previously issued on behalf of the steel companies and pre-1978 loans from *Credit National* and *Fonds de Developpement Economique et Social* (FDES) were converted into ''loans with special characteristics,'' or PACS. As a result of this process, the steel companies were no longer liable for the loans and bonds, but did take on PACS obligations.

In 1978, Usinor and Sacilor converted 21.1 billion French francs (FF) of debt into PACS. From 1980 to 1981, Usinor and Sacilor issued FF8.1 billion of new PACS. PACS in the amount of FF13.8 billion, FF12.6 billion and FF2.8 billion were converted into common stock in 1981, 1986, and 1991, respectively.

In *French Stainless, Certain Steel from France, and Final Affirmative Countervailing Duty Determinations: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from France*, 58 FR 6221 (January 27, 1993) (*Lead and Bismuth*), the Department determined that the conversion of PACS to common stock in 1986 constituted a countervailable equity infusion. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant a reconsideration of our earlier finding. Therefore, we preliminarily determine that a countervailable benefit exists in the amount of the 1986 equity infusion in accordance with § 351.507(a)(6) of the *CVD Regulations*.

We have treated the 1986 equity infusion as a non-recurring grant received in the year the PACS were converted to common stock. Using the allocation period of 14 years, the 1986 conversion of PACS continues to yield a countervailable benefit during the POI. We used an uncreditworthy discount rate to allocate the benefit of the equity infusion over time. Additionally, we followed the methodology described in the ''Change in Ownership'' section above to determine the amounts of the equity infusion appropriately allocated to Usinor and GTS. We divided these amounts by Usinor and GTS' total sales of French-produced merchandise during the POI. Accordingly, we preliminarily determine the countervailable subsidy to be 1.31 percent *ad valorem* for Usinor and 0.93 percent *ad valorem* for GTS.

B. 1986 Shareholders' Advances

The GOF provided Usinor and Sacilor grants in the form of shareholders' advances in 1986. The purpose of these advances was to finance the revenue shortfall needs of Usinor and Sacilor while the GOF planned for the next major restructuring of the French steel industry. These shareholders' advances carried no interest and there was no precondition for receipt of these funds. These advances were converted to common stock in 1986.

In *French Stainless, Certain Steel from France*, and *Lead and Bismuth*, the Department determined that the shareholders' advances constituted countervailable grants because no shares were received for them. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant a reconsideration of our earlier finding. Therefore, we continue to find that these grants constitute countervailable subsidies within the meaning of section 771(5) of the Act.

We have treated the 1986 shareholders' advance as non-recurring subsidies received in 1986. Using the allocation period of 14 years, these shareholders' advances continue to provide countervailable benefits during the POI. We used an uncreditworthy discount rate to allocate the benefits of these shareholders' advances over time. Additionally, we followed the methodology described in the ''Change in Ownership'' section above to determine the amount of the grant appropriately allocated to Usinor and GTS. We divided these amounts by Usinor and GTS' total sales of French-produced merchandise during the POI. Accordingly, we preliminarily determine the countervailable subsidy to be 0.54 percent *ad valorem* for Usinor and 0.38 percent *ad valorem*.

C. Steel Intervention Fund (FIS)

The 1981 Corrected Finance Law granted Usinor and Sacilor the authority to issue convertible bonds. In 1983, the *Fonds d'Intervention Sidérurgique* (FIS), or steel intervention fund, was created to implement that authority. In 1983, 1984, and 1985, Usinor and Sacilor issued convertible bonds to the FIS, which in turn, with the GOF's guarantee, floated the bonds to the public and to institutional investors. These bonds were converted to common stock in 1986 and 1988.

In *French Stainless, Certain Steel from France* and *Lead and Bismuth*, the Department determined that the conversions of FIS bonds to common stock in 1986 and 1988 were countervailable equity infusions. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant a reconsideration of our earlier finding. Therefore, we preliminarily determine that a countervailable benefit exists in the amounts of the 1986 and 1988 equity infusions in accordance with § 351.507(a)(6) of the *CVD Regulations*.

We have treated the 1986 and 1988 equity infusions as non-recurring subsidies received in the years the FIS bonds were converted to common stock. Using the allocation period of 14 years, the 1986 and 1988 FIS bond conversions continue to yield a countervailable benefit during the POI. We used an uncreditworthy discount rate to allocate the benefits of the equity infusions over time. Additionally, we followed the methodology described in the ''Change in Ownership'' section above to determine the amount of the equity infusion appropriately allocated to Usinor and GTS. Dividing these amounts by Usinor and GTS's total sales of French-produced merchandise during the POI, we preliminarily determine the countervailable subsidy to be 3.46 percent *ad valorem* for Usinor and 2.46 percent *ad valorem* for GTS.

D. Investment/Operating Subsidies

During the period 1987 through 1998, Usinor received a variety of small investment and operating subsidies from various GOF agencies as well as from the European Coal and Steel Community (ECSC). The subsidies were provided for research and development, projects to reduce work-related illnesses and accidents, projects to combat water pollution, etc. The subsidies are classified as investment, equipment, or operating subsidies in the company's

[1] We note that since publication of the *CVD Regulations*, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (see Exhibit 28).

accounts, depending on how the funds are used.

In *French Stainless*, the Department determined that the funding provided to Usinor by the water boards (*les agences de l'eau*) and certain work/training grants were not countervailable. Therefore, we are not investigating those programs in this proceeding.

For the remaining amounts in these accounts, including certain work/training grants that differed from those found not countervailable in *French Stainless*, the GOF did not provide any information regarding the distribution of funds, stating that, in the GOF's view, the total amount of investment and operating subsidies received by Usinor was ''insignificant and would * * * be expensed.'' Given the GOF's failure to provide the requested information, we are using ''facts available'' in accordance with section 776(a)(2)(A) of the Act. Further, section 776(b) of the Act permits the Department to draw an inference that is adverse to the interests of an interested party if that party has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' In this investigation, the GOF has refused to answer the Department's repeated requests for data regarding the distribution of grant funds. Therefore, the Department determines it appropriate to use an adverse inference in concluding that the investment and operating subsidies (except those provided by the water boards and certain work/training contracts) are specific within the meaning of section 771(5A)(D) of the Act.

We also determine that the investment and operating subsidies provide a financial contribution, as described in section 771(5)(D)(i) of the Act, in the form of a direct transfer of funds from the GOF and the ECSC to Usinor, providing a benefit in the amount of the grants.

For the investment and operating subsidies received in the years prior to the POI, we have followed the methodology in *French Stainless*. Since these subsidies were less than 0.5 percent of Usinor's sales of French-produced merchandise, we have expensed these grants in the years of receipt, in accordance with § 351.524 (b)(2) of the Department's new regulations. To calculate the benefit received during the POI, we divided the subsidies received by Usinor in the POI by Usinor's total sales of French-produced merchandise during the POI. Accordingly, we determine the countervailable subsidy to be 0.11 percent *ad valorem*. GTS use of investment and operating subsidies is discussed below.

E. Subsidies Provided Directly to GTS

GTS' 1996 condensed financial statements include a ''capital subsidy'' in the amount of FF 2.1 million. GTS claims that this amount reflects the unamortized balance of a grant that was provided to GTS pursuant to an agreement dated December 29, 1987, between the GOF and Usinor. The grant was given to support the development of a machine for the accelerated cooling of heavy plate during the hot-rolling process. The grant was provided in two disbursements made in 1988 and 1990.

The GOF responded to the Department's questions on this capital subsidy stating that because of its size, the amounts would be expensed in a period outside the POI. Therefore, the GOF did not provide information on the distribution of other grants that might have been given under the same program.

We preliminarily determine that the total amount approved in 1987 was less than 0.5 percent of Usinor's sales of French-produced merchandise in 1987. Therefore, we preliminarily determine that these grants do not confer a countervailable subsidy in the POI.

F. Myosotis Project

Since 1988, Usinor has been developing a continuous thin-strip casting process called ''Myosotis,'' in a joint venture with the German steelmaker, Thyssen. The Myosotis project is intended to eliminate the separate hot-rolling stage of Usinor's steelmaking process by transforming liquid metal directly into a coil between two to five millimeters thick.

To assist this project, the GOF, through the Ministry of Industry and Regional Planning and *L'Agence pour la Maîtrise de L'Énergie* (AFME), entered into three agreements with Usinor Sacilor (in 1989) and Ugine (in 1991 and 1995). The first agreement, dated December 27, 1989, provided three payments made in 1989, 1991, and 1993. The second agreement between Ugine and the AFME covered the cost of some equipment for the project. This agreement resulted in two disbursements to Ugine from the AFME in 1991 and 1992. The third agreement with Ugine, dated July 3, 1995, provided interest-free reimbursable advances for the final two-year stage of the project, with the goal of casting molten steel from ladles to produce thin strips. The first reimbursable advance under this agreement was made in 1997. Repayment of one-third of the reimbursable advance is due July 31, 1999. The remaining two-thirds are due for repayment on July 31, 2001.

In *French Stainless*, the Department determined that funding associated with the 1989 and 1991 contracts constituted countervailable subsidies within the meaning of section 771(5) of the Act. Furthermore, since the GOF did not provide any information indicating that the grants were provided to other companies in France, the Department determined that the grants were specific within the meaning of section 771(5A)(D) of the Act. No new information has been submitted to warrant a reconsideration of our earlier finding. Therefore, we continue to find that the grants associated with the Myosotis 1989 and 1991 contracts constitute countervailable subsidies within the meaning of section 771 (5) of the Act. Because the amounts received under the 1989 and 1991 contracts were less than 0.5 percent of Usinor's sales during their respective year of approval, these grants were expensed in the years of receipt. *See CVD Regulations*, 64 FR at 65415.

With respect to the reimbursable advance received in 1997, the GOF has requested that we find this subsidy non-countervailable under section 771(5B)(B)(ii)(II) of the Act, *i.e.*, that this is a green-light subsidy. We have preliminarily determined that we do not need to address the issue whether this subsidy is countervailable because the benefit of the reimbursable advance during the POI is less than 0.00 percent. As stated in the preamble to the *CVD Regulations:*

> [W]e will not consider claims for green light status if the subject merchandise did not benefit from the subsidy during the period of investigation or review. Instead, consistent with the Department's existing practice, the green light status of a subsidy will be considered only in an investigation or review of a time period where the subject merchandise did benefit from the subsidy.

See, CVD Regulations, 63 FR at 65388.

To measure whether any benefit was received during the POI, we treated this advance as a long-term interest free loan, consistent with our finding in *French Stainless* (see, 64 FR at 30780). Additionally, in accordance with § 351.505 (d)(1) of the Department's new regulations, we are treating this reimbursable advance as a contingent liability loan because the GOF has indicated that repayment of the loan is contingent on the success of the project (see, *CVD Regulations* 63 FR 65410). We used as our benchmark, a long-term fixed rate loan consistent with § 351.505 (a)(2)(iii) of the Department's regulations. Since Usinor would have been required to make an interest

payment on a comparable commercial loan during the POI (*see, French Stainless*), we calculated the benefit from the reimbursable advance as the amount that would have been due during the POI. Dividing these interest savings by Usinor's sales of French-produced merchandise during the POI, the benefit is 0.00 percent.

EC Programs

European Social Fund

The European Social Fund (ESF), one of the Structural Funds operated by the EC, was established in 1957 to improve workers' employment opportunities and to raise their living standards. The main purpose of the ESF is to make employing workers easier and to increase the geographical and occupational mobility of workers within the European Union. It accomplishes this by providing support for vocational training, employment, and self-employment.

Like the other EC Structural Funds, the ESF seeks to achieve six different objectives explicitly identified in the EC's framework regulations for Structural Funds: Objective 1 is to promote development and structural adjustment in underdeveloped regions; Objective 2 is to assist areas in industrial decline; Objective 3 is to combat long-term unemployment and to create jobs for young people and people excluded from the labor market; Objective 4 is to assist workers adapting to industrial changes and changes in production systems; Objective 5 is to promote rural development; and Objective 6 is to aid sparsely populated areas in northern Europe.

The member states are responsible for identifying and implementing the individual projects that receive ESF financing. The member states also must contribute to the financing of the projects. In general, the maximum benefit provided by the ESF is 50 percent of the project's total cost for projects geared toward Objectives 2, 3, 4, and 5b (see below), and 75 percent of the project's total cost for Objective 1 projects. For all programs implemented under Objective 4 in France, 35 percent of the funding comes from the EC, 25 percent from the GOF, and the remaining 40 percent from the company.

According to the questionnaire responses, CLI received an ESF grant for an Objective 4 project. The amount received during the POI was a portion of a larger total ESF grant authorized for CLI in 1996.

The Department considers worker assistance programs to provide a countervailable benefit to a company when the company is relieved of a contractual or legal obligation it would otherwise have incurred. *See*, § 357.513(a) of the *CVD Regulations*. Only limited information was provided in the questionnaire responses about the purpose of this grant. Therefore, we are unable to determine whether it relieved CLI of any legal or contractual obligations. Likewise, with regard to specificity, the EC has not provided complete information about the distribution of ESF grants.

Consequently, the Department has decided to use facts available in accordance with section 776(a)(2)(A) of the Act. Section 776(b) of the Act permits the Department to draw an inference that is adverse to the interests of an interested party if that party has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' Since Usinor, the GOF and the EC failed to provide complete information to the Department, we preliminarily determine it appropriate to use an adverse inference in concluding that in receiving the ESF grant that CLI was relieved of an obligation, and that the ESF grant is specific within the meaning of section 771(5A)(D) of the Act.

We preliminarily determine that the 1998 ESF grant is countervailable within the meaning of section 771(5) of the Act. The grant is a financial contribution, as described in section 771(5)(D)(i) of the Act, which provides a benefit to the recipient in the amount of the grant.

The Department normally expenses the benefits from worker-related subsidies in the year in which the recipient is relieved of a payment it would normally incur. *See, CVD Regulations* at 63 FR 65412. Dividing the amount of CLI's 1998 ESF grant by CLI's total 1998 sales yields a countervailable subsidy of 0.00 percent *ad valorem* for this program.

II. Programs Preliminarily Determined Not To Be Countervailable

GOF Programs

A. 1994 Purchase of Power Plant for Excessive Remuneration

The Department initiated an investigation of this program prior to the issuance of the final determination of *French Stainless*. In *French Stainless*, the Department investigated whether the purchase of the Richemont power plant by Électricité de France (EDF), a government-owned entity, was an arm's-length transaction for full market value. The Department determined that while FF 1 billion represented a large gain over the book value of CSR's physical assets, the purchase price included an exclusive supply contract from EDF to Usinor's factories in the Lorraine region. Moreover, the transaction price was supported by reasonable estimates of projected costs and revenues. Therefore, the Department determined this transaction was an arm's-length transaction for full-market value and that EDF's purchase of Richemont did not constitute a countervailable subsidy within the meaning of section 771(5) of the Act.

In this investigation, the petitioners stated that to the extent that the Department determines that the transaction is for full-market value based on the commitments by Usinor to purchase power from EDF, evidence suggests that EDF canceled the contract obligating Usinor to purchase electricity exclusively from EDF. Specifically, the petitioners point to a note in Usinor's 1996 financial statements which states that ''other income mainly includes the positive impact (MF 250) of a compensation received from EDF and relating to the termination of a distribution contract''.

As indicated in the our *Initiation Checklist* and in an additional Memorandum to the File through Susan Kuhbach, dated June 2, 1999, the Department indicated that it is terminating its investigation into those programs found not countervailable in *French Stainless*. In *French Stainless*, the Department determined that the 1994 Richemont power plant transaction was a market-based transaction. The information contained in Usinor's 1996 financial statements cited by the petitioners describes an event that occurred two years after the investigated transaction and there is no indication that the 1996 compensation from EDF relates to the Richemont transaction. Therefore, we do not consider this information sufficient to reconsider our prior determination in *French Stainless*.

B. GOF Conditional Advance

In *French Stainless*, the Department learned on verification that Usinor received an interest-free conditional advance from the GOF. This advance was provided through the Ministry of Industry to support a project aimed at developing a new type of steel used in the production of catalytic converters. Ugine, Sollac, and two unaffiliated companies participated in the project and each company received a portion of the total project funding provided by the GOF. Ugine received its first payment in 1992 and a second payment in 1995. There is no information on the record

indicating exactly when Sollac received payment. According to the agreement between the GOF and the participating companies, repayment of the advance was contingent upon sales of the product resulting from this project exceeding a set amount. The Department learned in *French Stainless*, that since this condition has not been met, the entire amount of the advance received by Ugine remained outstanding in 1997. Usinor did not provide information indicating the outstanding balance of the loans during the POI.

The responding companies have indicated that the GOF conditional advance is for a project aimed at developing a new type of steel for catalytic converters which does not cover subject merchandise. Additionally, the width of this product does not fall within the width range of the subject merchandise as specified in the scope section of this notice. Therefore, the Department preliminarily determines that this program is tied to non-subject merchandise.

III. Other Programs

A. Electric Arc Furnaces

In 1996, the GOF agreed to provide assistance in the form of reimbursable advances to support Usinor's research and development efforts regarding electric-arc furnaces. The first disbursal of funds occurred on July 17, 1998. Repayment of the reimbursable advances will begin on July 31, 2002.

Since these advances may someday be repaid, we are treating them as contingent liability loans. (*See*, § 351.505(d)(1) of the *CVD Regulations*). Under the methodology specified in the Department's new regulations, the benefit occurs when payment would have been made on a comparable commercial loan. (*See*, § 351.505(b) of the *CVD Regulations*). Information provided at verification in the *French Stainless* case indicates that Usinor would make interest payments on its long-term loans on an annual basis. Likewise, information from the Department's discussions in *French Stainless* with private banks in France confirms that such a payment schedule would not be considered atypical of general French banking practices. See *French Stainless*, 64 FR at 30780. Accordingly, we have assumed that a payment on a comparable commercial loan taken out by Usinor at the time of this reimbursable advance would not be due until the year 1999.

Given that no payment would be due during the POI, we preliminarily determine that there is no benefit to Usinor from these reimbursable advances during the POI. Consequently, we have not addressed whether this reimbursable advance is countervailable.

IV. Programs Preliminarily Determined To Be Not Used

Based on the information provided in the responses, we determine that responding companies did not apply for or receive benefits under the following programs during the POI:

GOF Programs

A. *Shareholders Guarantees*
B. *Long-Term Loans from CFDI*
C. *Subsidies Provided Directly To GTS*

EC Programs

A. *Resider and Resider II Program*
B. *ECSC Article 54 Loans*
C. *ECSC Article 56(2)(b) Redeployment/ Readaptation Aid*
D. *Grants from the European Regional Development Fund (ERDF)*

V. Programs Preliminarily Determined Not To Exist

In *French Stainless*, we determined that the alleged program did not exist: ''Soft Loans from Credit Lyonnais''. Therefore, we are not pursuing this allegation further in this investigation.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Usinor and GTS the sole manufacturers of the subject merchandise. We preliminarily determine that the total estimated net countervailable subsidy rate is 5.42 percent *ad valorem* for Usinor and 3.77 percent *ad valorem* for GTS. The All Others rate is 3.84 percent, which is the weighted average of the rates for both companies. In accordance with section 703(d) of the Act, we are directing the US Customs Service to suspend liquidation of all entries of certain cut-to-length carbon-quality steel plate from France which are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary, Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of this preliminary determination, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. An interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the publication of this notice. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days

after the filing of case briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18854 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–818]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Eric B. Greynolds, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from India. For information on the estimated countervailing duty rate, see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation; U.S. Steel Group, a unit of USX Corporation; Gulf States Steel Inc.; IPSCO Steel Inc.; Tuscaloosa Steel Corporation; and the United Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred: On March 19, 1999, we issued our original countervailing duty questionnaire to the Government of India (GOI) and to producers/exporters of the subject merchandise. On April 21, 1999, we postponed the preliminary determination of this investigation to no later than July 16, 1999. *See Certain Cut-to-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations*, 64 FR 23057 (April 29, 1999).

On May 10, 1999, we received responses to our initial questionnaire from the GOI and from the Steel Authority of India (SAIL), the only producer and exporter of the subject merchandise. We issued supplemental questionnaires on June 3, 1999, and June 15, 1999. We received responses to these questionnaires on June 25, 1999, and July 6, 1999.

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this investigation unless otherwise specifically excluded. The following products are specifically excluded from this investigation: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to this investigation is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written

description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA S.p.A. (ILVA), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4'' or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope and should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long product). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because India is a ''Subsidies Agreement country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from India of the subject merchandise. *See Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia,* 64 FR 17198 (April 8, 1999).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-to-length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the Former Yugoslav Republic of Macedonia,* 64 FR 12959 (March 16, 1999). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping duty investigations of cut-to-length plate.

Period of Investigation (POI)

Because SAIL is the only exporter/producer of the subject merchandise, the POI for which we are measuring subsidies is the period for SAIL's most recently completed fiscal year, April 1, 1997 through March 31, 1998.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, according to § 351.524(d)(2) of the CVD

Regulations, we have allocated SAIL's non-recurring benefits over 15 years, the AUL listed in the IRS tables for the steel industry.

Benchmarks for Loans and Discount Rate

For those programs which require the application of a short-term interest rate benchmark, we used as our benchmark a company-specific, short-term commercial interest rate for both rupee- and U.S. dollar-denominated loans for the POI as reported by SAIL. Where a long-term interest-rate benchmark was required, the selection of a benchmark is specified in the program-specific sections of this notice.

In addition, because SAIL did not report rupee-denominated long-term commercial loans, we could not use a company-specific interest rate as our discount rate. Therefore, the discount rate used was the lending rate on rupee lending from private creditors as reported in the International Financial Statistics.

I. Programs Preliminarily Determined To Be Countervailable

A. Duty Entitlement Passbook Scheme (DEPS)

In its May 10, 1999, response to the Department's original questionnaire, the GOI submitted copies of two publically available Ministry of Commerce publications—''Export and Import Policy'' and ''Handbook of Procedures'' (see Exhibits P and Q of the public version on file in room B–099 of the Main Commerce Building). These publications set forth the rules and regulations of the several programs which allow duty exemptions on imports. Chapter 7 of the ''Export and Import Policy'' contains the details of India's Duty Exemption Scheme, which consists of the DEPS and ''Duty Free Licenses'' (Advance Licenses, Advance Intermediate Licenses, and Special Imprest Licenses).

The DEPS formerly was the Passbook Scheme (PBS), which was enacted on April 1, 1995, under the auspices of the Directorate General of Foreign Trade (DGFT). Under the PBS, GOI-designated manufacturers/exporters, upon export of finished goods, could claim credits on certain imported inputs which could be used to pay customs duties on subsequent imports. The amount of credit granted was determined according to the GOI's ''Standard Input/Output'' (SIO) norm schedule that established the quantities of normally imported raw materials used to produce one unit of the finished product. Using the SIO norm schedule, the GOI granted a credit based on an estimation of the customs duty that would have otherwise been charged absent the program. Rather than receiving the import duty refund in cash, participating companies received their credits in the form of a ''passbook'' from the DGFT which, in turn, could be used to pay import duties on subsequent GOI-approved imports by means of a debit entry in the company's passbook. According to the GOI, the passbook program was discontinued on April 1, 1997. However, exporters may continue to use a passbook credit that was issued prior to the termination for a period of up to three years after the issuance date. Thus, exporters can, conceivably, continue to use credits earned under the PBS program until their credits have been used up or until March 31, 2000. SAIL has reported that it did not use or receive credits under the PBS during the POI.

On the same date that the PBS was terminated, the GOI enacted the DEPS. Under the DEPS, exporters are eligible to receive a specified percentage of duty credits against the f.o.b. value of their exports. As with the PBS, the GOI determines the amount of credit that can be applied towards a company's remission of import duties according to the GOI's SIO norm schedule, which sets forth the average amount of inputs imported for the manufacture of a specific product and the average amount of duty payable on those imported inputs.

Under the DEPS, an exporter may obtain credits on a pre-export or post-export basis. Eligibility for the DEPS pre-export program is limited to manufacturers/exporters that have exported for a three year period prior to applying for the program. A pre-export credit is capped at five percent of the average export performance of the applicant during the preceding three years. The GOI and the company have stated that SAIL did not use or receive DEPS pre-export credits during the POI.

All exporters are eligible to participate in the DEPS post-export program, provided that the exported product is listed in the GOI's SIO norm schedule. According to the GOI, post-export DEPS credits allow exporters to receive exemptions on any subsequent import regardless of whether it is incorporated into the production of an export product. In addition, credits earned under the DEPS post-export program are valid for 12 months and are freely transferable. During the POI, SAIL received and used post-export DEPS credits.

Section 351.519 of the CVD Regulations sets forth the criteria regarding the remission, exemption or drawback of import duties. Under 351.519(a)(4), the entire amount of an import duty exemption is countervailable if the government does not have in place a system or procedure to confirm which imports are consumed in the production of the exported product, or if the government has not carried out an examination of actual imports involved to confirm which imports are consumed in the production of the exported product.

According to the GOI, once a post-export DEPS credit is earned, companies may use the credit for the exemption of duties on any import regardless of whether the import is consumed in the production of an export product. Because the GOI reported that exporters are free to use products imported with post-export DEPS credits without restriction, we preliminary determine that the GOI does not have a system in place to confirm that imports are consumed in the production of an exported product, nor has it carried out such an examination. Consequently, under § 351.519(a)(4) of the CVD Regulations, the entire amount of the import duty exemption provides a benefit. Furthermore, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program because the GOI is foregoing customs duties. In addition, this program can only be used by exporters, and, thus, the subsidy is specific under section 771(5A)(A) of the Act.

SAIL reported its receipt of DEPS post-export credits during the POI for exports of subject merchandise to the United States and the application fees it paid in order to receive the credits. We preliminarily determine that the fees paid qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, to calculate the subsidy, we have calculated the amount of DEPS import duty exemptions received by SAIL and the amount of revenue earned on DEPS export credits which have been sold by SAIL during the POI that were attributable to exports of subject merchandise to the United States (less the applicable fees paid). We then divided that amount by SAIL's total exports of subject merchandise to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.55 percent *ad valorem*.

B. Advance Licenses

Under India's Duty Exemption Scheme, companies may also import

inputs duty-free through the use of import licenses. Using advance licenses, companies are able to import inputs ''required for the manufacture of goods'' without paying India's basic customs duty (*see* chapter 7 of ''Export and Import Policy''). Advance intermediate licenses and special imprest licenses are also used to import inputs duty-free. During the POI, SAIL used advance licences and also sold some advance licenses. SAIL reported that it did not use or sell any advance intermediate licenses or special imprest licenses during the POI.

In *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 62 FR 32297, 32306 (June 13, 1997) (*1994 Castings*), the Department found that the advance licenses system accomplished, in essence, what a drawback system is intended to accomplish, *i.e.*, finished products produced with imported inputs are allowed to be exported free of the import duties assessed on the imported inputs. The Department concluded that, because the imported inputs were used to produce castings which were subsequently exported, the duty-free importation of these inputs under the advance license program did not constitute a countervailable subsidy. *See 1994 Castings* 62 FR at 32306.

Subsequently, in *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 63 FR 64050, 64058–59 (Nov. 18, 1998) (*1996 Castings*), we stated that we would reevaluate the program in light of new information as to how the program operates. In the petition, petitioners provided new substantive information which indicated that the GOI does not value the licenses according to the inputs actually consumed in the production of the exported good. Based on this information, we initiated a reexamination of the advanced license program.

As stated earlier, § 351.519 of the CVD Regulations sets the criteria used to determine whether programs which provide for the remission, exemption, or drawback of import duties are countervailable. Under § 351.519(a)(4), the government must have a system in place or must carry out an examination to confirm that inputs are consumed in the production of the exported product. Absent these procedures, the entire amount of the import duty exemption provides a countervailable benefit.

Because the GOI reported in its questionnaire response that products imported under an advance license need not be consumed in the production of the exported product, we preliminarily determine that the GOI has no system in place to confirm that the inputs are consumed in the production of the exported product, nor has the GOI carried out such an examination. Consequently, under § 351.519(a)(4) of the CVD Regulations, the entire amount of the duty exemption under the advance licenses program is countervailable. Because only exporters can receive advance licenses, this program constitutes an export subsidy under section 771(5A)(B) of the Act. In addition, a financial contribution is provided by the program under section 771(5)(D)(ii) of the Act.

The GOI also allows companies to sell advance licenses to other companies in India. The Department has previously determined that the sale of import licenses constitutes a countervailable export subsidy. *See, e.g., 1996 Castings* and *1994 Castings*. No new substantive information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy and that the financial contribution in the form of the revenue received on the sale of licenses constitutes the benefit.

SAIL reported the advance licenses it used and sold during the POI which it received for exports of subject merchandise to the United States and the application fees it paid in order to receive these licenses. We preliminarily determine that the fees paid qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Under § 351.524(c) of the CVD Regulations, this program provides a recurring benefit. Therefore, to calculate the subsidy for the Advance Licenses program, we added the values of the import duty exemptions realized by SAIL from its use of advance licenses during the POI (net of application fees) and the proceeds it realized from sales of advance licenses during the POI (net of application fees). We then divided this total by the value of SAIL's exports of subject merchandise to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 12.90 percent *ad valorem*.

C. Special Import Licenses (SILs)

During the POI, SAIL sold through public auction two other types of import licenses—SILs for Quality and SILs for Star Trading Houses. SILs for Quality are licenses granted to exporters which meet internationally-accepted quality standards for their products, such as IS0 9000 (series) and ISO 14000 (series). SILs for Star Trading Houses are licenses granted to exporters that meet certain export targets. Both types of SILs permit the holder to import products listed on a ''Restricted List of Imports'' in amounts up to the face value of the SIL but do not relieve the importer of import duties.

SAIL reported that it sold SILs during the POI. As explained above, the Department's practice is that the sale of special import licenses constitutes an export subsidy because companies received these licenses based on their status as exporters. *See, e.g., 1996 Castings* and *1994 Castings*. No new substantive information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that this program constitutes a countervailable export subsidy, and the financial contribution in the form of the revenue received on the sale of licenses constitutes the benefit.

During the POI, SAIL sold numerous SILs. Because the receipt of SILs cannot be segregated by type or destination of export, we calculated the subsidies by dividing the total amount of proceeds received from the sales of these licenses by the value of SAIL's total exports. On this basis, we preliminarily determine the net countervailable subsidy be 0.15 percent *ad valorem*.

D. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital goods at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to six times the value of the capital goods within a period of five to eight years. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

In the *Final Negative Countervailing Duty Determination: Elastic Rubber Tape From India*, 64 FR 19125 (April 19, 1999) (*ERT*), we determined that the import duty reduction provided under the EPCGS was a countervailable export subsidy. *See ERT* 64 FR at 19129–30. We also determined that the exemption from the excise tax provided under this program was not countervailable. *See ERT* 64 FR at 19130. No new

information or evidence of changed circumstances have been provided to warrant a reconsideration of these determinations. Therefore, we continue to find that import duty reductions provided under the EPCGS to be countervailable export subsidies.

SAIL reported that it imported machinery under the EPCGS during the POI and in the years prior to the POI. For some of its imported machinery, SAIL met its export commitments prior to the POI. Therefore, the amount of duty for which it had claimed exemption has been completely waived by the GOI. However, SAIL has not completed its export commitments for other imports of capital machinery. Therefore, although SAIL received a reduction in import duties when the capital machinery was imported, the final waiver on the potential obligation to repay the duties has not yet been made by the GOI.

We preliminary determine that SAIL benefitted in two ways by participating in this program during the POI. The first benefit received by SAIL under this program is the benefit on the import duty reductions received on imported capital equipment which has been formally waived by the GOI because SAIL met its export requirements with respect to those imports. Prior to the POI, SAIL met its export requirements for certain capital imports it made under the EPCGS and, therefore, upon that fulfillment, the GOI formally waived the unpaid duties on those imports. Because the GOI has formally waived the unpaid duties on these imports, we have treated the full amount of the duty exemption as a grant received in the year the export requirement for the import was met since that was the year the final waiver of unpaid duties was received.

Section 351.524 of the CVD Regulations specifies the criteria to be used by the Department in determining how to allocate the benefits from a countervailable subsidy program. Under the CVD Regulations, recurring benefits will be expensed in the year of receipt, while non-recurring benefits will be allocated over time. In this investigation, non-recurring benefits will be allocated over 15 years, the AUL of assets used by the steel industry as reported in the IRS tables.

Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Since import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit. However, the CVD Regulations recognize that under certain circumstances it may be more appropriate to allocate the benefits of a program traditionally considered as a recurring subsidy, rather than to expense the benefits in the year of receipt. For example, § 351.524(c)(2) of the CVD Regulations allows a party to claim that a recurring subsidy should be treated as a non-recurring subsidy and enumerates the criteria to be used by the Department in evaluating that claim. In addition, in the Explanation of the Final Rules (the Preamble) to the CVD Regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program non-recurring, and, thus, allocate those benefits over time. In the Preamble to the CVD Regulations we stated that if a government provides an import duty exemption tied to major capital equipment purchases, such as the program at issue here, that it may be appropriate to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the list of recurring subsidies. *See* CVD Regulations, 63 FR at 65393. Therefore, because the benefit received from the waiver of import duties under the EPCGS program is tied to the capital assets of SAIL, we consider the benefit to be non-recurring. Accordingly, we have allocated the benefit from this program over the average useful life of assets in the industry, as set forth in the ''Subsidies Valuation Information'' section, above.

The second type of benefit received under this program was provided by the import duty reductions received on imports of capital equipment for which SAIL had not yet met its export requirements. For those capital equipment imports, we determine that SAIL had unpaid duties which formally had not been waived by the GOI. Thus, the company had outstanding contingent liabilities during the POI. When a company has an outstanding liability and repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* § 351.505(d)(1) of the CVD Regulations.

In this investigation, the amount of contingent liability which would be treated as an interest-free loan is the amount of the import duty reduction received by SAIL, but not yet finally waived by the GOI. Thus, for duty reductions received on imports of capital equipment for which SAIL had not yet met its export requirements, we consider the full amount of SAIL's unpaid customs duty on those imports which are outstanding during the POI to be an interest-free loan. We calculated this portion of the benefit as the interest that SAIL would have paid during the POI had it borrowed the full amount of the duty reduction at the benchmark rate. Pursuant to § 351.505(d)(1) of the CVD Regulations, we used a long-term interest rate as our benchmark for measuring the subsidy because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for SAIL to fulfill its export commitments) occurs at a point in time more than one year after the date the capital goods were imported. Because SAIL did not report any rupee-denominated long-term loans for the year in which SAIL imported the capital equipment, we could not use a company-specific benchmark interest rate as a discount rate in calculating the benefit provided to SAIL under this program. Thus, we used, as the discount rate, the lending rate on rupee-lending from private creditors, which is published in *International Financial Statistics*.

To calculate the subsidy, we divided the combined benefit allocable to the POI by SAIL's total exports from its Bhilai facility during the POI because SAIL only reported the capital equipment imported under the EPCGS for the Bhilai facility. (We used this methodology for the purpose of the preliminary determination because SAIL only reported the capital equipment imported under the EPCGS by the Bhilai facility, the only plant which produced the subject merchandise exported to the United States. We are seeking additional information on all import duty exemptions on imports of all capital equipment by SAIL for purposes of the final determination). On this basis, we preliminarily determine the net countervailable subsidy to be 0.25 percent *ad valorem*.

E. Pre-shipment and Post-shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or ''packing credits,'' to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials, warehousing, packing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks, based upon a company's creditworthiness and past export performance, and may be

denominated in either Indian rupees or in foreign currency. Companies that have pre-shipment credit lines typically pay interest on a quarterly basis on the outstanding balance of the account at the end of each period.

Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates determined by the RBI. During the POI, the rate of interest charged on pre-shipment, rupee-denominated export loans up to 180 days was 12.0 and 13.0 percent. For those loans over 180 days and up to 270 days, banks charged interest at 15.0 percent. The interest charged on foreign currency denominated export loans up to 180 days during the POI was a 6-month LIBOR rate plus 2.0 percent for banks with foreign branches, or plus 2.5 percent for banks without foreign branches. For those foreign currency denominated loans exceeding 180 days and up to 270 days, the interest charged was 6-month LIBOR plus 4.0 percent for banks with foreign branches, or plus 4.5 percent for banks without foreign branches. Exporters did not receive the concessional interest rate if the loan was beyond 270 days.

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to their lending bank. The credit covers the period from the date of shipment of the goods, to the date of realization of export proceeds from the overseas customer. Post-shipment financing is, therefore, a working capital program used to finance export receivables. This financing is normally denominated in either rupees or in foreign currency, except when an exporter used foreign currency pre-shipment financing, then the exporter is restricted to post-shipment export financing denominated in the same foreign currency.

In general, post-shipment loans are granted for a period of no more than 180 days. The interest rate charged on these foreign currency denominated loans during the POI was LIBOR plus 2.0 percent for banks with overseas branches or LIBOR plus 2.5 percent for banks without overseas branches. For loans not repaid within the due date, exporters lose the concessional interest rate on this financing.

The Department has previously found both pre-shipment export financing and post-shipment export financing to be countervailable, because receipt of export financing under these programs was contingent upon export performance and the interest rates were lower than the rates the exporters would have paid on comparable commercial loans. *See, e.g., 1995 Castings,* 62 FR at 32998. No new substantive information or evidence of changed circumstances has been submitted in this investigation to warrant reconsideration of this finding. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that pre-and post-shipment export financing constitute countervailable export subsidies.

To determine the benefit conferred under the pre-export financing program for rupee-denominated loans, we compared the interest rate charged on these loans to a benchmark interest rate. SAIL reported that, during the POI, it received and paid interest on commercial, short-term, rupee-denominated cash credit loans which were not provided under a GOI program. Cash credit loans are the most comparable type of short-term loans to use as a benchmark because like the pre-export loans received under this program, cash credit loans are denominated in rupee and take the form of a line of credit which can be drawn down by the recipient. Thus, we used these loans to calculate a company-specific, weighted-average, rupee-denominated benchmark interest rate. We compared this company-specific benchmark rate to the interest rates charged on SAIL's pre-shipment rupee loans and found that the interest rates charged were lower than the benchmark rates. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POI because the interest rates charged on these loans were less than what a company otherwise would have had to pay on a comparable short-term commercial loan.

To calculate the benefit from these pre-shipment loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. Where the benchmark interest exceeded the actual interest paid, the difference is the benefit. We then divided the total amount of benefit by SAIL's total exports. On this basis, we preliminarily determine the net countervailable subsidy to be 0.10 percent *ad valorem*.

During the POI, SAIL also took out U.S. pre-and post-shipment export financing denominated in U.S. dollars. To determine the benefit conferred from this non-rupee pre-and post-shipment export financing, we again compared the program interest rates to a benchmark interest rate. We used the company-specific interest rates from SAIL's ''bankers acceptance facility'' loans to derive the benchmark. SAIL's bankers acceptance facility loans were the only commercial short-term dollar lending received by the company during the POI. Because the effective rates paid by the exporters are discounted rates, we derived from the bankers acceptance facility rates a discounted weighted-average, dollar-denominated benchmark. We compared this company-specific benchmark rate to the interest rates charged on pre-shipment and post-shipment dollar-denominated loans and determined that the program interest rates were higher than the benchmark rate. Therefore, we preliminarily determine that SAIL did not benefit from dollar-denominated pre-and post-shipment export financing during the POI.

F. Loan Guarantees From the GOI

In its questionnaire response, the GOI reported that it has not extended loan guarantees pursuant to any program *per se*. Rather, the Ministry of Finance extends loan guarantees to selected Indian companies on an *ad hoc* basis, normally to public sector companies in particular industries. The GOI also reported that GOI loan guarantees are not contingent on export performance nor are they contingent on the use of domestic over imported goods. The GOI stated that, while it has not extended loan guarantees to the steel sector since 1992, it continues to extend loan guarantees to other industrial sectors on an *ad hoc* basis.

During the POI, SAIL had outstanding several long-term, foreign currency loans on which it received loan guarantees from the GOI. These loans originated from both foreign commercial banks and international lending/development institutions. According to SAIL, the loan guarantees were earmarked for certain activities related to the company's steel production (i.e. worker training, modernization activities, etc.). In contradiction to the GOI's response, SAIL reported that it finalized its loan agreements, and, thus, its loan guarantees as late as 1994.

Section 351.506 of the CVD Regulations states that in the case of a loan guarantee, a benefit exists to the extent that the total amount a firm pays for the loan with a government-provided guarantee is less than the total amount the firm would pay for a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee, including any differences in guarantee fees. Thus, to determine whether this program confers a benefit, we compared the total amount SAIL paid, including effective interest and guarantee fees, on

each of its outstanding foreign currency loans with the total amount it would have paid on a comparable commercial loan.

According to SAIL's response, the original loan amounts were denominated in foreign currencies. However, SAIL only reported the rupee-denominated payments on these loans, and reported only a weighted-average interest rate on these loans derived from these rupee payments. Therefore, for this preliminary determination, we are unable to use a foreign currency benchmark to calculate the benefit conferred by these loan guarantees. (We also note that SAIL did not report any non-GOI guaranteed long-term foreign currency loans, thus, even if SAIL had properly reported the interest rates charged on these loans, we could not use a company-specific benchmark interest rate.) SAIL also did not report any long-term rupee loans from commercial sources. Therefore, we used as the benchmark the long-term interest rate for loans denominated in rupees from private creditors, which is published in *International Financial Statistics.* (We are seeking additional information from SAIL on the actual fees charged on these guarantees. We will also seek information on interest rates and guarantee fees charged by commercial banks on foreign currency loans provided within India.)

Using these two rates for comparison purposes, we found that the total amount paid by SAIL on the GOI guaranteed loans was less than what the company would have paid on a comparable commercial loan. Thus, we preliminary determine that the loan guarantees from the GOI conferred a benefit upon SAIL. We preliminarily determine that this program is specific under section 771(5A)(D)(iii)(II) of the Act because it is limited to certain companies selected by the GOI on an *ad hoc* basis. In addition, a financial contribution is provided under the program as defined under section 771(5)(D)(i) of the Act. To calculate the subsidy, we divided the benefit calculated from the loan guarantees by SAIL's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.50 percent *ad valorem*.

We did not include in our calculations the loans which originated from international lending/development institutions. According to § 351.527 of the CVD Regulations, the Department does not generally consider loans provided by international lending/development institutions such as the World Bank to be countervailable. However, we will continue to consider the issue for the final determination.

II. Program Preliminarily Determined To Be Not Countervailable

Government of India (GOI) Loans through the Steel Development Fund (SDF)

The SDF was established in 1978 at a time when the steel sector was subject to price and distribution controls. From 1978 through 1994, an SDF levy was imposed on all sales made by India's integrated producers. The proceeds from this levy were then remitted to the Joint Plant Committee (JPC), the administrating authority consisting of four major integrated steel producers in India that have contributed to the fund over the years. The GOI reported in its questionnaire response that these levies, interest earned on loans, and repayments of loans due are the only sources of funds for the SDF.

Under the SDF program, companies that have contributed to the fund are eligible to take out long-term loans from the fund at favorable rates. All loan requests are subject to review by the JPC along with the Development Commission for Iron and Steel. In its questionnaire response, the GOI has claimed that it has never contributed any funds, either directly or indirectly, to the SDF. Thus, we preliminarily determine that the SDF program is not countervailable because it does not constitute a financial contribution as defined under section 771(5)(D)(ii) of the Act.

III. Programs Preliminarily Determined To Be Not Used

Based upon the information provided in the responses, we preliminarily determine that SAIL did not apply for or receive benefits under the following programs during the POI:

A. *Passbook Scheme*
B. *Advanced Intermediate Licenses*
C. *Special Imprest Licenses*
D. *Tax Exemption for Export Profits (Section 80 HHC of the India Tax Act)*

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for the company under investigation—SAIL. We will use this rate for purposes of the ''all others'' rate.

Producer/exporter	Net subsidy rate
Steel Authority of India (SAIL).	14.45% ad valorem.
All Others	14.45% ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from India, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent

practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18856 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Tipten Troidl, CVD/AD Enforcement, Office 6, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from the Republic of Korea. For information on the estimated countervailing duty rates, see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., Tuscaloosa Steel Corporation, and the United Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the *Federal Register (see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-to-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea,* 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred. On March 18, 1999, we issued countervailing duty questionnaires to the Government of Korea (GOK), and the producers/exporters of the subject merchandise. On April 29, 1999, we postponed the preliminary determination of this investigation until no later than July 16, 1999. *See Certain Cut-to-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations,* 64 FR 23057 (April 29, 1999).

We received responses to our initial questionnaires from the GOK and Pohang Iron & Steel Company, Ltd. (POSCO), and Dongkuk Steel Mill Co., Ltd. (DSM), producers of the subject merchandise, on May 10, 1999. In addition, on July 1, 1998 we received responses from four trading companies which are involved in exporting the subject merchandise to the United States: POSCO Steel Service & Sales Company, Ltd. (POSTEEL), Dongkuk Industries Co., Ltd. (DKI), Hyosung Corporation (Hyosung), and Sunkyong Ltd. (Sunkyong). On June 9, 1999, we issued supplemental questionnaires to all of the responding parties and received their responses on June 28, 1999, and July 1, 1999.

The Department is currently seeking additional information regarding certain R&D programs used by either POSCO, DSM or their affiliates, which may have benefitted the producers/exporters of the subject merchandise.

Scope of Investigation

For purposes of this investigation, the product covered is certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these

investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to this investigation is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and DSM and POSCO, respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA S.p.A. (ILVA), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4'' or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long product). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different production processes and than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because the Republic of Korea (Korea) is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Korea of the subject merchandise (*See Certain Cut-To-Length Steel Plate From Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia,* 64 FR 17198 (April 8, 1999).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Republic of Korea, and the Former Yugoslav Republic of Macedonia,* 64 FR 12959 (March 16, 1999). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of certain cut-to-length plate.

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 1998.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, according to § 351.524(d)(2) of the CVD Regulations, we have allocated POSCO and DSM's non-recurring subsidies over 15 years, the AUL listed in the IRS tables for the steel industry.

Benchmarks for Long-Term Loans and Discount Rates

During the POI, POSCO and DSM had a number of won-denominated and foreign currency-denominated long-term loans outstanding which the company received from government-owned banks, Korean commercial banks, overseas banks, and foreign banks with branches in Korea. A number of these loans were received prior to 1992. In the 1993 investigation of *Steel Products from Korea,* the Department determined that the GOK influenced the practices of lending institutions in Korea and controlled access to overseas foreign currency loans through 1991. *See Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea,* 58 FR 37328, 37338 (July 9, 1993) (*Steel Products from Korea*), and the ''Direction of Credit'' section below. In that investigation, we determined that the best indicator of a market rate for long-term loans in Korea was the three-year corporate bond rate on the secondary market. Also, *see Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea,* 64 FR 15530, 15532 (March 31, 1999) (*Plate in Coils*), and *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30636, 39641 (June 8, 1999) (*Sheet and Strip*). Therefore, in the preliminary determination of the current investigation, to calculate the benefit which POSCO and DSM received from direct foreign currency loans and domestic foreign currency loans obtained prior to 1991 and still outstanding during the POI, we used as our benchmark the three-year corporate bond rate on the secondary market. We are also using the three-year corporate bond rate on the secondary market as the discount rate to determine the benefit from non-recurring subsidies received prior to 1992.

In *Plate in Coils* and *Sheet and Strip,* the Department determined that the GOK continued to control directly or indirectly the lending practices of most sources of credit in Korea between 1992 and 1997. In the current investigation, we preliminarily determine that the GOK still exercised substantial control over lending institutions in Korea during the POI. Based on our findings on this issue in prior investigations, as well as in the current investigation on CTL Plate, discussed below in the ''Direction of Credit'' section of this notice, we are using the following benchmarks to calculate POSCO's and DSM's benefit from long-term loans obtained in the years 1992 through 1998: (1) For countervailable, foreign-currency denominated loans, we are using the company-specific, weighted-average U.S. dollar-denominated interest rates on the companies' loans from foreign bank branches in Korea; (2) for countervailable won-denominated loans, where available, we are using the company-specific three-year corporate bond rate on the companies' public bonds. Where unavailable, we continue to use a national average three-year corporate bond rate. In *Plate in Coils* and in *Sheet and Strip,* we found that the Korean domestic bond market was not controlled by the GOK after 1991, and that domestic bonds serve as an appropriate benchmark interest rate.

We are also using the three-year company-specific corporate bond rate as the discount rate to determine the benefit from non-recurring subsidies received between 1992 and 1998.

Benchmarks for Short-Term Financing

For those programs which require the application of a short-term interest rate benchmark, we used as our benchmark a company-specific weighted-average interest rate for commercial won-denominated loans for the POI. Each respondent provided to the Department its respective company-specific, short-term commercial interest rate.

Treatment of Subsidies Received by Trading Companies

During the POI, POSCO exported the subject merchandise to the United States through three trading companies, POSTEEL, Hyosung, and Sunkyong. DSM exported through one trading company, DKI. POSTEEL is affiliated with POSCO, and DKI is affiliated with DSM within the meaning of section 771(33)(E) of the Act because as of December 31, 1998, POSCO owned 95.8 percent of POSTEEL's shares, and DSM owned 51.3 percent of DKI shares. The other trading companies are not affiliated with either POSCO or DSM. We required that the trading companies provide responses to the Department with respect to the export subsidies under investigation. Responses were required from the trading companies because the subject merchandise may be subsidized by means of subsidies provided to both the producer and the exporter. All subsidies conferred on the production and exportation of subject merchandise benefit the subject merchandise even if it is exported to the United States by an unaffiliated trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer, with those provided to the exporter. *See* 19 CFR 351.525.

Under § 351.107 of the Department's Regulations, when the subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a ''combination'' rate for each combination of an exporter and supplying producer. However, as noted in the ''Explanation of the Final Rules'' (the Preamble), there may be situations in which it is not appropriate or practicable to establish combination rates when the subject merchandise is exported by a trading company. In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296; 27303 (May 19, 1997).

In this investigation, we preliminarily determine that it is not appropriate to establish combination rates. This determination is based on two main facts: First, the majority of the subsidies conferred upon the subject merchandise were received by the producers. Second, the difference in the levels of subsidies conferred upon the subject merchandise

among the individual trading companies is insignificant. Therefore, combination rates would serve no practical purpose because the calculated subsidy rate for POSCO/POSTEEL or POSCO/Sunkyong or POSCO and any of the other trading companies would effectively be the same rate. For these reasons we are not calculating combination rates in this investigation. Instead, we have only calculated one rate for each producer of the subject merchandise, all of which is produced by either POSCO or DSM.

To include the subsidies received by the trading companies, which are conferred upon the export of the subject merchandise, in the calculated *ad valorem* subsidy rate, we used the following methodology. For each of the four trading companies, we calculated the benefit attributable to the subject merchandise and factored that amount into the calculated subsidy rate for the producer. In each case, we determined the benefit received by the trading companies for each export subsidy and weight-averaged the benefit amounts by the relative share of each trading company's value of exports of the subject merchandise to the United States. This calculated *ad valorem* subsidy was then added to the subsidy calculated for either POSCO or DSM. Thus, for each of the programs below, the listed *ad valorem* subsidy rate includes the countervailable subsidies received by both the trading companies and either POSCO or DSM.

I. Programs Preliminarily Determined To Be Countervailable

A. Direction of Credit

In the 1993 investigation of *Steel Products from Korea,* the Department determined (1) that the GOK influenced the practices of lending institutions in Korea; (2) the GOK-regulated long-term loans were provided to the steel industry on a selective basis; and (3) the selective provision of these regulated loans resulted in a countervailable benefit. Accordingly, all long-term loans received by the producers/exporters of the subject merchandise were treated as countervailable. The determination in that investigation covered all long-term loans bestowed through 1991. *See Steel Products from Korea,* 58 FR at 37339.

In the *Plate in Coils* and *Sheet and Strip* investigations, the Department examined whether the GOK continued to influence the practices of lending institutions in Korea between 1992 and 1997. In this investigation, petitioners allege that the GOK continued to control the practices of lending institutions in Korea through the POI, and that the steel sector received a disproportionate share of low-cost, long-term credit, resulting in countervailable benefits being conferred on the producers/exporters of the subject merchandise. Petitioners assert, therefore, that the Department should countervail all long-term loans received by the producers/exporters of the subject merchandise that were still outstanding during the POI.

1. The GOK's Credit Policies Through 1991

As noted above, we previously found significant GOK control over the practices of lending institutions in Korea through 1991, the period investigated in *Steel Products From Korea.* This finding of control was determined to be sufficient to constitute a government program and government action. *See Steel Products from Korea,* 58 FR at 37342. We also determined that (1) the Korean steel sector, as a result of the GOK's credit policies and control over the Korean financial sector, received a disproportionate share of regulated long-term loans, so that the program was, in fact, specific, and (2) that the interest rates on those loans were inconsistent with commercial considerations. Id. at 37343. Thus, we countervailed all long-term loans received by the steel sector from all lending sources.

In this investigation, we provided the GOK with the opportunity to present new factual information concerning the government's credit policies prior to 1992, which we would consider along with our finding in the prior investigation. The GOK has not provided new factual information that would lead us to change our determination in *Steel Products from Korea.* Therefore, we continue to determine that the provision of long-term loans in Korea through 1991 results in a financial contribution within the meaning of section 771(5)(D)(i) of the Act. This finding is in conformance with the Statement of Administrative Action (SAA), which states that ''section 771(5)(B)(iii) encompasses indirect subsidy practices like those which Commerce has countervailed in the past, and that these types of indirect subsidies will continue to be countervailable.'' SAA, accompanying H.R. 5110 (H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess.) (1994), at 926. In accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred to the recipient to the extent that the regulated loans are provided at interest rates less than the benchmark rates described under the ''Subsidies Valuation Information'' section, above.

We also continue to determine that all regulated long-term loans provided to the producers/exporters of the subject merchandise through 1991 were provided to a specific enterprise or industry, or group thereof, within the meaning of section 771(5A)(D)(iii)(III) of the Act. This finding is in conformance with our determination in *Steel Products from Korea,* 58 FR at 37342, *Plate in Coils,* 64 FR at 15532 and *Sheet and Strip,* 64 FR at 30642.

POSCO and DSM were the only producers of the subject merchandise, and both companies received long-term loans prior to 1992 that were still outstanding during the POI. To determine the benefit from the regulated loans with fixed interest rates, we applied the long-term loan methodology provided for in § 351.505(c)(3) of the CVD Regulations and calculated the grant equivalent for the loans. To determine the benefit from regulated loans with variable interest rates, we applied the methodology provided for in section 351.505(c)(4) of the CVD Regulations, and compared the amount of interest paid during 1998 on the regulated loans to the amount of interest that would have been paid based upon the interest rate on the comparison benchmark loan. We then summed the benefit amounts from the loans attributable to the POI and divided the total benefit by each company's respective total sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.10 percent *ad valorem* for POSCO, and 0.06 percent *ad valorem* for DSM.

2. The GOK's Credit Policies From 1992 Through 1998

In *Plate in Coils* and *Sheet and Strip,* the Department examined the GOK's credit policies during the period 1992 through 1997. In those investigations, the Department determined that the GOK continued to control directly and indirectly the lending practices of most sources of credit in Korea through 1997. The Department also determined that the GOK regulated credit from domestic commercial banks and government-controlled banks such as the Korea Development Bank (KDB), was specific to the steel industry. This credit conferred a benefit on the producers/exporters of the subject merchandise to the extent that the interest rates on the countervailable loans were less than the interest rates on comparable commercial loans. *See* section 771(5)(ii) of the Act. Also see *Plate in Coils,* 64 FR at 15533, and *Sheet and Strip,* 64 FR at 30642.

In this investigation, we provided the GOK with the opportunity to present new factual information concerning the

government's credit policies during the 1992 through 1997 period, which we would consider along with our finding in the prior investigations. The GOK has not provided new factual information that would lead us to change our determination in *Plate in Coils* and *Sheet and Strip*. Therefore, we continue to find lending from domestic banks and from government-owned banks such as the KDB to be countervailable.

In the current investigation, we examined whether the GOK continued to control or influence directly or indirectly, the lending practices of sources of credit in Korea in 1998. Because of the Department's determination that the GOK controlled and directed credit provided by domestic banks and government-owned banks during the period 1992 through 1997, the burden of demonstrating that the GOK has changed its practice of interfering in the financial market is placed, in large part, upon the respondents. Similarly, when we have determined a program or a government practice to be not countervailable, petitioners must come forth with new information or evidence of change circumstances before the Department will reexamine the countervailability of that program.

In its questionnaire responses, the GOK asserted that it does not provide direction or guidance to Korean financial institutions in the allocation of loans to selected industries. The GOK stated that the lending decisions and loan distributions of financial institutions in Korea reflect commercial considerations. The GOK also stated that its role in the financial sector is limited to monetary and credit policies as well as bank supervision and examination.

According to the GOK, measures were taken in 1998 to liberalize the Korean financial sector. For example, in January 1998 the GOK announced closure of some banks, and in April 1998, launched the Financial Supervisory Commission (FSC) to monitor the competitiveness of financial institutions. In June 1998, the Regulation on Foreign Exchange Controls was amended to further liberalize foreign currency transactions, and in July, the GOK abolished the limit on purchasing foreign currency. According to the GOK, it also liberalized access to foreign loans. For direct foreign loans to Korean companies, the approval process under Article 19 of the Foreign Investment and Foreign Capital Inducement Act (FIFCIA) and Article 21 of its enforcement decree were eliminated and replaced with the Foreign Investment Promotion Act (FIPA), effective in November 1998. However, during most of the POI, access to direct foreign loans still required the approval of the Ministry of Finance and Economy.

Regarding the GOK regulated credit from government-controlled banks such as the Korea Development Bank (KDB), the GOK reported that the KDB Act was amended in January 1998, in response to the financial crisis in 1997. According to the GOK, the KDB ended the allocation of funds for various functional categories, such as R&D, environment, and technology. All functional loan categories were eliminated and such loans were consolidated into a single category for facility (equipment) loans. The GOK also stated that the KDB strengthened its credit evaluation procedures by developing an objective and systematic credit evaluation standard to prevent arbitrary decisions on loans and interest rates. The KDB changed its Credit Evaluation Committee to the Credit Deliberation Committee (CDC), and gave the CDC the authority to make lending decisions. As a result, the KDB governor no longer makes lending decisions without the approval of the CDC. The GOK also stated that in 1997, the KDB used a system of the prime rate plus a spread for determining interest rates. Effective January 1, 1998, the KDB increased the range of the credit spread to provide more flexibility in determining interest rates based on creditworthiness and allowed the KDB to increase its profits. However, with respect to the KDB reforms, no evidence was provided by respondents to demonstrate that the KDB no longer selectively makes loans to specific firms or activities to support GOK policies.

In *Plate in Coils*, the Department noted conflicting information regarding the GOK's direct or indirect influence over the lending decisions of financial institutions. For example, the GOK policies appeared to be aimed, in part, at promoting certain sectors of the economy, such as high technology and small and medium-sized industries (SMEs).

While the GOK has started to plan and implement reforms in the financial system during the POI as a result of the 1997 financial crisis, the record evidence indicates that the GOK has previously attempted reforms of the financial system in order to remove or reduce its control and influence over lending in the country. In the past ten years, the GOK has twice attempted to reform its financial system. In 1988, the GOK attempted to deregulate interest rates. However, the 1988 liberalization was deemed a failure by the government. When the interest rates began to rise, the GOK canceled the reforms by indirectly pressuring the banks to keep interest rates low. In the early 1990s, the GOK attempted reforms again with a four-stage interest rate deregulation plan. Again, this attempt to reform the financial system was deemed a failure by the GOK. During 1998 and 1999, the GOK has threatened to cut off credit to Korean companies unless the companies follow GOK policies. In addition, during the POI, five large commercial banks were taken over by the GOK due to the financial crisis.

Based upon the information on the record and our determinations in *Plate in Coils* and *Sheet and Strip*, we preliminarily determine that the GOK continued to control directly and indirectly, the lending practices of domestic banks and government-owned banks through the POI. During verification, we will closely examine the financial reforms undertaken by the GOK in 1998. We plan to meet with various individuals knowledgeable about the financial sector in Korea in order to gather information on the impact of the GOK's financial liberalization on the lending practices of Korean banks after 1997. We also plan to gather information to assist us in determining whether we have appropriately measured the benefit conferred to the respondent companies by the GOK's influence over domestic bank and government bank lending.

With respect to foreign sources of credit, in *Plate in Coils* and *Sheet and Strip*, we determined that access to government regulated foreign sources of credit in Korea did not confer a benefit to the recipient as defined by 771(5)(E)(ii) of the Act, and, as such, credit received by respondents from these sources were found not countervailable. This determination was based upon the fact that credit from Korean branches of foreign banks was not subject to the government's control and direction. Thus, respondents' loans from these banks served as an appropriate benchmark to establish whether access to regulated foreign sources of credit conferred a benefit on respondents. On the basis of this comparison, we found that there was no benefit. Petitioners have provided no new information or evidence of changed circumstances to cause us to revisit this determination. Therefore, we continue to determine that credit from Korean branches of foreign banks were not subject to the government's control and direction. As such, lending from this source continues to be not countervailable, and loans from Korean branches of foreign banks continue to

serve as an appropriate benchmark to establish whether access to regulated foreign sources of funds confer a benefit to respondents.

During the POI, both POSCO and DSM received long-term loans from domestic banks and from government-owned banks during the 1992 to 1998 period that were still outstanding during the POI. These included loans with both fixed and variable interest rates. To determine the benefit from the regulated loans with fixed interest rates, we applied the methodology provided for in § 351.505(c)(2) of the CVD Regulations, and to determine the benefit from regulated loans with variable interest rates, we applied the methodology provided for in § 351.505(c)(4) of the CVD Regulations. Therefore, for both fixed and variable rate loans, we calculated the difference in interest payments for the POI based upon the difference in the amount of actual interest paid during 1998 on the regulated loan and the amount of interest that would have been paid on a comparable commercial loan. We then summed the benefit amounts from the loans attributable to the POI and divided the total benefit by each company's respective total sales. On this basis, we preliminarily determine the net countervailable subsidy to be less than 0.005 percent *ad valorem* for POSCO, and 0.12 percent *ad valorem* for DSM.

(a) Loans From the Energy Savings Fund

Established in accordance with Article 51 of the ''Rationalization of Energy Utilization Act'' (Energy Use Act), the Energy Saving Fund provides financing at below-market interest rates for investments by businesses in facilities that rationally and efficiently use energy. Overall responsibility for the program lies with the Ministry of Industry and Energy (MIE), but the operation and management of the program is entrusted to the Korea Energy Management Corporation (KEMC). While the Energy Use Act was repealed in 1995, the MIE, under the new ''Energy Use Rationalization Act,'' provides financing for this program from special government accounts.

Korean companies obtain financing under this program by submitting an application to the KEMC. If the KEMC is satisfied that the applicant's business plans are intended for the rationalization of energy use, it will then issue a recommendation, and forward the company's application to a bank. The KEMC will transfer funds to the bank, which will in turn provide the funds to the applicant. POSCO paid interest on two Energy Saving Fund loans during the POI. DSM did not have any of these loans outstanding during the POI.

In *Plate in Coils* and *Sheet and Strip*, the Department determined that the loans provided under the Energy Savings Fund are countervailable as GOK directed credit. See *Plate in Coils*, 64 FR at 15533, and *Sheet and Strip*, 64 FR at 30642. This program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act and, in accordance with section 771(5)(E)(ii) of the Act, provides a benefit to the recipient based on the difference between the interest rate on the program loan and the benchmark rate described in the ''Subsidies Valuation'' section, above.

To calculate the benefit from the Energy Savings Loans, we employed the Department's long-term fixed-rate loan methodology specified in § 351.505(c)(2) of the CVD Regulations, using as our benchmark the rate described in the ''Subsidies Valuation Information'' section, above. We divided the benefit attributable to the POI by POSCO's total sales during 1998. On this basis, we preliminarily determine the net countervailable subsidy to be less than 0.005 percent *ad valorem* for POSCO. As stated above, DSM did not use this program.

(b) Korean Export-Import Bank Loans (KExim)

KExim provides import and export credits, overseas investment credits, and guarantees to companies in Korea. The petitioners allege that through its financing mechanisms, KExim provides low-interest loans to the steel industry.

The Department previously determined in *Steel Products from Korea, Plate in Coils* and *Sheet and Strip* that all regulated long-term loans provided to exporters through 1997 are specific and countervailable. POSCO received a fixed-rate regulated KExim long-term loan prior to 1997, which was outstanding during the POI. DSM did not have any outstanding KExim loans during the POI. We preliminarily determine that this program is specific within the meaning of section 771(5A)(B) because only exporters are eligible to use this program.

To calculate the benefit, we applied the Department's standard loan methodology for long-term fixed-rate loans as provided for in § 351.504(c)(2) of the CVD Regulations, using as our benchmark the rate described in the ''Subsidies Valuation Information'' section of the notice, above. We divided the benefit attributable to the POI by POSCO's total export sales during 1998. On this basis, we preliminarily determine the net countervailable subsidy to be 0.03 percent *ad valorem* for POSCO. As noted earlier, DSM did not use this program.

B. Infrastructure at Kwangyang Bay

Petitioners requested that the Department investigate whether the GOK's infrastructure development at Kwangyang Bay continues to provide a countervailable subsidy to POSCO's steel production. The Department previously determined that the Korean government's infrastructure development at Kwangyang Bay constituted a specific countervailable subsidy to POSCO, because POSCO was found to be the predominant user of the infrastructure. *See Steel Products from Korea*, 58 FR at 37346–47. Because POSCO still produces steel products at Kwangyang Bay, we requested information on this program to determine whether the GOK has made additional investments since 1991, at Kwangyang Bay.

In *Steel Products from Korea*, the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1984–1991. During this period of time, the GOK's investments at Kwangyang Bay included: construction of an industrial waterway, construction of a railroad station, construction of a road to Kwangyang Bay, dredging of the harbor, and construction of three finished goods berths. We determined that the GOK's provision of infrastructure to POSCO at Kwangyang Bay was countervailable because we found POSCO to be the predominant user of the GOK's investments. The Department has consistently held that a countervailable subsidy exists when benefits under a program are provided, or are required to be provided, in law or in fact, to a specific enterprise or industry or group of enterprises or industries. *See Steel Products from Korea*, 58 FR at 37346. No new factual information or evidence of changed circumstances has been provided to the Department with respect to the GOK's infrastructure investments at Kwangyang Bay over the period 1984–1991.

In *Plate in Coils* and *Sheet and Strip*, we also examined whether GOK infrastructure investments made at Kwangyang Bay after 1991 provided countervailable benefits to POSCO. In those investigations, we determined that additional infrastructure investments made by the GOK at Kwangyang Bay after 1991 did not provide countervailable benefits to POSCO. *See Sheet and Strip* at 30648–49. Thus, post-1991 investments are not countervailable. Petitioners have not

provided new factual information or evidence of changed circumstances to cause the Department to reexamine our determination that post-1991 investments are not countervailable.

To determine the benefit from the GOK's investments made from the 1984 through 1991 period to POSCO that are attributable to the POI, we relied on the calculations performed in the 1993 investigation of *Steel Products from Korea,* which were placed on the record of this investigation by POSCO. In measuring the benefit from this program in the 1993 investigation, the Department treated the GOK's costs of constructing the infrastructure at Kwangyang Bay as untied, non-recurring grants in each year in which the costs were incurred.

To determine the benefit conferred to POSCO during the POI, we applied the Department's standard grant methodology and allocated the GOK's infrastructure investments over a 15-year period. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as our discount rate the three-year corporate bond rate on the secondary market used in *Steel Products from Korea.* We then summed the benefits received by POSCO during 1998, from each of the GOK's yearly investments over the period 1984–1991. We then divided the total benefit attributable to the POI by POSCO's total sales for 1998. On this basis, we preliminary determine a net countervailable subsidy of 0.22 percent *ad valorem* for POSCO. DSM did not receive a benefit from this program.

C. Asset Revaluation Pursuant to TERCL Article 56(2)

This provision under Article 56(2) of the Tax Exemption and Reduction Control Act (TERCL) allowed companies making an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets without meeting the requirement in the Asset Revaluation Act of a 25 percent change in the wholesale price index since the company's last revaluation. In *Steel Products from Korea,* after verification, petitioners submitted additional information, which according to them, indicated that POSCO's revaluation may have been significantly greater than that of the other companies that revalued. Because the information submitted by petitioners was untimely, it was rejected; however, we requested additional information on the subject. The additional information submitted by petitioners contained data on the amount of assets revalued of only 45 of the 207 companies that revalued pursuant to Article 56(2). It was unclear from petitioners' data which companies revalued pursuant to Article 56(2) and which revalued in accordance with the general provisions of the Asset Revaluation Act. Because of these shortcomings, and because the information was submitted too late for verification, we were unable to draw conclusions with respect to the relative benefit derived by POSCO from this program. Since there was no evidence of *de jure* or *de facto* selectivity concerning the timing of POSCO's revaluation or the method of POSCO's revaluation under the Asset Revaluation Act, the Department determined this program to be not countervailable. See *Steel Products from Korea,* 58 FR at 37351.

In the petition, petitioners provided information to substantiate their allegation that POSCO and DSM received a benefit under this program because their massive asset revaluations permitted the companies to substantially increase their depreciation and, thereby, reduce their income taxes payable. In support of their allegation, petitioners provided a chart listing 197 companies that were eligible for revaluation of their assets pursuant to this program. The chart illustrates that POSCO's revaluation accounted for 54 percent of the total amount of asset revaluation by companies that were eligible to revalue under Article 56(2). Furthermore, according to petitioners' data, the 14 companies in the basic metals industry that used this program accounted for 67 percent of the total amount of asset revaluations under Article 56(2). Based on this new information, the Department initiated a reexamination of the countervailability of this program and solicited information regarding the usage of this program.

Because the enabling legislation does not expressly limit access to the subsidy to an enterprise or industry, or group thereof, the program is not *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act. Although the regulation itself does not expressly limit the access to this law to a specified group or industry, it does place restrictions on the time period and eligibility criteria which may have caused *de facto* limitations on the actual usage of this tax program. For example, Article 56(2) was enacted on November 28, 1987, and applied only to companies making an initial public offering from January 1, 1987 until the provision was abolished effective December 31, 1990. Pursuant to Article 56(2), companies listed on the Korea Stock Exchange between January 1, 1987 and December 31, 1988 (as was the case with POSCO) had until December 31, 1989 to revalue their assets. A company that listed its stock after December 31, 1988 had to revalue its assets prior to being listed on the stock exchange. Therefore, based upon the eligibility criteria of the program, Article 56(2) effectively limited usage of this program to only the 316 companies that were newly listed on the Korean Stock Exchange during the three years the program was in place rather than the 15 to 24 thousand manufacturers in operation in Korea during that period.

According to section 771(5A)(D)(iii), a subsidy is *de facto* specific if one of the following factors exist: (1) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number; (2) An enterprise or industry is a predominant user of the subsidy; (3) An enterprise or industry receives a disproportionately large amount of the subsidy; or (4) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

Information on the record of the current investigation shows that during the period 1987–1990, there were between 14,988 and 24,073 manufacturing companies operating in Korea. A requirement for participation in this program was that companies had to make an initial public offering between January 1, 1987 and December 31, 1990. DSM listed its initial public offering in May 1988 and revalued its assets under Article 56(2) in July 1988. POSCO listed its initial public offering in June 1988 and revalued its assets under Article 56(2) in January 1989. According to the GOK's July 1, 1999 questionnaire response, 77 companies revalued their assets in 1989. The basic metal sector accounted for 83 percent of the total revaluation surplus amount (book value less revalued amount). POSCO's revaluation surplus accounted for 91 percent of the basic metal sector revaluation surplus, and 75 percent of the total revaluation surplus. While we recognize that many factors can affect the relative size of tax benefits claimed under programs (*e.g.,* company size, value of assets, timing of investments, management decisions, capital intensiveness, labor intensiveness), the record evidence indicates that the basic metal industry was a dominant user of this program in 1988/89. *See, e.g., Stainless Steel Plate in Coils from South Africa,* 64 FR 15553 (March 1999). Therefore, we preliminarily determine that this program is specific, within the meaning of 771(5A)(D)(iii). As a result

of the increase in the value of depreciable assets resulting from the asset revaluation, the companies were able to lower their tax liability. Therefore, we also preliminarily determine that the program provides a financial contribution within the meaning of section 771(5)(D)(ii), because by allowing companies to reduce their income tax liability, the GOK has foregone revenue that is otherwise due.

The benefit from this program is not the amount of the revaluation surplus, but rather the impact of the difference that the revaluation of depreciable assets has on a company's tax liability each year. However, respondents did not provide this information, and stated that the depreciation expense resulting from the asset revaluation would involve a detailed, item-by-item comparison of thousands of items, and that it would be difficult for them to distinguish between the remaining benefit from revaluation under Article 56(2), and revaluation pursuant to normal procedures of the Asset Revaluation Act. Therefore, we have calculated the benefit from this program by determining the surplus amount of the revaluation of assets authorized under the program for each company and divided the total revaluation surplus by 15, the AUL we are using in this investigation. We then multiplied the amount of the revaluation surplus attributable to the POI by the tax rate applicable to the tax return filed in the POI, and divided the benefit for each company by their respective total sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy of 0.50 percent *ad valorem* for POSCO and 0.23 percent *ad valorem* for DSM.

D. Short-term Export Financing

The Department determined that the GOK's short-term export financing program was countervailable in *Steel Products from Korea,* 58 FR at 37350. Petitioners allege that this program may also benefit the producers and/or exporters of the subject merchandise. In this investigation, the GOK reports that the BOK, under the ''Detailed Rules of Trade Financing Related to the Aggregate Ceiling Loans'' (Detailed Rules), provides discounts on foreign trade bills to commercial banks, which, in turn, extend short-term loans to exporters. Under the aggregate credit ceiling system established in 1994, the BOK allocates a credit ceiling every month to each commercial bank, including branches of Korean and foreign banks. This ceiling is based on each bank's loan performance *i.e.,* each bank's discounting of commercial loans, foreign trade financing, and loans for the production of parts and material. These banks then provide loans to exporters using the funds received from the BOK and funds generated from their own sources to discount trade bills.

There are two types of trade financing: Production financing and raw material financing. A bank provides production financing when a company needs funds for the production of export merchandise or the production of raw materials used in the production of exported merchandise. A bank extends raw material financing to exporters which require financing for the importation or local purchase of raw materials used in the production of exported merchandise.

During the POI, POSCO was the only producer/exporter of the subject merchandise that received short-term export financing. DSM did not have any short-term export financing under this program during the POI. POSCO reports that the company entered into a credit ceiling loan agreement with a commercial bank in accordance with Articles 12 and 13 of the Detailed Rules to receive financing. The loan agreement outlines the maximum amount of credit which POSCO is eligible to receive, the period covered by the loan agreement, the applicable interest rate, and the penalty interest rate. POSCO states that when the company purchases raw materials from a supplier on a letter of credit basis, the supplier presents the letter of credit to POSCO's bank for payment. The bank, in turn, pays the purchase price to the supplier and debits the trade loan against POSCO's line of credit. POSCO pays the full amount of each trade loan after about 90 days, which is the average period from production to sales. Interest is paid by POSCO against each trade loan at the time the loans are received. POSCO reported that the company paid all of its export financing during the POI in a timely manner and incurred no overdue interest penalties. In accordance with section 771(5A)(B) of the Act, we preliminary determine that this program constitutes an export subsidy because receipt of the financing is contingent upon export performance. In order to determine whether this export financing program confers a countervailable benefit to POSCO, we compared the interest rate POSCO paid on the export financing received under this program during the POI with the interest rate POSCO would have paid on a comparable short-term commercial loan. *See* discussion above in the ''Subsidies Valuation Information'' section with respect to short-term loan benchmark interest rates.

Because loans under this program are discounted (*i.e.,* interest is paid up-front at the time the loans are received), the effective rate paid by POSCO on its export financing is a discounted rate. Therefore, it was necessary to derive from POSCO's company-specific weighted-average interest rate for short-term won-denominated commercial loans, a discounted benchmark interest rate. We compared this discounted benchmark interest rate to the interest rates charged on the export financing and found that the program interest rates were lower than the benchmark rates. Therefore, in accordance with section 771(5)(E)(ii) of the Act, we preliminarily determine that this program provides a countervailable benefit because the interest rates charged on the loans were less than what POSCO would have had to pay on a comparable short-term commercial loan. *See Plate in Coils,* 64 FR at 15533, and *Sheet and Strip,* 64 FR at 30644. We also preliminarily determine that a financial contribution is provided to POSCO under this program within the meaning of section 771(5)(D)(i) of the Act.

To calculate the benefit conferred by this program, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. When the interest that would have been paid at the benchmark rate exceeded the interest that was paid at the program interest rate, the difference between those amounts is the benefit. We then divided the benefit derived from all of the loans on which interest was paid during the POI by total exports. On this basis, we preliminarily determine that POSCO received from this program during the POI a net countervailable subsidy of less than 0.005 percent *ad valorem*.

We also requested information on whether POSCO or DSM received short-term export financing under two additional programs: (1) A 1998 emergency support package unveiled by the GOK which included $4 billion in trade financing, and (2) a 1998 short-term export financing program operated by the Korean Export-Import Bank. According to both the responses of POSCO and DSM, these programs were not used.

E. Reserve for Export Loss—Article 16 of the TERCL

Under Article 16 of the TERCL, a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one

percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a three-year period, after a one-year grace period. All of the money in the reserve is eventually reported as income and subject to corporate tax either when it is used to offset export losses or when the grace period expires and the funds are returned to taxable income. The deferral of taxes owed amounts to an interest-free loan in the amount of the company's tax savings. This program is only available to exporters. During the POI, DKI, a trading company, was the only exporter of the subject merchandise which claimed benefits under this program.

We preliminarily determine that the Reserve for Export Loss program constitutes an export subsidy under section 771(5A)(B) of the Act, because the use of the program is contingent upon export performance. We also preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. *See Plate in Coils,* 64 FR at 15534, and *Sheet and Strip,* 64 FR at 30645.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1997, by the corporate tax rate for 1997. We treated the tax savings on these funds as a short-term interest-free loan. *See* 19 CFR 351.509. Accordingly, to determine the benefit, the amount of tax savings was multiplied by the company's weighted-average interest rate for short-term won-denominated commercial loans for the POI, described in the ''Subsidies Valuation Information'' section, above. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the ''Subsidies Valuation Information'' section, above, we preliminarily determine a net countervailable subsidy of 0.02 percent *ad valorem* for DSM. POSCO did not benefit from this program because it did not export the subject merchandise through DKI during the POI.

F. Reserve for Overseas Market Development—Article 17 of the TERCL

Article 17 of the TERCL allows a domestic person engaged in a foreign trade business to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning, from the reserve to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. As is the case with the Reserve for Export Loss, the balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets export losses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. This program is only available to exporters. The following exporters of the subject merchandise were entitled to claimed benefits under this program during the POI: Hyosung, POSTEEL, Sunkyong, and DKI.

We determine that the Reserve for Overseas Market Development program constitutes an export subsidy under section 771(5A)(B) of the Act because the use of the program is contingent upon export performance. We also determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. *See* 19 CFR 351.509.

To determine the benefits conferred by this program during the POI, we employed the same methodology used for determining the benefit from the Reserve for Export Loss program. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the ''Subsidies Valuation Information'' section, above, we preliminarily calculate a net countervailable subsidy of 0.01 percent *ad valorem* for POSCO, and 0.01 percent *ad valorem* for DSM.

G. Investment Tax Credits

Under the TERCL, companies in Korea are allowed to claim investment tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, the company is authorized to carry them forward for use in later tax years. During the POI, POSCO, and DSM used various investment tax credits received under the TERCL to reduce their net tax liability. In *Steel Products from Korea,* we found that investment tax credits were not countervailable (*see* 58 FR at 37351); however, there were changes in the statute effective in 1995, which caused us to revisit the countervailability of the investment tax credits. *See Plate in Coils,* 64 FR at 15534, and *Sheet and Strip,* 64 FR at 30645.

POSCO claimed or used the following tax credits in its fiscal year 1997 income tax return which was filed during the POI: (1) Tax credits for investments in equipment to develop technology and manpower under Article 10; (2) tax credits for investment in productivity improvement facilities under Article 25; and (3) tax credits for investment in specific facilities under Article 26. DSM only claimed or used tax credits for technology and manpower development expenses under Article 9 and tax credits under Article 25 in its fiscal year 1997 income tax return which was filed during the POI. For certain of these tax credits, a company normally calculates its authorized tax credit based upon 3 or 5 percent of its investment, *i.e.*, the company receives either a 3 or 5 percent tax credit. However, if a company makes the investment in domestically-produced facilities under these Articles, it receives a 10 percent tax credit. The investment tax credit was amended to eliminate the rate differential between domestic and foreign-made facilities for investments that are made after December 31, 1997. However, the differential rate remains in effect for investments made prior to that date, and tax credits on these investments can be carried forward beyond the POI.

Under section 771(5A)(C) of the Act, a program that is contingent upon the use of domestic goods over imported goods is specific, within the meaning of the Act. In *Sheet and Strip,* we examined the use of investment tax credits under Articles 9, 10, 18, 25, 26, 27, and 71. In that case, we determined that investment tax credits received under Articles 10, 18, 25, 26, 27, and 71 constituted import substitution subsidies under section 771(5A)(C) of the Act, because Korean companies received a higher tax credit for investments made in domestically-produced facilities under these Articles. In addition, because the GOK foregoes collecting tax revenue otherwise due under this program, we also determined that a financial contribution is provided under section 771(5)(D)(ii) of the Act. We did not countervail the use of Article 9 because a higher tax credit was not allowed for investments made in domestically-produced facilities. *See Sheet and Strip* at 30645–46.

In this investigation, POSCO claimed investment tax credits under Articles

10, 25, and 26. Therefore, we preliminarily determine that these tax credits provided POSCO with a countervailable benefit. Petitioners have also alleged that POSCO used investment tax credits under Article 88 and that this tax credit also constitutes an import substitution subsidy because a higher credit is received if more domestically-produced goods are used. However, we have insufficient information on the record at this time to make this determination, but we will further examine Article 88 at verification.

DSM was entitled to claim investment tax credits under Articles 9 and 25 during the POI. However, DSM did not use the tax credits to reduce its tax liability during the POI. Instead, the company carried forward the tax credits which can be used in the future. Because DSM did not claim the investment tax credits on its tax return which was filed during the POI, we preliminarily determine that DSM did not use this program during the POI.

To calculate the benefit to POSCO from this tax credit program, we determined the value of the tax credits POSCO deducted from its taxes payable for the 1997 fiscal year. In POSCO's 1997 income tax return filed during the POI, it deducted from its taxes payable, credits earned in the years 1995 and 1996, which were carried forward and used in the POI. We first determined those tax credits which were claimed based upon the investment in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on investments in domestically-produced facilities rather the regular 3 or 5 percent tax credit. Next, we calculated the amount of the tax savings received through the use of these tax credits during the POI, and divided that amount by POSCO's total sales for the POI. On this basis, we preliminarily determine a net countervailable subsidy of 0.30 percent *ad valorem* for POSCO.

H. Electricity Discounts Under the Requested Load Adjustment Program

Petitioners alleged that POSCO is being charged utility rates at less than adequate remuneration and, hence, the production of the subject merchandise is receiving countervailable benefits from this subsidy. Petitioners alleged that POSCO is receiving these countervailable benefits in the form of utility rate discounts.

The GOK reports that during the POI the government-owned Korea Electric Power Company (KEPCO) provided POSCO and DSM with four types of discounts under its tariff schedule. These four discounts were based on the following rate adjustment programs in KEPCO's tariff schedule: (1) Power Factor Adjustment; (2) Summer Vacation and Repair Adjustment; (3) Requested Load Adjustment; and (4) Voluntary Curtailment Adjustment. (See the discussion below in ''Programs Preliminarily Determined To Be Not Countervailable'' with respect to the Power Factor Adjustment, Summer Vacation and Repair Adjustment, and the Voluntary Curtailment Porgram discount programs.)

With respect to the Requested Load Adjustment (RLA) program, the GOK introduced this discount in 1990, to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of 5,000 kw or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 kw or more, are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per kW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POI, KEPCO granted 33 companies RLA discounts even though KEPCO did not need to request these companies to reduce their respective loads. The GOK reports that because KEPCO increased its capacity to supply electricity in 1997, it reduced the number of companies with which it maintained RLA contracts in 1997 and 1998. In 1996, KEPCO entered into RLA contracts with 232 companies, which was reduced to 44 companies in 1997 and 33 in 1998.

In *Sheet and Strip,* we found the RLA program countervailable because the discounts provided under this program were distributed to a limited number of users. *See Sheet and Strip* at 30646. No new information or evidence of changed circumstances have been provided to the Department to warrant a reconsideration of that determination. Therefore, we continue to find the RLA program countervailable.

Because the electricity discounts are not ''exceptional'' benefits and are received automatically on a regular and predictable basis without further government approval, we preliminarily determine that these discounts provide a recurring benefit to POSCO and DSM. *See* 19 CFR 351.524(a). Therefore, we have expensed the benefit from this program in the year of receipt. *See Sheet and Strip* at 30646. To measure the benefit from these programs, we summed the electricity discounts which POSCO and DSM received from KEPCO under the RLA program during the POI. We then divided the total RLA discount amount each company received by their total sales for 1998. On this basis, we preliminarily determine a net countervailable subsidy of less than 0.005 percent *ad valorem* for POSCO and less than 0.005 percent *ad valorem* for DSM from the RLA discount program.

I. POSCO's Two-Tiered Pricing Structure to Domestic Customers

POSCO maintains three different pricing systems which serve different markets: domestic prices in Korean won for products that will be consumed in Korea, direct export prices in U.S. dollars or Japanese yen, and local export prices in U.S. dollars. According to POSCO's response, local export prices are provided to those domestic customers who purchase steel for further processing into products that are exported. POSCO is the only Korean producer of slabs, which is the main input into the subject merchandise. During the POI, POSCO sold slab to DSM for products that will be consumed in Korea, as well as slab to produce exports of the subject merchandise.

During the POI, POSCO was a government-controlled company. *See Sheet and Strip* at 30642–43. POSCO sets different prices for the identical product for domestic purchasers based upon that purchaser's anticipated export performance. Domestic purchasers which use the raw material to produce a product for export are charged a lower price than those domestic purchasers which do not export. *See Sheet and Strip,* 64 FR at 30647. In *Sheet and Strip,* we found this pricing scheme to be an export subsidy under section 771(5A)(B) of the Act, which provides a financial contribution under this program under section 771(5)(D) of the Act.

The benefit from this type of export subsidy is based upon the difference in the price charged to exporters and the price charged for domestic consumption. The only exception is for pricing programs which fall under Item (d) of the Illustrative List of Export Subsidies, which is provided for in

Annex I of the Agreement on Subsidies and Countervailing Measures.[1] Item (d) allows governments to maintain a program which provides different prices based upon export or domestic consumption if certain strict criteria are met by the government. *See* 19 CFR 351.516. Based on the information in the record, it does not appear that POSCO's dual pricing policy is being set directly or indirectly through the application of a consistent method for calculating the difference between the higher domestic and lower international price of slab available to Korean exporters. *See Final Results of Redetermination Pursuant to the Court Remand Creswell Trading Co.* v. *U.S.,* Slip.-Op. 94–65, which is publicly available in Central Records Unit (CRU) (Room B–099 of the Main Commerce Building) (Case No. 533–063), (in which the Department found in *Certain Iron-Metal Casting from India* that the Indian government, under the IPRS program maintained ''a clearly defined and consistently applied methodology for calculating the difference between the higher domestic and lower international price of pig iron available to Indian exporters'') at 3. We will further investigate POSCO's pricing policies at verification. We preliminarily determine that the benefit from this program is based upon the difference between the prices charged by POSCO for export and the prices charged by POSCO for domestic consumption.

Petitioners argued in a July 12, 1999 submission that POSCO's dual-pricing system is a provision of a good for less than adequate remuneration, and the Department should therefore analyze such pricing in accordance with § 351.511 of the CVD Regulations. In *Sheet and Strip,* we did not analyze POSCO's dual-pricing under the adequate remuneration standard. While we have not modified our analysis in this preliminary determination from our recent final determination in *Sheet and Strip,* we intend to review the applicability of § 351.511 of the CVD Regulations for purposes of the final determination in this investigation and, therefore, we are requesting comments on the appropriate standard to apply to this dual-pricing scheme.

[1] A subsidy arises under Item (d) from the provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of export goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favorable than those commercially available on world markets to their exporters.

To determine the value of the benefit under this program, we compared the monthly weighted-average price charged by POSCO to DSM for domestic production to the monthly weighted-average price charged by POSCO to DSM for export production. Where monthly comparison prices were not available, we used quarterly weighted-average prices. We then divided the amount of the price savings by the value of exports of the subject merchandise during the POI. On this basis, we determine that DSM received a net countervailable subsidy of 0.09 percent *ad valorem* from this program during the POI.

J. Special Cases of Tax for Balanced Development Among Areas (TERCL Article 43)

TERCL Article 43 allows a company to claim a tax reduction or exemption for income gained from the disposition of factory facilities when relocating from a large city to a local area (*e.g.,* Seoul Metropolitan area to a place outside the Seoul Metropolitan area). On December 29, 1995, DSM sold land from its Pusan factory and within three years from the sales date began production at its Pohang plant. In accordance with Article 16, paragraph 7 of the Addenda to the TERCL, DSM was entitled to receive an exemption on its income tax for the resulting capital gain.

Payment for the Pusan facilities is on a long-term installment basis, therefore, the income tax on the capital gain is payable when DSM actually receives payment or transfers the title of ownership. The capital gain in the tax year can not exceed DSM's total taxable income. The maximum tax savings permitted is 100 percent of the taxable income; however, this program is also subject to the minimum tax. This program does not allow carrying forward of unused benefits in future years.

We preliminarily determine that the TERCL Article 43, for Special Cases of Tax for Balanced Development Among Areas is specific within the meaning of section 771(5A)(D)(iv) of the Act, because the program is limited to an enterprise or industry located within a designated geographical region. *See also Iron-Metal Castings from Mexico,* 48 FR 8834 (1983) (Fonei Loan program was regionally specific where available to all companies outside of Mexico City), and *Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils From Italy,* 64 FR 15508, 15516 (funds were regionally specific because they were limited to certain areas within Italy). We also preliminarily determine that Article 43 provides a financial contribution within the meaning of section 771(5)(D)(ii), because the GOK foregoes revenue that is otherwise due by granting this tax credit.

To calculate the benefit from this tax credit program, we examined the amount of the tax credit DSM deducted from its taxes payable for the 1997 fiscal year. In DSM's 1997 income tax return filed during the POI, it deducted from its taxes payable, credits earned in 1997. Next, we calculated the amount of the tax savings and divided that amount by DSM's total sales during POI. Using this methodology, we preliminarily determine a net countervailable subsidy of 0.59 percent *ad valorem* for DSM. POSCO did not use this program.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Electricity Discounts Under Power Factor Adjustment, Summer Vacation and Repair Adjustment, and Voluntary Curtailment Adjustment Programs

In *Sheet and Strip,* we determined that the Power Factor Adjustment, and the Summer Vacation and Repair Adjustment programs are not countervailable because the discounts under these programs are distributed to a large number of firms in a wide variety of industries. *See Sheet and Strip* at 30647–48.

Regarding the Voluntary Curtailment Adjustment (VCA) program, KEPCO introduced this discount in 1995, to provide a stable supply of electricity and to improve energy efficiency by reducing demand during periods of peak consumption that occur during the summer. Under this program, customers who use general, educational or industrial services with a contract demand of 1,000 kw or more, and who arrange with KEPCO a curtailment period of five or more days (or times) during the July 15–August 31 period, are eligible to enter into a VCA contract with KEPCO. Customers who choose to participate in this program must curtail demand by 20 percent or more on the basis of the average daily demand during 10 a.m.–12 p.m., or by 3,000 kw.

Customers can apply for this program until June 15 of each year. If KEPCO finds the application in order, KEPCO approves the application. After approval, KEPCO and the customer enter into a contract with respect to the VCA discount. Under this program, a basic discount of 110 won per kw is granted between July 15 and August 31.

We analyzed whether the VCA discount program is specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of section 771(5A)(D)(i) and (iii) of the Act.

First, we examined the eligibility criteria contained in the law. The Regulation on Electricity Supply and KEPCO's Rate Regulations for Electric Service identified companies within a broad range of industries as being eligible to participate in the electricity discount programs. The VCA discount program is available to numerous companies across all industries, provided that they have the required contract demand and can reduce their maximum demand by a certain percentage. Therefore, we preliminarily determine that the VCA electricity programs is not *de jure* specific under section 771(5A)(D)(i) of the Act because the regulation does not explicitly limit eligibility of the program.

We next examined data on the distribution of assistance under the VCA program to determine whether the electricity discount program meets the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. We found that discounts provided under the VCA program were distributed to a large number of customers, across a wide range of industries. Given the data with respect to the large number of companies and industries which received VCA electricity discounts, and the fact that POSCO and DSM were not dominant or disproportionate users of this program, we preliminarily determine that the VCA program is not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, we preliminarily determine that the VCA program is not countervailable.

B. Port Facility Fees

In *Sheet and Strip,* we determined that this program is not countervailable because a diverse and large group of private sector companies representing a wide cross-section of the economy have made a large number of investments in infrastructure facilities at various ports in Korea, including numerous investments at Kwangyang Bay. *See Sheet and Strip* at 30649.

C. GOK Infrastructure Investments at Kwangyang Bay Post-1991

In *Plate in Coils,* we determined that this program is not countervailable because the GOK's investments at Kwangyang Bay since 1991, in the Jooam Dam, the container terminal, and the public highway were not specific to POSCO. *Id.* at 15536. The respondents state that there have been no additional infrastructure investments at Kwangyang Bay during the POI.

III. Programs Preliminarily Determined To Be Not Used

Based on the information provided in the questionnaire response, we preliminarily determine that the companies under investigation either did not apply for, or receive, benefits under the following programs during the POI:

A. *Special Cases of Tax for Balanced Development Among Areas (TERCL Articles 41, 42, 44 and 45)*
B. *Private Capital Inducement Act (PCIA)*
C. *Social Indirect Capital Investment Reserve Funds (Art. 28)*
D. *Energy-Savings Facilities Investment Reserve Funds (Art. 29)*
E. *Industry Promotion and Research and Development Subsidies*
  1. Highly Advanced National Project Fund
  2. Steel Campaign for the 21st Century
F. *Overseas Resource Development Programs*
G. *Export Insurance Rates Provided By The Korean Export Insurance Corporation*
H. *Export Industry Facility Loans (EIFL) and Specialty Facility Loans*
I. *Scrap Reserve Fund*
J. *Excessive Duty Drawback*

IV. Program Preliminarily Determined Not To Exist

Free Trade Zones (FTZ) at Pusan and Kwangyang

The GOK states that at this time, there are only two FTZs in Korea. One is located in Masan and the other is in Iksan. Therefore, we preliminarily determine that this program does not exist.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual subsidy rate for POSCO, and DSM, manufacturers of the subject merchandise. We preliminarily determine that the total estimated net countervailable subsidy rate is 1.16 percent *ad valorem* for POSCO and 1.12 percent *ad valorem* for DSM. The All Others rate is 1.14 *ad valorem* percent, which is the weighted-average of the rates for both companies.

Company	Net subsidy rate
POSCO	1.16% Ad Valorem.
DSM	1.12% Ad Valorem.
All Others	1.14% Ad Valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain cut-to-length carbon-quality steel from Korea, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts listed above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In

addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18857 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–806]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Lockard or Eva Temkin, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from Indonesia. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel, Inc., Tuscaloosa Steel Corporation, and the United Steel Workers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea,* 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred. On March 16, 1999, we issued countervailing duty questionnaires to the Government of Indonesia (GOI), and the producers/exporters of the subject merchandise. On April 21, 1999, we postponed the preliminary determination of this investigation until no later than July 16, 1999. *See Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations,* 64 FR 23057 (April 29, 1999).

We received responses to our initial questionnaires from the GOI and two of the three producers of the subject merchandise, PT Gunawan Dianjaya Steel (Gunawan), and PT Jaya Pari Steel Corporation (Jaya Pari), on April 29, 1999. On May 11, 1999 and June 3, 1999, we issued supplemental questionnaires to the responding parties. On June 7, 1999, petitioners alleged additional subsidies that were not contained in the original petition. We determined to include these allegations in this investigation on June 21, 1999. *See* Memorandum for Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement Group II, a public document on file in the Central Records Unit, room B–099 of the Main Commerce Building (CRU). We issued a questionnaire addressing these programs on June 22, 1999. We received additional responses between June 1, 1999 and July 14, 1999.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of

series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA S.p.A. (ILVA), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4'' or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long product). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different technological properties and mechanical uses than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR Part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because Indonesia is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Indonesia of the subject merchandise. *See Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia*, 64 FR 17198 (April 8, 1999).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-to-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of cut-to-length plate.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Attribution of Subsidies

Section 351.525 of the CVD Regulations states that the Department

will attribute subsidies received by two or more corporations to the products produced by those corporations where cross ownership exists. According to § 351.525(b)(6)(vi) of the CVD Regulations, cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation in essentially the same ways it can use its own assets. The regulations state that this standard will normally be met where there is a majority voting ownership interest between two corporations. The preamble to the CVD Regulations, identifies situations where cross ownership may exist even though there is less than a majority voting interest between two corporations: ''in certain circumstances, a large minority interest (for example, 40 percent) or a 'golden share' may also result in cross-ownership.'' *See* 63 FR 65401.

Because we have preliminarily found both Gunawan and Jaya Pari to have zero subsidy rates, we do not reach the question of whether the relationship between the companies satisfies the standard of cross-ownership. However, if we discover subsidies at verification or otherwise modify our findings so that one or more of the companies does have a subsidy rate for the final determination, we will consider whether there is cross-ownership between Gunawan and Jaya Pari and thus, whether, for purposes of calculating a countervailing duty rate, we should attribute any subsidies received by either or both companies to the products produced by both companies. Accordingly, we invite the parties to comment on whether the relationship between the firms satisfies our new cross-ownership standard.

Use of Facts Available

PT Krakatau Steel (Krakatau), a producer of subject merchandise, failed to respond to the Department's questionnaire. Section 776(a)(2) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described in more detail below, Krakatau has failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available.

In using the facts otherwise available, however, the Department notes that the GOI has provided some, although not all, of the information requested about Krakatau. With this information from the GOI, we find that the administrative record with regard to Krakatau is not so incomplete that it cannot serve as a reliable basis for reaching this preliminary determination. In addition, we find that the remainder of the criteria listed in 782(e) of the Act have been met. Consequently, we find it unnecessary to resort to total facts available with respect to Krakatau. Where practicable, we have based our preliminary determination for this company on information provided by the GOI. We have only used facts available where specific information concerning Krakatau, that is necessary for our analysis, is absent from the record.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that party has failed to cooperate to the best of its ability. Here, the Department asked Krakatau to submit the information requested in the initial countervailing duty questionnaire. Krakatau did not respond to the questionnaire. The Department then asked Krakatau once again to respond to the questionnaire, reminding the company that the Department may have to use facts available if no response was received. However, Krakatau failed to submit the information that was specifically requested by the Department on two separate occasions. Krakatau stated that, due to the recent financial crisis, it does not have the resources available to participate in the investigation. We note, however, that Krakatau is participating in the companion antidumping duty investigation.

The Department finds that by not providing necessary information specifically requested by the Department and failing to participate in any respect in this investigation, Krakatau has failed to cooperate to the best of its ability. Therefore, in selecting partial facts available, the Department determines that an adverse inference is warranted.

When employing an adverse inference, the statute indicates that the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See also* § 351.308(c) of the CVD Regulations. Due to the absence of any other relevant information on the record, we consider the petition to be an appropriate source for the necessary information.

Finally, the Statement of Administrative Action accompanying the URAA clarifies that information from the petition and prior segments of the proceeding is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103–316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, ''to the extent practicable,'' corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value.

As discussed above, the GOI submitted some information about Krakatau's use of programs included in this investigation. As discussed above and in the Analysis Memo for the Preliminary Countervailing Duty Determination, dated July 16, 1999, public version on file in the CRU (Analysis Memo), we find that the information submitted by the GOI may be used in reaching our determination in accordance with section 782(e) of the Act. Based on this information, we were able to determine that Krakatau did not use the Bank of Indonesia Rediscount Program with respect to shipments of subject merchandise and did not use the Tax Holiday Program. However, we are applying the facts available in countervailing the 1995 Equity Infusion to Krakatau program including our analysis of the company's creditworthiness. For a more detailed description of our treatment of this program, *see* the program description in the *Program Preliminarily Determined to be Countervailable* section of this notice. We are using information submitted in the countervailing duty petition, modified by and corroborated by Krakatau's financial statements which were submitted for the record by petitioners. *See* Analysis Memo.

In addition, as noted earlier, on June 7, 1999, petitioners made new subsidy allegations with respect to Krakatau. The Department has not had sufficient time to collect information from Krakatau and the GOI on the use of the Pre-1993 Equity Infusions to Krakatau, P.T. Cold-Rolled Mill Indonesia (CRMI) Equity Infusions and Two-Step Loan programs. Thus, we do not have sufficient information to make determinations with respect to these programs' countervailability. Because respondents have not had sufficient

opportunity to provide information about these programs for the record, the use of the facts available is not warranted at this time. We will continue to collect information that will enable us to make a determination about these programs in our final determination.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, according to § 351.524(d)(2) of the CVD Regulations, we have allocated Krakatau's non-recurring benefits over 15 years, the AUL listed in the IRS tables for the steel industry.

Equityworthiness

In analyzing whether a company is equityworthy, the Department considers whether that company could have attracted investment capital from a reasonable private investor in the year of the government equity infusion based on the information available at that time. In this regard, the Department has consistently stated that a key factor for a company in attracting investment capital is its ability to generate a reasonable return on investment within a reasonable period of time. In making an equityworthiness determination, in accordance with § 351.507(a)(4) of the CVD Regulations, the Department may examine the following factors, among others:

A. Objective analyses of the future financial prospects of the recipient firm or the project as indicated by, *inter alia*, market studies, economic forecasts, and project or loan appraisals prepared prior to the government-provided equity infusion in question;

B. Current and past indicators of the recipient firm's financial health calculated from the firm's statements and accounts, adjusted, if appropriate, to conform to generally accepted accounting principles;

C. Rates of return on equity in the three years prior to the government equity infusion; and

D. Equity investment in the firm by private investors.

The Department has examined Krakatau's equityworthiness for the year 1995. We are also examining Krakatau's equityworthiness for the period 1988 through 1992, to the extent equity infusions may have been received in these years. *See* June 1, 1999, memorandum to Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement II, a public document on file in the CRU. Krakatau did not respond to our first questionnaire regarding the new allegations pertaining to the period 1988 through 1992, but the company has not yet had the opportunity to respond to any additional questionnaire on these allegations. Therefore, we are not addressing Krakatau's equityworthiness in these years for this preliminary determination.

In considering whether Krakatau was equityworthy in 1995, we examined information on the above-listed factors. With respect to factor A, no studies or other relevant data have been submitted to the record. However, according to press articles submitted by petitioners, Krakatau was not an attractive investment. In one article, the Indonesian Minister for the Empowerment of State Enterprises stated, ''[w]hy is Krakatau Steel difficult to sell? Because it has often been said that the company would go bankrupt and that it needed an investment of $1.2 billion.'' The Minister also stated in 1998 that Krakatau had a very low return on equity compared to its international competitors. Another government official stated that Krakatau would, ''* * * first have to restructure its subsidiaries, cut costs and reduce staff,'' in order to complete its proposed privatization. *See* Countervailing Duty Petition, public version on file in the CRU.

In addition, according to information submitted by the Petitioners, the investment climate in Indonesia in 1995 was considered a risky one, further dampening any potential for private investment. According to press articles, problems with state-owned firms would have further deterred private investment in these companies.

To address factors B and C, we examined Krakatau's financial ratios for the three years prior to each of the infusions based on the information contained in Krakatau's translated financial statements that were submitted by petitioners. *See* Analysis Memo. This data indicates that Krakatau did report modest profits in the years relevant to examination. Return on sales was positive, but declined over the period 1992 through 1994. Return on equity declined from 1992 to 1993, but recovered in 1994. In all relevant years Krakatau's return on equity remained less than half of the annual inflation rate; thus the company was posting negative returns in real terms. Further, Krakatau's returns during this period were well-below commercial interest rates.

With respect to the final factor, Krakatau has no private investors. Therefore, there are no private investments that may be used to evaluate Krakatau's equityworthiness.

In light of Krakatau's unfavorable financial position, anemic returns and the press reports about the company's dubious financial health, it seems unlikely that a reasonable private investor would have made equity investments in the company. On this basis, we preliminarily determine that Krakatau was unequityworthy in 1995.

Equity Methodology

In measuring the benefit from a government equity infusion, in accordance with § 351.507(a)(2) of the CVD Regulations, the Department compares the price paid by the government for the equity to actual private investor prices, if such prices exist. According to § 351.507(a)(3) of the CVD Regulations, where actual private investor prices are unavailable, the Department will determine whether the firm was unequityworthy at the time of the equity infusion. In this case, private investor prices were unavailable; thus, we conducted an equityworthy analysis. As discussed above, we have determined that Krakatau was unequityworthy in 1995.

Section 351.507(a)(3) of the CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with the usual investment practices of private investors. The Department will then apply the methodology described in § 351.507(a)(6) of the regulations, and treat the equity infusion as a grant. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that

the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. To do so, the Department examines whether the company received long-term commercial loans in the year in question, and, if necessary, the overall financial health and future prospects of the company. If a company not owned by the government receives long-term financing from commercial sources without government guarantees, that company will normally be considered creditworthy. In the absence of commercial borrowings, in accordance with § 351.505(a)(4) of the CVD Regulations, the Department examines the following factors, among others, to determine whether or not a firm is creditworthy:

A. The receipt by the firm of comparable commercial long-term loans;

B. The present and past financial health of the firm, as reflected in various financial indicators calculated from the firm's financial statements and accounts;

C. The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow; and

D. Evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, and project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan.

With respect to the first factor, Krakatau received one long-term commercial loan in 1995 amounting to approximately 3 billion Rupiah. However, because Krakatau is owned by the government, this loan may not be considered dispositive as to the company's creditworthiness. *See* § 351.505(a)(4)(ii) of the CVD Regulations.

Therefore, to determine whether Krakatau was creditworthy in 1995, in accordance with the Department's past practice, we analyzed financial ratios for each of the three years prior to the year under examination to address factors B and C. In examining these ratios, however, because tKrakatau failed to respond to our questionnaires (as discussed in the ''Facts Available'' section of this notice), we do not have the company's financial statements for 1992 and 1993. The only financial information for the years 1992 and 1993 on the record of this investigation is taken from data from the Indonesian Commercial Newsletter submitted by petitioners. Thus, we are not able to evaluate whether this data is supported by the financial statements and whether there may be any notes to the financial statements that would call the data into question.

Using the only information available on the record, we found that, as discussed above, Krakatau had positive returns on sales and equity during the relevant years, but these rates were lower than commercial interest rates and lower than the level of inflation. Krakatau's current ratio remained relatively strong during this period, ranging from 3.86 to 6.51, showing a fairly strong degree of short-term protection for creditors and no indication of difficulty in covering short-term liabilities.

The Department normally examines other financial ratios including the quick ratio and times-interest-earned ratio; however, data on the record is incomplete, allowing us only to examine the company's position in 1994. Both of these ratios indicate that the company probably did not have difficulties managing its debt obligations in 1994, but we are unable to examine the company's ratios for the other relevant years.

With respect to the final factor, there are no studies or analyses submitted to the record that may be used to evaluate Krakatau's financial position.

While the data we have indicates that Krakatau may not have had any difficulty obtaining financing at commercial interest rates, again, we note that the record evidence is incomplete. In addition, other financial data and press reports, as discussed in the ''Equityworthiness'' section above, indicate that Krakatau had financial difficulties. Therefore, as adverse facts available we preliminarily find that Krakatau was uncreditworthy in 1995.

Discount Rates

We calculated the discount rates in accordance with the formula for constructing a long-term interest rate benchmark for uncreditworthy companies as stated in the Department's new regulations. *See* § 351.505 (a)(3)(iii) of the CVD Regulations. This formula requires values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we relied on the average cumulative default rated reported for the Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997,'' (February 1998). For the probability of default by a creditworthy company we used the average cumulative default rates reported for the Aaa to Baa.[1] For the period before 1998, we used the average cost of long-term fixed-rate loans in Indonesia in 1995 as the interest rate that would be paid by a creditworthy company, specifically the investment rate offered by commercial banks in Indonesia as reported in the Indonesian Financial Statistics of February 1999, attached to the GOI's April 29, 1999, questionnaire response, a public document on file in the CRU. For this period, we used the average cumulative default rates for both uncreditworthy and creditworthy companies that were based on a 15 year term, since Krakatau's allocable subsidy was based on this allocation period. For 1998, since Indonesia experienced high inflation during this year, we converted the subsidy into U.S. dollars and then applied a long-term dollar rate as the discount rate, specifically, the average yield to maturity on selected long-term Baa-rated bonds. See Analysis Memo. This conforms with our practice in *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014, 55019 (October 22, 1997). In calculating the uncreditworthy rate for 1998, we used the average cumulative default rates for both uncreditworthy and creditworthy companies based on a 12 year term, since that period remained on Krakatau's allocated subsidy.

I. Program Preliminarily Determined To Be Countervailable

1995 Equity Infusion Into Krakatau

Because Krakatau did not respond to this allegation, we used the information and data provided in the petition as adverse facts available, in accordance with section 776(b) of the Act (*See* ''Facts Available'' discussion above). According to both the Countervailing Duty Petition and Krakatau's financial statements, the GOI provided Krakatau with equity in the form of debt-to-equity conversions in 1995. *See* Analysis Memo. In 1995, the GOI converted subordinated loans into equity. The conversion was authorized by the

[1] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (see Exhibit 28).

Minister of Finance in decree number S–44/MK016/1995 dated July 25, 1995. According to Krakatau's financial statement, provided in the petition, on April 29, 1996, through decree of the Minister of Finance S–240/MK016/1996, the conversion was approved at a slightly lower amount than originally authorized. The excess amount has not yet been converted into capital and has been recorded as a loan in the financial statement, with interest still due.

We preliminarily determine that under section 771(5)(E)(i) of the Act, the equity conversion into Krakatau was not consistent with the usual investment practice of a private investor and confers a benefit in the amount of each infusion (*see* ''Equityworthiness'' section above). The equity conversion is specific within the meaning of section 771(5A)(D) of the Act because it was limited to Krakatau. Accordingly, we preliminarily find that the 1995 debt-to-equity conversion is a countervailable subsidy within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated equity infusions into unequityworthy companies as grants given in the year the infusion was received because no market benchmark exists. In accordance with § 351.507(c) of the CVD Regulations, the equity conversion is allocated as a non-recurring subsidy. We allocated the subsidy and converted the remaining face value of the infusion in 1998 into U.S. dollars using the average 1997 rupiah/dollar exchange rate and applied the long-term U.S. dollar uncreditworthy interest rate described in the ''Discount Rate'' section of this notice. We then divided the benefit amount allocable to the POI by Krakatau's estimated 1998 U.S. dollar total sales figure, which was calculated based on the facts available in the petitioner's submission. See Analysis Memo. On this basis, we preliminarily determine the net countervailable subsidy to be 17.38 percent *ad valorem* for Krakatau.

II. Program Preliminarily Determined To Be Not Countervailable

Reduction in Electricity Tariffs

Petitioners alleged that discounts on electricity rates were provided to the steel industry during the POI; they alleged that after the GOI increased electricity rates in 1998, the GOI decreased rates for the steel industry. According to the questionnaire response, in 1998, the GOI instituted a substantial increase in electricity tariff rates for electricity supplied by the state-owned electricity company, PT Perusahaan Listrik Negara, known as Persero. In accordance with Presidential Decree No. 70/1998 of May 4, 1998, rates were scheduled to increase periodically throughout the year, in May, August, and November. The May 1998 increase was implemented as discussed in the Announcement of the Minister of Mines and Energy, No. Pm/40/MPE/1998 dated May 4, 1998, submitted in the June 23, 1999, questionnaire response. Subsequently, the August and November increases were retroactively postponed, by Presidential Decree No. 1/1999 of January 7, 1999, submitted in the June 1, 1999, questionnaire response. According to this decree, the rate increase was postponed for all electricity customers, with the exception of large residential households.

The postponement of the rate increase applied broadly throughout the economy, with only large residential households excepted from the new rate. According to the GOI, all ''[i]ndustrial customers pay electricity rate solely according to the tariff and time of use.'' Thus, contrary to petitioners' allegation, there is no basis for concluding that the steel industry received a special electricity discount. Based on the record evidence, the electricity discount was not limited to a specific enterprise, industry or group thereof, but was available to all industrial users in the country. Therefore, we preliminarily determine that the electricity discount program is not countervailable.

III. Programs Preliminarily Determined To Be Not Used

Based on the information provided by respondents and the GOI, we determine that Gunawan, Jaya Pari, and Krakatau did not apply for or receive benefits under the following programs during the POI:

A. *Bank of Indonesia Rediscount Loans*
B. *Corporate Income Tax Holidays*

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for each of the companies under investigation.

According to section 705(5)(A)(i) of the Act, the all others rate is, ''an amount equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates and any rates determined entirely under section 776.'' Thus, in accordance with section 705(5)(A)(i) of the Act, we are excluding the rates calculated for Gunawan and Jaya Pari because they are zero rates. Although the subsidy rate calculated for Krakatau is based in part on facts available, section 705(5)(A)(i) specifies that only those rates calculated *entirely* under section 776 (facts available) are excluded; thus, we are including the subsidy rate calculated for Krakatau in the all others rate.

Producer/exporter	Net subsidy rate
P.T. Krakatau Steel ..	17.38% ad valorem.
P.T. Gunawan Steel	0.00% ad valorem.
P.T. Jaya Pari	0.00% ad valorem.
All Others Rate	17.38% ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cut-to-length plate from Indonesia, except with respect to Gunawan and Jaya Pari as discussed above, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. Since the estimated preliminary net countervailing duty rates for Gunawan and Jaya Pari are zero, these two companies will be excluded from the suspension of liquidation. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18858 Filed 7–23–99; 8:45 am]

BILLING CODE 3510–DS–P

federal register

Monday
July 26, 1999

Part III

Department of Transportation

Federal Transit Administration

Electronic Payment System for Transit Fare Collection, Parking Payment, Electronic Toll Collection and Other Applications; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Request for Proposals for an Operational Test of an Electronic Payment System for Transportation and Other Applications

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (US DOT) announces a Request for Proposals from eligible applicants for an operational test of an electronic payment system for transit fare collection, parking payment, electronic toll collection and other applications. The US DOT is interested in identifying and evaluating issues associated with the establishment of partnerships between public transit service providers and other entities in the development and use of multiple-application electronic payment systems. The Department is specifically interested in an operational test of a payment system that includes a variety of applications, but must at a minimum include transit fare collection, parking payment and electronic toll collection.

DATES: Proposals shall be submitted by 4 P.M. EST on or before October 25, 1999.

ADDRESSES: Proposals shall be submitted to Walter Kulyk, Director, Office of Mobility Innovation (TRI–10), Federal Transit Administration, 400 7th Street SW., Room 9402, Washington, DC 20590 and shall reference Electronic Payment System Demonstration.

ELIGIBILITY: Only public transit agencies and metropolitan planning organizations (MPOs) in the United States are eligible to submit proposals in response to this RFP. In the case of MPO applicants, a statement explaining why a local transit partner is unable to submit the application and serve as a grantee must be included in the proposal. This eligibility restriction applies only to the agency submitting the proposal and serving as the applicant and does not limit project partners. All agencies submitting proposals in response to this notice consent to be publicly identified as respondents.

FOR FURTHER INFORMATION CONTACT: Bert Arrillaga, Chief, Service Innovation Division, (TRI–12), at (202) 366–0231 or Sean Ricketson, Office of Mobility Innovation, (TRI–11), at (202) 366–6678. This notice is posted on the FTA website on the Internet under http://www.fta.dot.gov/library/legal/fr99toc.htm. Questions and replies regarding this notice will be posted on the FTA website under http://www.fta.dot.gov/office/research/its.htm.

Contents

I. Background
II. Visions, Goals and Objectives
III. Project Development
  A. General
  B. Management Oversight
IV. Partnerships
V. National ITS Architecture
VI. Project Evaluation Activities
VII. Funding
VIII. Schedule
IX. Proposals
  A. Technical Plan
  B. Management and Staffing Plan
  C. Financial Plan
X. Proposal Evaluation Criteria

I. Background

Recent developments in electronic payment systems and card technology present a unique opportunity for public and private institutions to establish mutually beneficial partnerships in the development and management of electronic payment systems for transportation. These developments include stored-value card systems created by financial institutions, contactless smart card systems for public transportation, electronic toll collection systems on highways and card systems for human service agency program management and benefits delivery. Private industry and public agencies foresee substantial benefits in establishing partnerships to develop further capabilities in electronic fee collection, delivery of benefits payments, funds transfer, settlement and clearinghouse functions. However, a number of institutional issues continue to restrict the formation of these partnerships. Through the development of an operational test this project intends to be a step towards identifying and addressing the complex institutional issues surrounding electronic payment systems in transportation.

The decision to focus the scope of the operational test on integrating transit fare collection, parking payment and electronic toll collection systems rests on a number of factors. Based on responses the US DOT received from the **Federal Register** Notice, Request for Letters of Interest in an Operational Test of Transit Fare Collection and Other Applications, dated November 24, 1998, it is considered that the transit industry is progressing in the development of integrated transit payment systems. With limited research funds available, the US DOT feels that this operational test could facilitate the next step to the development of an integrated, multi-modal transportation payment system infrastructure. However, there is a concern that a project integrating transit, parking and toll collection (given the modal balance found in most areas) may have a limited transit component. Therefore, it has been determined that the lead applicant (the agency submitting the proposal and potential grantee) be limited to transit agencies or MPOs to ensure sufficient participation by a public transit partner. Because this eligibility is more restrictive than first presented in the Request for Letters of Interest, the response period to the RFP has been extended to ninety days.

II. Vision, Goals and Objective(s)

The vision this operational test supports is one of a seamless transportation payment infrastructure where local transportation agencies and other organizations are not limited by institutional constraints in the development of transportation payment products. Examples of possible products are pre-paid integrated accounts for toll payment, parking and transit, or stored value cards for transit and parking meter use. Ideally, only local creativity and transportation needs should limit the development of such products.

While the goals and objectives described below are focused on technical and institutional outcomes, the success of the test will depend upon whether it makes a positive contribution to the enhancement of local transportation service and operational efficiency. This focus must be maintained throughout the lifecycle of the operational test (planning, development, implementation and evaluation) by the grantee.

The goal of the operational test is to provide solutions to transit and other service providers exploring the feasibility of developing multi-modal transportation payment systems and integrating transportation payment with other payment applications. Additionally, the operational test is intended to offer insight to those interested private sector partners (i.e., the electronic payments industry, financial services industry, and other industries) interested in integrating their services with a transportation payment system.

The objective of the operational test is to evaluate and document the integration of transit fare collection, parking payment and electronic toll collection within one coordinated payment system. Additional objectives, if feasible, are to evaluate and document the viability and benefits of integrating transportation payment systems with other payment applications.

III. Project Development

A. General

The operational test will need to achieve an optimal balance of meeting local transportation needs while also providing a worthwhile national model of payment system coordination and partnerships.

B. Management Oversight

The grantee and other local partners in the project will manage the operational test. Additional guidance will be provided by a U.S. DOT committee composed of transportation industry representatives. This committee is already established by the U.S. DOT to provide feedback on electronic fare payment activities. The grantee will consult with the committee prior to any significant changes in project scope or direction. For this project, the committee may be augmented by experts from other industries as needed. Concurrently, this committee will direct a separately funded effort being conducted by the U.S. DOT to develop and document a set of guidelines for the integration of electronic fare payment with other payment systems. These guidelines will provide recommendations for the integration of transit payment systems with other payment systems such as benefits transfer, toll collection, security, parking, retail, financial services, telephony, identification and access control. The results of the operational test are intended to contribute to the advancement of the guidelines document. In turn, the development of the guidelines document is intended to assist the committee, the grantee, and local partners with the implementation of the operational test.

IV. Partnerships

The U.S. DOT will work with the lead public agency (applicant/grantee) participating in the project to ensure the needed support to achieve the objectives of the field operational test. The U.S. DOT will verify that the required institutional, partnership and funding arrangements are in place. All necessary partnership arrangements and institutional agreements to support the proposed project need to be documented by the applicant in the proposal. The grantee and participating partners will be required to implement the first phase of the operational test within 24 months from the time the cooperative agreement is awarded.

V. National ITS Architecture

The National ITS Architecture provides a common structure for the design of Intelligent Transportation Systems (ITS). The architecture defines the function that must be performed to implement a given user service, the physical entities or subsystems where these functions reside, the interfaces/information flows between the physical subsystems, and the communication requirements for the information flows. In addition, the architecture identifies and specifies the requirements for standards needed to support national and regional interoperability, as well as product standards needed to support economy of scale considerations in deployment. The proposal shall provide a ''Statement of Intent'' to develop a system consistent with the National ITS Architecture.

Proposals shall also provide a ''Statement of Intent'' to design a system that is consistent with SAE J1708T Bus Vehicle Area Network, the Transit Communications Interface Profiles (TCIP), and other applicable protocols, or standards requirements as these emerge from the National ITS Architecture Development Program. Information about SAE J1708T may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania, USA, 15096–0001; phone: 412–776–4841, fax: 412–776–5760, or through the Internet at *http://www.sae.org.* Information about TCIP can be obtained on the TCIP homepage at *http://www.tcip.org* or by contacting the Institute of Transportation Engineers, 525 School St., SW, Suite 410 Washington, DC 20024; phone: 202–554–8050. Copies of the Architecture Definition Documents, the draft Standards Requirements Document, and the Standards Development Program from the Architecture Development Program are available from ITS America, 400 Virginia Avenue, SW, Suite 800, Washington, DC 20024, telephone 202–484–4847. Electronic copies are available on the ITS America Internet website, *http://www.itsa.org.* These documents provide insight into the definition of the National ITS Architecture, and the emerging approaches being taken toward standardizing interfaces that would support the integration of transportation management components.

In developing plans for standards and architectural consistency, proposals should recognize the practical benefits of this requirement. The ability to integrate systems and exchange data among applications offers some of the strongest benefits of ITS. As an illustration of understanding of this point, plans should identify potential opportunities for integration and data sharing among fare payment and other systems and applications. Information about key indicators of the electronic payment component of the ITS metropolitan infrastructure and integration of it with other components can be found in, ''Measuring ITS Deployment and Integration: August 1998'' available through the Internet at URL Http://www.its.fhwa.dot.gov/cyberdocs/welcome.htm, the report is document number 4372 in the Electronic Document Library maintained at this website.

VI. Project Evaluation Activities

A major goal of the US DOT is to promote the development of innovative applications of advanced technologies. In order to encourage the widespread adoption of technological innovations, data and results from the operational test must be analyzed, documented and reported. Accordingly, evaluations are an integral part of the operational test and are critical to the success of the National ITS Program.

This electronic payment system operational test will be evaluated by a US DOT contractor funded separately by the US DOT. The contractor will develop an Evaluation Plan which will specify the data collection requirements which will enable an assessment of the achievement of the goals and objectives of the National ITS Program applicable to this project as well as the goals and objectives of the implementing organizations. The contractor will assemble all the data collected in accordance with the Evaluation Plan, analyze the data, and prepare the Evaluation Report. The Evaluation Plan will also include an assessment of the technological issues, operational issues, customer acceptance, system reliability, attitudes of implementing organizations, implementation and continuing operational costs, integration issues, and a variety of institutional issues including partnership arrangements, legal issues, clearinghouse operation, the reason for selecting the type of system (closed or open), and the success in obtaining multiple agency participants.

The operational test partners (all participating agencies and institutions) will be involved in all phases of the evaluation. Partners will be expected to provide the local goals and objectives, review and comment on the Evaluation Plan, assist the contractor to collect the data specified in the Evaluation Plan (including any surveys that may be

necessary), provide information on external factors that may affect the project's results, and review and comment on the Evaluation Report prepared by the evaluation contractor.

VII. Funding

Federal funds available for this operational test are $2.33 million. Federal funding shall not exceed 50% of total project costs.

Implementing organizations will be required to furnish the specified evaluation data and perform reviews of evaluation documents. No additional Federal funding will be provided for this effort. The evaluation activities conducted by the evaluation contractor will be funded separately by the US DOT.

The US DOT, the Comptroller General of the United States, and, if appropriate, individual States have the right to access all documents pertaining to the use of Federal ITS funds and non-Federal contributions. Non-Federal partners must submit sufficient documentation during final negotiations and on a regular basis during the life of the project to substantiate these costs. Such items as direct labor, fringe benefits, material costs, consultant costs, and subcontractor costs, and travel costs should be included in that documentation.

VIII. Schedule

The project must remain operational for a period long enough to obtain valid evaluation data. The data collection period will be for a minimum of twelve (12) months from the time that the project is fully operational (i.e., all elements are working as intended). Upon the completion of data collection there shall be a six (6) month period of analysis and report coordination before a final evaluation report is submitted. The system shall remain operational throughout the evaluation process until the final report is received by the US DOT, unless otherwise agreed to by the US DOT.

IX. Proposals

The US DOT will select one operational test proposal for funding under this RFP. Applications should, where possible, focus on utilizing currently available technology. The Department is specifically interested in an operational test that includes transit fare payment, parking payment and electronic toll collection.

Applications that offer the greatest potential for demonstrating and evaluating the benefits of using electronic fare payment in a multi-application transportation environment with at least one private sector partnership are the most desirable.

Proposal Criteria

A proposal shall not exceed forty-five (45) pages in length including title, index, tables, maps, appendices, abstracts, resumes and other supporting materials. A page is defined as one (1) side of an 8½ by 11-inch paper, line spacing no smaller than 1.5 with a type font no smaller than 12 pt. Proposals exceeding forty-five (45) pages are strongly discouraged. Ten (10) copies plus an unbound reproducible copy of the proposal shall be submitted. The cover sheet or front page of the proposal shall include the name, address and phone number of an individual to whom correspondence and questions about the application may be directed. Each proposal shall include a Technical Plan, Financial Plan, and a Management and Staffing Plan that describes how the proposed objectives will be met within the specified time frame and budget. These plans should be structured so that they contain the following information.

A. Technical Plan

General Requirements

1. The technical plan must provide a general description of the local transit market, toll collection system(s), parking payment system(s), and other proposed payment system markets. Information shall include transit ridership statistics, toll plaza throughput statistics, parking systems and parking usage. Additionally, the technical plan must provide an outline of the current fare collection, toll collection and parking payment processes, and types of payment media currently in use. In addition, other potential public/private agency(s) involvement such as partnerships, merchants, retailers, etc. must be outlined.

2. Proposals must include documentation of any existing or planned interagency agreements or public/private cooperative arrangements necessary for the conduct of the operational test.

Project Overview

1. Define existing infrastructure (both physical and information technology) and support systems in place, e.g., current fare collection system and cash handling procedures, toll collection processes and parking collection processes as well as current systems of those additional non-transportation applications being considered for integration.

2. Describe how the existing infrastructure will be expanded and used to support the proposed system. Identify existing technological and institutional linkages within and across modes.

3. Describe the proposed system and how it will be integrated with other non-transportation applications and participating private sector institutions.

4. Summarize the expectations of the proposed system (e.g. costs, benefits, risks, operations, maintenance issues, plans, and system support).

Technical Approach

The Technical Approach will be judged on its ability to incorporate the requirements of a multi-modal, multi-application payment system within the transportation infrastructure. The U.S. DOT recognizes that a single payment instrument or technology may not meet all the stakeholders' needs in a region; however, proposals will be evaluated on demonstrated local willingness and capability to integrate the proposed services among the necessary partners in the transportation environment.

Within the Technical Approach the following areas need to be clearly addressed:

1. Define and describe the goals and objectives of the system, and the goals and objectives of each of the service providers participating in the proposed payment system. Address both customer service and operating efficiency.

2. Describe the system design concept. Describe the extent of proposed system integration, type(s) of proposed media and/or payment mechanisms, settlement and clearinghouse processes, and partners.

3. Describe implementation of the system in probable phases with funding for each phase clearly specified. Document the schedule of work, assumptions and technical uncertainties, and proposed specific approaches to resolve any uncertainties.

4. Describe the approach by which the system design concept will be refined, developed, and operationally tested.

5. Show evidence that the project team has considered service delivery issues. Examples include: Who will use any new payment media? What problems will it solve for the participating transportation providers? What will the benefits of the new system be and how will the project team market the system to the user?

6. Describe the plan for concluding the operational test (Closure Plan), indicating whether hardware, software, and infrastructure will remain in revenue service, be sold, or returned to participating vendors, if applicable. Closure Plans may be contingent upon the results of the operational test, in

which case more than one Closure Plan may be developed.

B. Management and Staffing Plan

Provide names and positions of all personnel related to managing the project. Identify key management and control responsibilities for the overall program. Provide a timeline and define key milestones and deliverables for the project. Provide estimated professional and technical staffing in staff-months and staff-hours. Demonstrate that the project manager is capable, available and able to commit to a level of involvement that ensures project success. Include biographical data on key management personnel.

C. Financial Plan

Provide a description of total project costs and of matching funds, if applicable.

Provide a system budget identifying costs for system design, development, implementation, project management, operations, maintenance and evaluation support.

The applicant's evaluation support costs shall include the following information:

Breakdown costs identifying them by one of the following: (1) Local; (2) State; (3) Private; (4) Federal ITS; (5) Other Federal-aid; (6) Other (describe).

Note: Costs attributed to Federal dollars proposed to be received through award of this operational test are Federal ITS.

Provide cost estimates by phase by funding year as defined in the technical plan.

All financial commitments to the project from both public and private sectors shall be documented in signed Memorandum of Understanding (MOU) and included in the proposal.

The proposal shall provide an in-depth description and assessment of the total cost of achieving the objectives of the Electronic Fare Payment System field operational test. The Financial Plan should describe a phased approach that delineates what will be accomplished with the project funding.

The proposal should provide a comprehensive, concise plan that ensures systems integration of the functions necessary to support an electronic payment system for fare collection. The plan shall include a discussion of the ways in which design, acquisition, construction, and other procurement activities will affect systems integration.

X. Proposal Evaluation Criteria

All proposals must include a Technical Plan, Financial Plan, and Management and Staffing Plan that describes how the proposed objectives will be met within the specified time frame and budget. The primary evaluation criterion for the proposal will be the degree to which the proposal demonstrates the potential for successfully testing a multi-use payment system with multi-modal transportation capability. Proposed projects must include viable transit fare collection, parking payment, and electronic toll collection components. Significant consideration will be given to those projects involving public agencies and private sector partners with previous work or experience developing and integrating electronic payment systems. Proposals must demonstrate local viability and must also show strong potential for providing the baseline for a national model. Proposals should emphasize the nature and arrangement of any public-private partnerships. Proposals should present the potential benefits as well as associated risks and costs to transportation agency partners. Significant consideration will be given to those projects with greater levels of private and local funding contributions.

Issued on: July 15, 1999.

Gordon J. Linton,

Administrator.

[FR Doc. 99–18921 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–57–P

federal register

Monday
July 26, 1999

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 193

Protection of Voluntarily Submitted Information; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 193

[Docket No. FAA–1999–6001; Notice No. 99–14]

RIN 2120–AG36

Protection of Voluntarily Submitted Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to add a new part to provide that certain information submitted to the FAA on a voluntary basis would not be disclosed. This proposal would implement a new statutory provision. It is intended to encourage people to provide information that will assist the FAA in carrying out its safety and security duties.

DATES: Comments must be received on or before September 24, 1999.

ADDRESSES: Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–1999–6001, 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marisa Mullen, Office of Rulemaking, ARM–205, or Mardi Thompson, Office of Assistant Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7653 or (202) 267–3073, respectively.

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. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

The Administrator will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–6001.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339) or the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No.11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Statement of the Problem

The FAA is committed to make continuing improvements in aviation safety and security. To do so, the FAA must have an increasing amount of information regarding current safety and security systems and how they are functioning today. The FAA is developing data sharing programs in which persons in the aviation community, such as air carriers, would share with the FAA information related to safety and security. In one such program, Flight Operations Quality Assurance (FOQA), in-flight data is collected during normal flights and aggregate trend analyses from that data are made available for FAA inspection. In Aviation Safety Action Programs (ASAP), the FAA and entities of the air transportation industry have entered into programs intended to generate safety information that may not otherwise be obtainable. ASAP is described in Advisory Circular 120–66.

An impediment to further development of these programs is the reluctance of some persons to share information that, when in the hands of a government agency, may be required to be released to the public through the Freedom of Information Act (FOIA) (5 U.S.C. § 552) or other means.

The Federal Aviation Reauthorization Act of 1996 (Pub. L. 104–264) provides relief from these concerns by adding new § 40123 to Title 49, United States Code. The new section provides:

(a) *In General.*—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) The disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) Withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) Regulations.—The Administrator shall issue regulations to carry out this section.

In the legislative history, Congress cited the data-sharing programs being developed that could help improve safety by allowing the FAA to spot trends before they result in accidents. It noted the concern in the aviation community about the confidentiality of the data. ''Much of the information could be incomplete, unreliable, and quite sensitive. There will be a reluctance to share such information if it will be publicly released because it could easily be misinterpreted, misunderstood, or misapplied.'' H.R. Rep. No. 104–714, 104th Cong., 2d Sess. 41. Congress noted that protecting this information from public disclosure will not reduce the information available to the public, because the information is not provided to the public now. It further noted that the information

''should be useful in the development of safety policies and regulations.'' H.R. Rep. No. 104–714, 104th Cong., 2d Sess. 42.

In addition, the White House Commission on Aviation Safety and Security issued a recommendation on this subject. In Recommendation 1.8 the Commission noted that the most effective way to identify problems is for the people who operate the system to self-disclose the information, but that people will not provide information to the FAA unless it can be protected. It recommended that the FAA expeditiously complete rulemaking to implement the legislation for protecting *voluntarily provided* information.

This notice contains proposals to carry out § 40123. The FAA anticipates that information received in programs under this part will be used to carry out the FAA's safety and security responsibilities in a number of ways, including identifying potentially unsafe conditions and appropriate corrective action, identifying a need for and the contents of rulemaking, identifying a need for and the contents of policies, and identifying a need for an investigation or inspection.

General Discussion of the Proposals

The proposed rule is intended to furnish a way for people to provide information to the FAA for safety or security purposes, yet protect the information from disclosure to others (with exceptions discussed below).

There is a strong public policy in favor of Federal agencies releasing information to the public, to ensure that the public is informed as to how the government is doing business. Section 40123, however, reflects a recognition that there is a significant benefit to providing exceptions to this policy in order for the FAA to receive additional safety and security related information that it is not now receiving.

Section 40123 requires that the FAA and other agencies not release information that meets the standards in the statute and implementing rules. The information that is subject to this protection is defined in § 40123 as information that is voluntarily provided and that is safety or security related. Section 40123 requires that certain findings be made by the Administrator before its protections apply. The FAA proposes to add a new part 193 that would describe how the Administrator would determine that the requirements of § 40123 are met, thereby making the information protected from disclosure.

Not all information that is voluntarily provided to the FAA meets the standards in § 40123, and, therefore, is not protected from disclosure under § 40123. The FAA often receives information from persons who are willing to provide it without the nondisclosure protections in § 40123. For instance, persons may call an FAA field office to report possible violations such as low flight, or may approach inspectors who are at an airport with information on possible violations. Such information generally does not meet the requirements in § 40123 because the disclosure of the information generally does not inhibit the voluntary provision of that type of information. Indeed, the person often expects disclosure of the information when the FAA acts to address the apparent violation.

Under proposed part 193, the only information to be protected would be information specifically designated as protected in accordance with the procedures in §§ 193.9 or 193.11. Other voluntarily provided information would not be protected under this part. Part 193 would provide for specific findings to be made by the Administrator as to the elements in § 40123. In the ordinary case, the Administrator would publish in the **Federal Register** a proposed designation for specified types of information and request comments. After review of the comments, the FAA could publish a designation protecting the information from disclosure. However, when there is an immediate need for the FAA to provide protection in order to receive information, this rule would also permit the Administrator to designate the information as protected without notice to the public.

Section 40123 and this proposed rule represent a new effort to encourage the aviation community to share information with the FAA. As a developing project, it is not clear how best to structure programs to maximize the benefits. Accordingly, this proposal is written to provide many options for future development and tailoring of individual programs. In all cases except those where there is an immediate need for the information, the FAA would publish notice of these developments and any expansion of the non-disclosure policies in the **Federal Register** and invite comment.

Section-by-Section Analysis

Section 193.1 Scope and Delegations

This section would explain that part 193 implements 49 U.S.C. 40123, protection of voluntarily submitted information.

This section also would provide for delegation of the authority under this part. It would state that the authority of the Administrator to issue, amend, and withdraw designations under this part may be delegated to Associate Administrators and Assistant Administrators and to the Chief Counsel, their deputies, and any individual formally designated to act in their capacity. For instance, if an Associate Administrator were on leave, the person designated as Acting Associate Administrator would have the authority under this part. This section would further state that the authority of the Administrator to issue proposed designations under this part may be further delegated, which could be below the level of Associate Administrator. This would allow the Administrator to delegate to other officials the authority to sign proposed and final designations to be published in the **Federal Register** under §§ 193.9 and 193.11. Because of the strong public policy in favor of disclosure of information held by a Federal agency, authority to grant the final designations, with their extensive non-disclosure protections under this part, should be the decision of senior officials in the agency.

Section 193.3 Definitions

This section would define some of the terms used in part 193.

Section 40123 refers to ''any agency receiving information from the Administrator,'' but does not define ''agency.'' There are many definitions of that term in the United States Code. It appears that in this context, the most appropriate definition is essentially the one in the Administrative Procedures Act, 5 U.S.C. § 551(1). The FAA proposes to use a simplified version of that definition and to define ''agency'' as each authority of the Federal Government of the United States, whether or not it is within or subject to review by another agency, but does not include—(A) the Congress; (B) the courts of the United States; (C) the governments of the territories or possessions of the United States; (D) the government of the District of Columbia; or (E) court martial and military commissions. This definition would permit the FAA to give information to the National Transportation Safety Board (NTSB), and to other agencies such as the FBI, in the interest of safety or security. See the discussion of § 193.5(d).

As explained below, the proposed rule would provide for some limited disclosure of ''de-identified'' information, which would be defined to mean that the identity of the source of the information and the names of persons are removed from the information. Under Part 1, ''person'' is broadly defined to include not only

individuals, but also such entities as companies and firms. Thus, information from an air carrier that was ''de-identified'' would not include the name of the air carrier or the names of any crewmembers, maintenance personnel, repair stations, or other persons that may have been in the original information.

Section 40123 provides that ''notwithstanding any other provision of law,'' the FAA and other agencies shall not ''disclose'' information under specified circumstances. By referring to ''any other provision of law,'' it appears that ''disclose'' was meant to be read broadly to cover all circumstances under which the FAA and other agencies might otherwise be required or permitted to disclose information. ''Disclose'' would be defined broadly under this proposal to mean the release of information or a portion of information to other than another agency. Release to another agency, such as the NTSB, would not be considered disclosure under this rule, because § 40123 states that other agencies are under the same requirements as the FAA not to disclose the information.

The most common definition of disclosing agency information generally arises in connection with release under the FOIA. ''Disclose'' in this regulation would also include release in rulemaking proceedings, in a press release, or to a party in a legal action. Note that in some legal actions, such as some enforcement actions or criminal prosecutions, the rule would permit disclosure of the information. See the discussions of proposed §§ 193.5(f) and 193.7(a).

''Information'' would mean data, reports, source, and other information. It is intended to be inclusive. The word ''information'' would be used to describe all or a part of a submission of information.

''Summarized'' information would mean that individual incidents are not specifically described, but are presented in statistical or other more general form. Summarized information might be used in rulemaking, for instance, to explain the need for the rule.

Section 40123 protections apply only to information submitted voluntarily. ''Voluntary'' would be defined to mean that the information was submitted without mandate or compulsion, and not as a condition of doing business with the government. It would not include information submitted as part of a means of complying with statutory, regulatory, or contractual requirements. Under this proposed definition, information that is required to be submitted under a regulation would not be considered voluntarily provided. If a regulation gives several options for compliance, information provided as part of complying with any option chosen would not be voluntarily provided.

The definition of ''voluntary'' also provides that a program under this part may be published in the Code of Federal Regulations (CFR) and the information submitted under it will considered ''voluntarily provided.'' The FAA anticipates that some programs adopted under § 193.9 may be published in title 14 of the Code of Federal Regulations. Other programs may be adopted as notices that are published in the **Federal Register** but not incorporated into the CFR. The definition is intended to make clear that a part 193 program can be published in the CFR without destroying its voluntary nature.

This definition is based in part on the views expressed by courts as to the nature of a ''voluntary'' submission of information in cases under Exemption 4 to the FOIA (5 U.S.C. 552(b)(4)). Under that exemption, certain voluntarily provided trade secrets and commercial or financial information are exempt from disclosure under FOIA.

The FAA has various arrangements under which it receives information from foreign authorities, generally under a bilateral agreement. Whether such information would be considered to be ''voluntarily-provided'' would depend on all of the circumstances. For instance, in some cases the foreign country inspects an FAA-certificated repair station, production certificate holder, or other FAA-regulated party to determine whether it is in compliance with applicable rules and requirements, and forwards its findings to the FAA. The regulated party is required to submit to such inspections, and thus the information is not voluntarily-provided by the regulated party any more than information obtained during an inspection by FAA personnel would be voluntarily-provided. In other cases, the information provided by a foreign authority might be considered voluntarily provided.

Section 193.5 Withholding Information From Disclosure

This section would state the general provisions for withholding information from disclosure. Section 193.5(a) would provide that, except as provided in this part and in individual programs, the Administrator does not disclose voluntarily provided safety or security information that has been designated as protected under this part.

As discussed above, the protections of this part would apply only to information covered under a designated program, because the Administrator must make findings in accordance with § 40123 before the protections of that section are invoked.

Section 193.5(b) would set forth the basic elements for the Administrator's designation of a program under this part covering a type of information. It includes the elements that are in § 40123.

Section 193.5(b)(1) would require a finding that the information would be provided voluntarily. As noted above, only information that is provided voluntarily may be protected under § 40123. Some information that is provided other than voluntarily may receive protection under other laws, such as exemptions to the FOIA.

Section 193.5(b)(2) would require a finding that the information is safety or security related.

Section 193.5(b)(3) would require a finding that the disclosure of the information would inhibit the voluntary provision of that type of information. The FAA anticipates that this normally would be based in part on statements from the aviation community that they are unwilling to provide the information unless the protections of § 40123 are ensured. The FAA would conduct an analysis to determine whether the possibility of disclosing the information would sufficiently inhibit the provision of the information to warrant granting the protections of § 40123.

In most cases the designation would apply only to information provided after the designation is made. There may be instances, however, when information of that type has been provided in the past, but that future submissions may be inhibited without further protection. This may be true, for instance, where employees have experienced reprisals for submitting adverse information regarding their employers. In such cases the FAA might consider designating as protected information that it has received already.

The FAA notes that § 40123 refers to whether disclosure would ''inhibit'' the voluntary provision of information. In this context, the FAA interprets ''inhibit'' to mean to discourage or to repress or restrain, but not to mean prevent the provision of information. The FAA need only find that the provision of information would be discouraged, repressed, or restrained, but not necessarily altogether prevented, to designate it as protected under part 193. This is consistent with the legislative history that refers to the FAA withholding voluntarily provided information if disclosure would ''discourage'' people from providing it.

H.R. Rep. No. 104–714, 104th Cong., 2d Sess. 49.

Section 193.5(b)(4) would require a finding that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities. This generally would be done by describing how the FAA intends to use the information.

Section 193.5(b)(5) would require a finding that withholding such information from disclosure, under the circumstances stated in the program, would be consistent with the Administrator's safety and security responsibilities. There may be circumstances under which disclosure would be consistent with safety and security. These would be described in the designation. See the discussion of § 193.7(b).

Section 193.5(c) would clarify that only information submitted under a program designated under this part would be protected from disclosure as described in this part. The FAA may receive information on a particular incident both under a designated program and from another unrelated source. Information received by the Administrator through another means is not protected as described in this part. For instance, the FAA might receive information about an airspace deviation both from air traffic control (ATC) and from a part 193 designated program. The information received from ATC would not be protected under this part while the information received under part 193 would be protected from disclosure. Another example would be where information provided under a part 193 program led the FAA to conduct an investigation. If the investigation led to additional information, the additional information would not be protected under part 193, but the original information would continue to be protected.

Section 193.5(d) would make clear that nothing in this part prevents the Administrator from giving information provided in a program under this part to other agencies with safety or security responsibilities. Section 40123 specifically makes such agencies subject to its requirements regarding nondisclosure of information, and thus clearly contemplates that the FAA may give information to such agencies. For instance, at times it may promote safety to share information with the NTSB, and it may be important for security to share information with the FBI or other agencies with security responsibilities. As another example, if the FAA drafts a regulation based on voluntarily submitted information, the FAA may provide that information to the Department of Transportation or the Office of Management and Budget in connection with their review of draft FAA rulemaking documents. (See also the discussion of proposed § 193.7(a)(1).) Further, if information received suggests that there have been criminal violations, the FAA may refer the matter to the Department of Justice or other appropriate agency. Section 40123 supersedes other laws in granting protection to information, when it states that the information shall not be disclosed ''Notwithstanding any other provision of law.* * *''

The Administrator would only give the information to another agency if the other agency provides adequate assurance, in writing, that it will protect the information from disclosure as required. The FAA expects that ''adequate assurance'' usually will include a description of the procedures the other agency will use to ensure that the information is protected from disclosure. This will further promote the purpose of § 40123, which is to give people confidence that they can provide information to the FAA without fear of inappropriate disclosure.

Section 193.5(e) would provide that the nondisclosure protections described in this part do not apply when the person who provided the information agrees to its disclosure.

Section 193.5(f) would provide a specific procedure in the event that the FAA received a subpoena for protected information. This might happen, for instance, in litigation between an air carrier and an individual who alleges he was harmed by the air carrier's negligence. Proposed § 193.5(f) would provide that when the FAA receives a subpoena for information designated as protected under this part, the FAA would contact the person who submitted the information to determine whether the person objects to disclosure of the information or wishes to participate in responding to the subpoena. If the person had no objection the FAA would have the option of disclosing the information. If the person wanted the information to continue to be protected, that person would have the option of participating in the response to the subpoena such as by filing an appropriate motion with the court. The person would not be required to participate, however, and may not wish to if that person wishes to remain anonymous.

The FAA would decide based on all the circumstances how to respond to a subpoena. If the person did not object to releasing the information that likely would be the response, however, there may be instances in which the person who provided particular material may not object to its release but release may compromise other aspects of the program, in which case the FAA may decide to continue to protect it from release.

The FAA represents the government in administrative litigation such as many enforcement actions. The FAA does not represent the United States government in litigation in Federal or state court, rather the Department of Justice (DOJ) provides representations. The FAA would either make an appropriate response to a subpoena or request that DOJ make an appropriate response, such as to resist disclosing the protected information by filing a motion for a protective order or a motion to quash the subpoena, or by releasing the requested information. In limited circumstances, the government may be required to disclose some protected information to a judge so that the judge can determine whether the government is properly withholding information under the law.

Section 193.7 Disclosure of Information

Section 40123(a)(2) requires that, for information to be protected, the Administrator must find that withholding the information would be consistent with safety and security. If all other requirements in § 40123 are met, it will be infrequent that the FAA will find it advisable to disclose the information. However, there are some circumstances under which it would be consistent with safety or security to disclose at least portions of an information submission, which circumstances would be stated in the proposed regulation and in the individual program. Where disclosure would be necessary, attempts would be made to limit the disclosure to the extent practicable, such as releasing only de-identified and summarized information.

Some reasons for disclosing information apply to all FAA programs and activities and are set forth in proposed § 193.7(a). They involve developing new policies and regulations (§ 193.7(a)(1)), evaluating or correcting current deficiencies (§ 193.7(a)(2)), conducting criminal investigations or prosecutions (§ 193.7(a)(3)), and complying with 49 U.S.C. 44905, regarding information about threats to civil aviation (§ 193.7(a)(4)).

Proposed § 193.7(a)(1) would provide for the disclosure of limited information to explain the need for changes in policies and regulations. As is explained in the legislative history for § 40123, the information collected in these voluntary

programs ''could help to improve air safety by helping safety officials identify trends before they cause accidents.'' H.R. Rep. No. 104–714, 104th Cong., 2d Sess. 41. ''The data and information that would be available to the FAA as a result of this provision * * * should be very useful in the formulation of the FAA's safety policy and regulations.'' Id. at 42.

Generally, during rulemaking the agency is required to make data available that it relied on in developing the proposed rule and is required to give the public an opportunity to comment on the proposal. Providing the data gives the public a chance to look at how the agency analyzed and interpreted the data and provides an opportunity to comment on the conclusions reached. See 5 U.S.C. 553. Such informed comment assists the agency in developing rules that best promote safety and security. Commenters are able to better understand the reasons for the proposed rule, offer alternate interpretations of the underlying data, and offer solutions that they feel would better address the safety or security problem.

Section 40123, however, specifically provides that information voluntarily provided under that section shall not be disclosed ''notwithstanding any other provision of law * * *.'' Another provision of law includes the provisions of 5 U.S.C. § 553 that otherwise would call for full disclosure of data supporting a proposed rulemaking. It would not be consistent with the intent of § 40123 for the FAA to make available to the public all of the raw data on which it relied, if that data was submitted voluntarily in a program under this proposed part. It also would not be consistent with safety and security for the FAA to completely forego the benefits of informed comment on a proposed rule that comes with releasing the data supporting the proposed rule.

The FAA proposes, therefore, that if it enters into rulemaking or policy making based on data submitted voluntarily under this part, it would not release all of the data. Rather, it would release only data that is de-identified and that is summarized. In this way, the source of the data would not be revealed, but enough information would be made available to explain to the public how the FAA made its decisions on the proposed changes. This proposed approach attempts to balance the public's interest in understanding the basis for agency rulemaking and policy making, and the need to encourage the submission of voluntarily provided safety and security information.

In providing de-identified, summarized information, the FAA would provide in the rulemaking sufficient information to permit meaningful comment. Data could be summarized in a number of ways, depending on the rulemaking. For instance, charts might show how often a specific maintenance problem was discovered in different air carriers, without revealing the names of the air carriers. This would show how the maintenance problem was distributed across the industry, leading the FAA to propose a general rulemaking instead of a correction for one air carrier. This approach is similar to that currently used with information that is of a very personal or private nature. Rulemaking based on a review of medical records, for instance, may provide summarized findings without revealing individuals' names.

Proposed § 193.7(a)(2) would provide for disclosure of information received in a program under this part to evaluate or correct a condition that may compromise safety or security. There are a number of instances in which this might occur. Examples include evaluating airworthiness conditions, assuring that the holder of an FAA certificate is qualified for that certificate, and preventing on-going violations of the safety or security regulations.

The FAA may need to make a limited disclosure to evaluate airworthiness conditions. If, for instance, information indicates an unsafe condition in a type of aircraft, engine, or other product, the FAA may consider issuing an Airworthiness Directive (under part 39) to require that the deficiency be corrected. The FAA works with design and production approval holders, such as holders of type certificates or production certificates under part 21, to identify the need for action to correct airworthiness problems and to develop what that action should be. The holders of design and production approvals have expertise in their own products that the FAA does not have, and it is important that their expertise be available to help the FAA analyze potential airworthiness problems. Under proposed § 193.7(a)(2), the FAA could disclose voluntarily-provided information to a design or production approval holder to assist the FAA in assessing the need for, and the content of, required corrective action. The FAA requests comments on whether the holder or other person receiving the information under similar circumstances should be required to protect the information from further disclosure.

Also under § 193.7(a)(2), the FAA would disclose information to assure that the holder of an FAA certificate continues to be qualified to hold the certificate. The FAA issues a certificate (such as for an air carrier, a producer of aircraft, or an airman) when the applicant has shown that all safety and security requirements for that certificate are met. If it later becomes evident that the certificate holder is unable or unwilling to continue to meet the safety and security requirements, that person is no longer qualified to hold the certificate. It would be inconsistent with safety or security for that person to continue to hold the certificate and exercise its privileges.

Section 193.7(a)(2) would be used when the FAA receives information in a program under part 193 that a certificate holder may not be qualified for the certificate. The FAA would first investigate the matter. Generally that investigation would include approaching the certificate holder to attempt to resolve the matter. If the lack of qualifications was confirmed, or if there was a reasonable question as to whether the certificate holder was qualified, and no corrective action was taken, the FAA might have to resort to remedial action. Such remedial action may include an order of compliance or a cease and desist order (§ 13.20), requiring changes to the certificate holder's procedures, or remedial enforcement action. The latter may include suspending the certificate until the holder shows that it is qualified or revoking the certificate. In taking remedial action the FAA may have to disclose some information that was submitted in a part 193 program. In remedial enforcement action, for instance, the certificate holder would have the right to appeal the suspension or revocation to the NTSB. The appeal process, except in very limited circumstances, is a public process, and evidence used in the case is available for inspection and copying by the public. Depending on the case, the voluntarily-provided information that gave rise to the investigation may or may not be used by the FAA to show that the enforcement action was warranted, and may or may not be disclosed in the course of the proceeding. This is consistent with the legislative history for § 40123, which provides: ''Examples of information the withholding of which would be inconsistent with the FAA's safety and security responsibilities (and thus still could be disclosed) are information required in an enforcement action to prosecute safety or security violations.

* * *'' H.R. Rep. No 104–714, 104th Cong., 2d Sess. 49.

Section 193.7(a)(2) also would provide for disclosure to prevent continuation of an on-going violation of the Federal Aviation Regulations (14 CFR Parts 1 through 199), the Hazardous Materials Regulations as they relate to air transportation (49 CFR Part 171 *et seq.*), and the relevant statutes. This would occur when the information reveals that a violation was continuing to occur and thus remedial enforcement action was necessary to correct the violation.

Section 193.7(a)(3) would provide for disclosure of information to conduct a criminal investigation or prosecution. While the FAA does not prosecute criminal actions, in those rare circumstances in which it is appropriate the agency refers such matters to the Department of Justice or other appropriate agency. For instance, in recent years there have been some criminal prosecutions involving counterfeit aircraft parts. Such parts can present a danger to the traveling public, and it is important that those responsible for such crimes be brought to justice. The FAA anticipates that, in those few instances in which part 193 information is provided to a law enforcement agency, it would be used mostly to develop leads and otherwise assist in the investigation. The part 193 information might not be used as evidence in the prosecution and therefor might not be disclosed. However, it might be necessary to disclose the information during the prosecution.

Finally, § 193.7(a)(4) would provide for disclosure of information to comply with 49 U.S.C. 44905 regarding information about threats to civil aviation. That section requires that public notice be made in specified circumstances about threats to civil aviation, generally involving possible terrorist threats. The legislative history makes clear that such information should be disclosed even if voluntarily provided under § 40123. H.R. Rep. No. 104–714, 104th Cong., 2d Sess. 49.

Section 193.7(b) would provide for other circumstances in which withholding information provided under this part would not be consistent with the Administrator's safety and security responsibilities. These circumstances may be different depending on the program. It is proposed that those circumstances be described in the designation for that program. The FAA cannot predict how information programs may develop in the future. As the FAA develops uses for the information that may require some disclosure, these uses would be proposed in individual programs. Possible examples include disclosure to foreign aviation authorities, disclosure after a period of time in which the information would no longer be protected, and disclosure in punitive enforcement actions.

As to enforcement actions, note that this proposed rule speaks only to when information may be disclosed in connection with an enforcement action. It does not describe what enforcement policy may be applied for each designated program. Each program would have different goals and provisions for such policies.

Section 193.9 Designating Information as Protected Under This Part: Notice Procedure

This section would describe the procedure normally used to designate information as protected under this part. This procedure would be for use where there is not an immediate need for the information. It generally would be used for programs in which a specific type of information is to be provided by types of persons on an on-going basis. For instance, under FOQA, flight recorder data is made available by air carriers on an on-going basis. ASAP programs, which are entered into by the FAA and entities of the air transportation industry, are intended to generate safety information that may not otherwise be obtainable.

The scope of § 193.9 programs would vary. One way would be for FAA to create a national program that is national in scope and that is available to all individuals or companies that meet the basic requirements of that program. For a national program, the FAA would designate the entire national program as protected under § 40123. Then different persons would have the option of participating in the program without obtaining an individual designation under this part.

Examples of national programs are FOQA and ASAP. The FAA anticipates that it will propose to designate the national FOQA and ASAP programs as protected under § 40123. The proposed designations would include all of the items in § 193.9, such as a description of the type of information that may be voluntarily provided. If, after public comment, the FAA decides to designate these programs for protection under § 40123, then individual air carriers would receive the protections of § 40123 without each obtaining a designation under part 193 for their individual FOQA and ASAP programs.

Another way to have an information program designated as protected under § 40123 would be for an air carrier or other person to submit an application for an individual program. The FAA would evaluate the application and either publish a proposed designation based on the application for public comment or deny the application. Any person would be able to apply to have information designated as protected under this part. If the applicant is an air carrier or another certificate holder with an FAA principal inspector, the application would be sent to the principal inspector. If the applicant has no principal inspector, the application would be sent to the local FAA Field Office.

The application would include the designation described in paragraph (c) that the applicant would like to be issued. The Administrator would evaluate the application, and may issue a proposed designation based on the application or may deny the application.

The Administrator may decide to issue a proposed designation based either on an application or the FAA's internal decision. The FAA would publish a proposed designation in the **Federal Register** and request comment. After comments were received, the FAA would review them and evaluate whether the elements in § 193.5 were met. The Administrator would designate information as protected under this part only if the elements in § 193.5 were met.

If the Administrator found that the elements in § 193.5 were met, an order designating the information as protected would be published in the **Federal Register**. The order would include summaries of why the Administrator found that the elements were met. By publishing the order in the **Federal Register**, all interested persons would be able to see that they could provide information under the program and receive the protection described in § 40123 and this part.

The first five items in the order would be the elements of § 40123. Section 193.9(c)(1) would provide for a summary of why the Administrator finds that the information will be provided voluntarily. Paragraph (2) of that section would provide for a description of the type of information that may be voluntarily provided under the program and a summary of why the Administrator finds that the information is safety or security related. Paragraph (3) would call for a summary of why the Administrator finds that the disclosure of the information would inhibit the voluntary provision of that type of information. Paragraph (4) would be for a summary of why the receipt of that type of information aids in fulfilling the Administrator's safety and security

responsibilities. Paragraph (5) would call for a summary of why withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the Administrator's safety and security responsibilities, as described in § 193.7.

Proposed § 193.9(c)(6) would provide for a summary of how the Administrator will distinguish information protected under this part from other information. This might include such items as the method for persons to become involved in the program, how information is submitted under that program, and how the information is segregated within the FAA to ensure that it is handled properly. It might also include such procedures as marking documents as protected under part 193.

The FAA anticipates that the designation published in the **Federal Register** may not contain all the details, conditions, and procedures that apply to the program. For instance, a designation for FOQA might contain only the elements contained in § 193.9(c), such as a description of the information that may be provided under the program. That designation may require each interested air carrier to apply for its own FOQA approval, which would provide particular procedures for that air carrier. The approvals for each air carrier would not need to be published in the **Federal Register** as long as they are consistent with the designation that was published.

Under § 193.9(d), the FAA could amend a designation in the same way it was first adopted.

Section 193.9(e) would provide for withdrawal of the designation if the FAA determines that the program no longer meets the required elements in § 193.5, or if the requirements of the individual program are not met. The withdrawal would be published in the **Federal Register** and would state the effective date of the withdrawal. Information that was received under the program while the designation was effective would remain protected even after the program was discontinued. No newly received information would receive the protection of § 40123 and part 193.

Section 193.11—Designating Information as Protected Under This Part: No Notice Procedure

This proposed procedure is intended for situations in which there was an immediate need for the FAA to receive safety or security information. The FAA might need to obtain the information quickly in order to evaluate the need for immediate remedial or corrective action. The process in this section would be a way that the FAA could assure the source that the information would be protected under this part, but would not require publication in the **Federal Register** and a comment period.

The FAA anticipates using this procedure in rare circumstances. For instance, there may be a serious safety or security violation that an air carrier is unwilling to address, and an employee wishes to report it. If the information would prove to be correct, enforcement action against the air carrier may be likely. The employee may wish for his or her name to be protected from disclosure from the air carrier for fear of being fired or otherwise suffering reprisals. The protection under this part would permit the FAA to withhold the employee's name from disclosure.

The FAA would protect information under this section only when the Administrator has found that the elements of § 193.5 were met, and that there was an immediate need to obtain the information without carrying out the more time-consuming procedures in § 193.9. The designation would be in writing.

This procedure generally would involve an individual who had information regarding a specific condition that could be provided all at once or over a short time, rather than on-going information sharing programs. Section 193.11(c) would contain limitations on the length of time these procedures could be used, and generally would provide that such an information collection could be used only for 60 days. If an enforcement or criminal investigation was underway, the information could continue to be provided under the protection of part 193. However, we do not rule out the possibility that there may arise a critical safety or security need to immediately adopt a program and begin collecting information in a program that normally would be under § 193.9. In that case, the FAA could use § 193.11 to begin obtaining the information right away, and initiate the procedure in § 193.9 to adopt a long-term program.

Section 193.11(d) would describe those circumstances under which the information could be disclosed. This is in addition to the circumstances listed in § 193.7(a), which would apply to all information received under this part. The special circumstances would include use in enforcement actions. As noted above, under the rare circumstances in which this procedure might be used, enforcement action may be the likely result.

Section 193.11(e) would provide for amending the designation in the same way that the designation originally was made.

Finally, proposed § 193.11(f) would state how the designation would be withdrawn. This would be by written notice to the person providing the information.

Paperwork Reduction Act

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The title, description, number of respondents, and estimate of the annual total reporting and recordkeeping burden are shown below.

Title: Protection of Voluntarily Submitted Information.

Summary: The FAA proposes to add a new part (part 193) to provide that certain information submitted to the FAA on a voluntary basis would not be disclosed. This proposal would implement a new statutory provision. The purpose of this proposed rule is to encourage the aviation community to voluntarily share information with the FAA so that the agency may work cooperatively with industry to identify modifications to rules, policies, and procedures needed to improve safety, security and efficiency of the National Airspace System.

Use of: To encourage people to voluntarily submit desired information, § 40123 was added to Title 49, United States Code, in the Federal Aviation Reauthorization Act of 1996. Section 40123 allows the Administrator, through FAA regulations, to protect from disclosure voluntarily provided information relating to safety and security issues.

The White House Commission on Aviation Safety and Security issued a recommendation on this subject. In Recommendation 1.8, the Commission noted that the most effective way to identify problems is for the people who operate the system to self-disclose the information, but that people will not provide information to the FAA unless it can be protected. It recommended that the FAA expeditiously complete rulemaking to implement the legislation for protecting voluntarily provided information.

Respondents (including number of): Those individuals, organizations, or businesses that submit information regarding safety or security issues,

including aircraft operators, manufacturers, repair stations, and airports.

Annual Burden Estimate: This proposal would impose a negligible paperwork burden for air carriers that choose to participate in this program. The air carrier would submit a letter notifying the Administrator that they wish to participate in a current program. The FAA believes this letter will cost approximately $100 to generate. The FAA also believes that approximately 10 air carriers would prepare one application each. Assuming that each of the 10 air carriers file one application divided by 10 years equals approximately one (1) hour per application times five (5) programs equals a total of 5 hours each year. The estimated hour burden is 5 hours (one time application). The FAA anticipates approximately five (5) programs within the next 10 years. The total cost to the industry of notifying the Administrator concerning the air carriers' participation in these programs would be $5,000 over 10 years.

Occasionally, an air carrier may want to propose a program to the FAA that would require voluntarily submitted information that would have to be protected. The FAA anticipates that it would cost approximately $1,000 to develop such a proposal, and we anticipate that there would only be one (1) such proposal per decade.

The agency solicits public comment regarding the number of applications, proposals, and cost of each on the information collection requirements 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, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirement by September 24, 1999, to the address listed in the **ADDRESSES** section of this document.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The burden associated with this proposal has been submitted to OMB for review. The FAA will publish a notice in the **Federal Register** notifying the public of the approval number.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no conflicts in these proposed amendments and the foreign regulations.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980, as amended, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, 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 $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that the economic impact of this proposed rule does not meet the standards for a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and under the Department of Transportation's Regulatory Policies and Procedures for Simplification, Analysis, and Review of Regulations (44 FR 11034, February 26, 1979). However, the FAA has determined that this proposed regulation is significant due to the public interest in this rulemaking and, therefore, is subject to review by the Office of Management and Budget. Additionally, this proposed rule would not have a significant impact on a substantial number of small entities, would not constitute a barrier to international trade, and does not contain a significant intergovernmental or private sector mandate.

The FAA has determined that since the proposed rule has only a negligible economic impact, positive or negative, on the aviation industry, a full regulatory evaluation is not necessary.

The FAA invites the public to provide comments and supporting data on the assumptions made in the evaluation analyses below. All comments received will be considered in the final regulatory evaluation.

The proposed action is initiated in response to requirements of the Federal Aviation Authorization Act of 1996 which requires, in part, that the Federal Aviation Administration issue regulations to carry out a provision of the Act that certain information provided to the FAA on a voluntary basis would not be disclosed. The proposal is intended to encourage people to voluntarily provide information that will assist the FAA in carrying out its safety and security duties.

The purpose of this rule is to encourage the aviation community to voluntarily share information with the FAA so that the agency may work cooperatively with industry to identify modifications to rules, policies, and procedures needed to improve safety, security, and efficiency of the National Airspace System (NAS). To facilitate this process, the FAA has initiated a number of programs designed to capture safety and security related information normally not available to the public or to governmental agencies.

One such program envisioned under this proposal is the Flight Operational Quality Assurance Program (FOQA), which entails the routine extraction and analysis of digital flight data from line operations. The program enables collection of objective information that can be used to identify trends relating to the safety and efficiency of the NAS. Voluntary sharing of such information with the FAA could accelerate agency decision making in many areas of mutual interest, for example, published airport area arrival and departure procedures, air traffic control data, updates to certification criteria for aircraft, agency guidance for the use and performance of key aircraft subsystems, i.e., Traffic Alert and Collision Avoidance System (TCAS) and Global Positioning System (GPS), or the approval under the Advanced Qualification Program of departures from traditional pilot training methods and media. Another benefit of data sharing programs envisioned through the proposed rule is that it provides an objective tool by which the FAA could improve its safety surveillance. For example, voluntarily shared data could

provide the FAA and industry with an alternative means of monitoring the continued safety of Reduced Vertical Separation Maneuvers (RVSM).

Under current FOQA guidelines, an FAA inspector may review data and information while at the operator's facility. The inspector is not authorized to remove either a paper or electronic copy of data provided under the program from an operator's premises. Not having a voluntarily provided copy of the information severely limits the ability of the FAA to use the information in agency decision making. This circumstance is not always in the interest of the FAA, the airline industry, or the public as it can preclude timely realization of a safety problem or potential efficiency benefits that might otherwise be realized from the shared information.

Adopting this proposed rule would encourage data sharing by ensuring that the information shared is protected from public disclosure, even if requested under the Freedom of Information Act (FOIA). The proposed rule would protect the confidentiality of the individual submitting the information and, therefore, alleviate aviation industry fears that information provided would be used by the public, competitors, or other government agencies for purposes other than those related to safety and security of the aviation system.

In order to participate in any FAA sponsored program where voluntarily submitted information is protected, the air carrier will have to submit a letter notifying the Administrator that the air carrier wishes to participate in the program. The FAA believes that this letter will cost approximately $100 to generate. The FAA also believes that approximately 10 air carriers may participate. The FAA anticipates approximately five(5) new programs will be in existence within the next 10 years. The total cost to the industry of notifying the Administrator concerning the air carriers participation in these programs would be $5,000 over 10 years. Occasionally, an air carrier may want to propose a program to the FAA that would require voluntarily submitted information that would have to be protected. The FAA anticipates that it would cost approximately $1,000 to develop such a proposal, and we anticipate that there would only be one(1) such proposal per decade. We solicit industry comments regarding the number of applications, proposals, and cost of each.

The benefits of this proposed rule are unquantifiable, but nevertheless are positive because the protected information can be used proactively to correct safety concerns, thus preventing avoidable accidents and potentially saving many lives and millions of dollars.

There are negligible application costs associated with implementing the proposed rule. The proposal, if adopted, imposes no reporting requirements on the aviation community and would assure aviation interests such as air carrier operators, pilot associations, airframe manufacturers, and trade associations that voluntarily submit proprietary information would be protected from public disclosure. The cost to the public of having this data or information protected from public disclosure is considered negligible.

On the other hand, the benefit to the FAA of voluntarily submitted sensitive, proprietary, safety, and security information protected from public disclosure outweighs any potential costs to the public of being denied access to this information.

The White House Commission on Aviation Safety and Security noted in its recommendations to the FAA that the most effective way to identify problems is for the people who operate the system to self-disclose the information, but that people will not provide information to the FAA unless it can be protected. The Commission recommended that the FAA complete rulemaking to implement the legislation for protecting voluntarily provided information.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small business, not-for profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, § 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this proposed rule will not have a significant impact on a substantial number of small entities. However, the FAA solicits comments from the public regarding this determination of non-significant impact.

International Trade Impact Statement

The FAA has determined that the proposed rule would have no impact on trade for both United States (U.S.) firms doing business in foreign countries or on foreign firms doing business in the U.S.

Federalism Implications

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.

Unfunded Mandates Reform Act Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified as 2 U.S.C. 1501–1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any one year.

This proposal does not meet the thresholds of the Act. Therefore, the requirements of Title II of the Act do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National

Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Pub. L. 94–163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 193

Air transportation, Aircraft, Aviation safety, Safety, Security.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to add part 193 to Title 14, Code of Federal Regulations (14 CFR part 193) as follows:

PART 193—PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Sec.
193.1 Scope and delegations.
193.3 Definitions.
193.5 Withholding information from disclosure.
193.7 Disclosure of information.
193.9 Designating information as protected under this part: Notice procedure.
193.11 Designating information as protected under this part: No notice procedure.

Authority: 49 U.S.C. 106(g), 40113, 40123.

§ 193.1 Scope and delegations.

(a) This part implements 49 U.S.C. 40123, protection of voluntarily submitted information.

(b) The authority of the Administrator to issue, amend, and withdraw designations under this part may be delegated to Associate Administrators and Assistant Administrators and to the Chief Counsel, their Deputies, and any individual formally designated as Acting Associate or Assistant Administrator, Acting Chief Counsel, or Acting Deputy of such offices. The authority of the Administrator to issue proposed designations under this part may be further delegated.

§ 193.3 Definitions.

Agency means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(1) The Congress;

(2) The courts of the United States;

(3) The governments of the territories or possessions of the United States;

(4) The government of the District of Columbia;

(5) Courts martial and military commissions.

De-identified means the identity of the source of the information, and the names of persons, are removed from the information.

Disclose means to release information to other than another agency, such as under a request under the Freedom of Information Act (5 U.S.C. 552), in rulemaking proceedings, in a press release, or to a party to a legal action.

Information means data, reports, source, and other information. ''Information'' may be used to describe the whole or a portion of a submission of information.

Summarized means individual incidents are not specifically described, but are presented in statistical or other more general form.

Voluntary means that the information was submitted without mandate or compulsion, and not as a condition of doing business with the government. ''Voluntarily-provided information'' does not include information submitted as part of a means of complying with statutory, regulatory, or contractual requirements. However, a program under this part may be published in the Code of Federal Regulations and the information submitted under it will considered ''voluntarily provided.''

§ 193.5 Withholding information from disclosure.

(a) Except as provided in this part, the Administrator does not disclose voluntarily provided safety or security information that has been designated as protected under this part.

(b) The Administrator designates information as protected under this part when the Administrator finds that—

(1) The information is provided voluntarily;

(2) The information is safety or security related;

(3) The disclosure of the information would inhibit the voluntary provision of that type of information;

(4) The receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(5) Withholding such information from disclosure, under the circumstances provided in this part, would be consistent with the Administrator's safety and security responsibilities.

(c) Only information designated as protected under this part is protected from disclosure as described in this part. Information obtained by the Administrator through another means is not protected as described in this part.

(d) Nothing in this part prevents the Administrator from giving information designated as protected under this part to other agencies with safety or security responsibilities. Such agencies are subject to the requirements of 49 U.S.C. 40123 regarding nondisclosure of information. The Administrator will not give the information to another agency unless the other agency provides the Administrator with adequate assurance, in writing, that it will protect the information from disclosure as required in 49 U.S.C. 40123, this part, and the terms of the specific program.

(e) The nondisclosure protections described in this part do not apply when the person who provided the information agrees to its disclosure.

(f) When the Administrator receives a subpoena for information designated as protected under this part, the Administrator contacts the person who submitted the information to determine whether the person objects to disclosure of the information or wishes to participate in responding to the subpoena. Based on all the circumstances, including the person's response, the Administrator requests the Department of Justice to make an appropriate response to the subpoena, or the Administrator files an appropriate response, such as filing a motion for a protective order or a motion to quash the subpoena, or release of the information.

§ 193.7 Disclosure of information.

Withholding information that is designated as protected under this part would not be consistent with the Administrator's safety and security responsibilities, and therefore may be disclosed, as follows:

(a) *Disclosure in all programs.*

(1) De-identified, summarized information provided under this part may be disclosed to explain the need for changes in policies and regulations.

(2) Information provided under this part may be disclosed to correct a condition that may compromise safety or security.

(3) Information provided under this part may be disclosed to carry out a criminal investigation or prosecution.

(4) Information provided under this part may be disclosed to comply with 49 U.S.C. 44905, regarding information about threats to civil aviation.

(b) *Disclosure in particular programs.* In individual programs, the Administrator may find that there are additional circumstances under which withholding information provided

under this part would not be consistent with the Administrator's safety and security responsibilities. Those circumstances are described in the designation for that program.

§ 193.9 Designating information as protected under this part: Notice procedure.

This section provides the procedure for the Administrator to designate information provided under specific programs as protected under this part, other than when there is an immediate safety or security need for the information. These programs generally specify a type of information that will be provided by types of persons on an on-going basis.

(a) *Application.* Any person may apply to have information designated as protected under this part by submitting an application addressed to the person's FAA principal inspector. If the person has no FAA principal inspector, the application should be submitted to the local FAA field office. The application shall include the designation described in paragraph (c) of this section that the applicant requests be issued. The Administrator may issue a proposed designation based on the application or may deny the application.

(b) *Proposed designation.* Before making a designation under this section, either based on an application or otherwise, the Administrator publishes a proposed designation in the **Federal Register** and requests comment.

(c) *Designation.* The Administrator designates information provided under a program as protected under this part if, after review of the comments, the Administrator finds that the elements in § 193.5 are met. An order designating the information provided under the program to be protected under this part is published in the **Federal Register**. The designation includes at least the following:

(1) A summary of why the Administrator finds that the information will be provided voluntarily.

(2) A description of the type of information that may be voluntarily provided under the program and a summary of why the Administrator finds that the information is safety or security related.

(3) A summary of why the Administrator finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(4) A summary of why the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities.

(5) A summary of why withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the Administrator's safety and security responsibilities, as described in § 193.7 of this part.

(6) A summary of how the Administrator will distinguish information protected under this part from other information.

(d) *Amendment of designation.* The Administrator may amend a designation under this section in the same manner as an original designation is made.

(e) *Withdrawal of designation.* The Administrator may withdraw a designation under this section at any time the Administrator finds that continuation of the designation does not meet the elements of § 193.5, or if the requirements of the individual program are not met. The Administrator withdraws the designation by publishing a notice in the **Federal Register**. The withdrawal is effective on the date of publication or such later date as the notice may state. Information provided during the time the program was designated remains protected under this part and the program. Information provided after the withdrawal of the designation is effective is not protected under this part or the program.

§ 193.11 Designating information as protected under this part: No notice procedure.

This section provides the procedure for the Administrator to designate information as protected under this part when there is an immediate safety or security need for the information. This section generally is used for provision of specific information on a short-term basis by a specific person.

(a) *Application.* A person may request that the Administrator designate information the person is offering as protected under this part. The person shall state at least the general nature of information and whether the person will provide the information without the protection of this part.

(b) *Designation.* An order designating information provided under this section as protected under this part is in writing. The Administrator designates the information as protected under this part if the Administrator finds that—

(1) The elements of § 193.5 are met, and

(2) There is an immediate safety or security need to obtain the information without carrying out the procedures in § 193.9 of this part.

(c) *Time limit.* Except as provided in paragraphs (c)(1) and (c)(2) of this section, no designation under this section shall continue in effect for more than 60 days after the date of designation. Information provided during the time the designation was in effect remains protected under this part. Information provided after the designation ceases to be in effect is not protected under this part. The designation remains in effect for more than 60 days if—

(1) The procedures to designate such information under § 193.9(a) have been initiated, or

(2) There is an ongoing enforcement or criminal investigation, in which case the designation may continue until the investigation is completed.

(d) *Disclosure.* Unless otherwise provided in the designation, withholding information provided under this section from disclosure in the conduct of enforcement actions would not be consistent with the Administrator's safety and security responsibilities and, therefore, the information may be disclosed.

(e) *Amendment of designation.* The Administrator may amend a designation under this section in the same manner as an original designation is made.

(f) *Withdrawal of designation.* The Administrator may withdraw a designation under this section at any time the Administrator finds that continuation does not meet the elements of § 193.5, or if the requirements of the individual program are not met. The Administrator withdraws the designation by notifying the person in writing that the designation is withdrawn. The withdrawal is effective on the date of receipt of the notice or such later date as the notice may state. Information provided during the time the designation was in effect remains protected under this part. Information provided after the withdrawal is effective is not protected under this part.

Issued in Washington, DC on July 16, 1999.

Ida M. Klepper,

Acting Director, Office of Rulemaking.

[FR Doc. 99–18818 Filed 7–23–99; 8:45 am]

BILLING CODE 4910–13–P

federal register

Monday
July 26, 1999

Part V

Department of the Treasury

Fiscal Service

31 CFR Parts 315, 353, 357, and 370

Regulations Governing U.S. Savings Bonds, U.S. Savings Notes; Book-Entry Treasury Bonds, Notes and Bills; and Electronic Transactions and Funds Transfers Related to U.S. Securities; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 315, 353, 357, and 370

Regulations Governing U.S. Savings Bonds, Series A, B, C, D, E, F, G, H, J, and K, and U.S. Savings Notes; Regulations Governing United States Savings Bonds, Series EE and HH; Regulations Governing Book-Entry Treasury Bonds, Notes and Bills; and Electronic Transactions and Funds Transfers Related to U.S. Securities

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: We're publishing a final rule on electronic transactions and funds transfers relating to United States securities. In particular, we've eliminated redundant provisions that address our use of Automated Clearing House entries.

DATES: Effective July 26, 1999.

ADDRESSES: You can download this final rule at the following World Wide Web address: <http://www.publicdebt.treas.gov>. You may also inspect and copy this final rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 5030, Main Treasury Building, 1500 Pennsylvania Ave., NW, Washington, DC 20220. Before visiting, you must call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT:

- Wallace L. Earnest, Director, Division of Staff Services, Savings Bond Operations Office, Bureau of the Public Debt, at (304) 480–6319 or <wearnest@bpd.treas.gov>
- Maureen Parker, Director, Division of Securities Systems, Office of Securities and Accounting Services, Bureau of the Public Debt, at (304) 480–7761 or <mparker@bpd.treas.gov>
- Susan J. Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–3688 or <sklimas@bpd.treas.gov>
- Gregory J. Till, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, at (202) 219–3320 or <gtill@bpd.treas.gov>
- Edward C. Gronseth, Deputy Chief Counsel, Bureau of the Public Debt, at (304)480–3688 or <egronset@bpd.treas.gov>

SUPPLEMENTARY INFORMATION:

I. Background

On November 20, 1998, we published a final rule in the **Federal Register** (63 FR 64543). The final rule amended the regulations at 31 CFR part 370 that governed the transfer of funds on account of United States securities. In particular, the final rule provided for the use of Automated Clearing House (ACH) debit entries for the sale of savings bonds. At the time, we made no attempt to consolidate these provisions with other debit entry provisions already in 31 CFR part 370.

This final rule consolidates the previously separate debit entry provisions in 31 CFR part 370. We've also eliminated redundant credit entry provisions that were found in 31 CFR parts 315, 353, and 357, in favor of unified provisions in part 370. We've also rewritten part 370 in plain language.

II. Summary of Amendments in 31 CFR Part 370

Subpart A—General Information

What Special Terms Do I Need To Know To Understand This Part? (§ 370.1)

We've made several changes to this section. We've amended the definition of ''electronic signature'' to be consistent with the definition given by Congress in the Government Paperwork Elimination Act, or title XVII of Public Law 105–277 (October 21, 1998). Congress passed this act to facilitate the use and acceptance of electronic signatures by executive agencies. Consistent with the Act, the final rule defines an electronic signature as a signature of an electronic message that:

(1) identifies and authenticates a particular person as the source of the electronic message; and

(2) indicates such person's approval of the information contained in the electronic message.

The definition of ''investor account'' mirrors that which we will use in an upcoming revision to the *TreasuryDirect* regulations in 31 CFR part 357. We've amended the definition of ''payment'' for greater accuracy. In addition, we've added definitions of ''we'' and ''you.'' We've added these definitions, as well as slightly revised a handful of other definitions, to help us write this final rule in plain language.

Subpart B—Credit ACH Entries

How Can I Appoint a Financial Institution To Receive Payments on My Behalf? (§ 370.5)

This section has been amended to require that you name a financial institution and deposit account to receive payments through the ACH method, using an approved form. The former section (b) has been moved to 370.15, relating to limitations on liability.

What Requirements Apply to a Financial Institution That Handles a Credit Entry? (§ 370.6)

This section has been amended by eliminating unnecessary provisions, and by adding a provision that a financial institution, by accepting and handling a credit entry initiated by us, agrees to comply with the Operating Rules of the National Automated Clearing House Association (NACHA Rules), as modified by our regulations.

Are There Any Requirements Related to a Prenotification Entry? (§ 370.8)

This section is amended to provide that we may, in our discretion, send a prenotification message before we send a credit entry or whenever there is a change in the payment instructions. Paragraph (b) requires that the financial institution respond to prenotification messages within the time frame of the National Automated Clearing House Association (NACHA). If the financial institution does not respond to a prenotification message, we may interpret the nonresponsiveness as agreement to this subpart, and that the deposit account information contained in the prenotification message is accurate.

How Can My Payment Instructions Be Changed? (§ 370.9)

This section provides that payment instructions will continue until you or your financial institution asks us to change them.

What Can Cause My Payments To Be Suspended? (§ 370.10)

This section is amended to provide that payments will be suspended if we receive notice that your deposit account has been closed, that someone named on your account is dead or has been declared legally incompetent, that there is a change in the title of your deposit account which alters your interest, or if a corporation has been dissolved. In addition, we will suspend payments if there are changes in the status of the bond, security, or investor account. Payments will continue in suspension until we receive evidence satisfactory to us as to who is entitled to receive payments.

What Must My Financial Institution Do When It Receives a Payment? (§ 370.11)

This former § 370.10 is redesignated as § 370.11.

What Happens if an Error Is Made in a Credit Entry, or if a Duplicate Credit Entry Is Made? (§ 370.12)

This former § 370.11 is redesignated as § 370.12. The former § 370.12 has been deleted as an unnecessary provision.

What Limitations Exist on Liability? (§ 370.15)

This section is the former § 370.16, which has been redesignated as § 370.15. The former § 370.15 has been deleted as unnecessary. Paragraphs (a) and (b) are substantively unchanged. Section (c) has been moved from § 370.5 and is substantively unchanged.

Subpart C—Debit ACH Entries

What Requirements Apply if I Want To Authorize a Debit Entry to My Deposit Account? (§ 370.20)

This section sets out requirements on debit entry authorizations. The provisions of this section are somewhat complicated by the various ways that we use debit entries for the sale of securities, depending on the type of security involved.

We currently accept debit entry authorizations for sales of book-entry (electronic) Treasury securities held in our *TreasuryDirect* system. We also accept debit entry authorizations for sales of definitive (paper) savings bonds sold directly by us through the United States Savings Bond EasySaver Plan^{TM}. (Savings bonds also are sold by savings bond issuing agents, but part 370 has no application to them). We also will accept debit authorizations for collection of fees.

Under this section, we require that if you purchase a book-entry security held in *TreasuryDirect*, you must be named on the investor account that holds the security. On the other hand, we do not impose a similar requirement for our sales of definitive savings bonds, because these are not held in investor accounts.

Also under this section, we limit you to authorizing only single-entry debits for purchases of book-entry securities held in *TreasuryDirect*. On the other hand, debit entries for purchases of definitive savings bonds must be recurring.

For purchases of book-entry Treasury securities, a debit entry authorization may be completed electronically. For instance, for purchases of securities held in *TreasuryDirect*, you must open an investor account; once there is an existing relationship, you may electronically authorize a debit entry to a designated deposit account for the purchase of a book-entry Treasury security by providing some personal identification information. By contrast, the debit entry authorization for definitive savings bonds only may be completed if signed on paper. This difference between the securities is not explicit in the regulations. Rather, it simply reflects how we currently do business.

The section requires that all debit entry authorizations must be signed. We've defined the word ''signature'' as ''any symbol or method executed or adopted by a person with present intention to be bound.'' This is a traditional legal definition of a signature.

Special consideration has been given to authorizations completed by electronic means. As noted above, a signature may be an electronic signature. However, as stated in section 370.35, not every electronically signed debit entry authorization automatically is acceptable to us. Instead, the electronic signature must be accomplished through a method that we've approved. For instance, we require you to enter your *TreasuryDirect* account number and taxpayer identification number to access our *TreasuryDirect* electronic services. We consider the entry of this information to be an electronic signature that expresses your intent to be bound by any debit entry authorization that you may submit while accessing our electronic services.

In determining what types of electronic signatures are acceptable to us, we will look to how electronic signatures are treated under other law and in the private sector. We also will be bound by whatever procedures may be imposed upon executive agencies governing the use of digital signatures.

Our approach on authorizations completed by electronic means diverges from the approach taken by the Board of Governors of the Federal Reserve (''the Board'') and the National Automated Clearing House Association (''NACHA''). The Board is responsible for Regulation E (12 CFR part 205), which sets out consumer rights in electronic funds transfers such as debit entries. NACHA is responsible for the Operating Rules (''the NACHA Rules'') that govern the handling of debit entries. These authorities state that a debit entry authorization must be in a ''writing signed or similarly authenticated by the consumer.'' Under Regulation E, this requirement applies only to debit entry authorizations for recurring debits; under the NACHA Rules, this requirement applies to all debit entry authorizations.

Under Regulation E and the NACHA Rules, the meaning of ''signed'' appears to be limited to a signature completed in longhand, and does not extend to an electronic signature. Neither Regulation E nor the NACHA Rules recognize the term ''electronic signature.'' Instead, a debit ACH authorization that is completed electronically must be ''similarly authenticated.''

The Board and NACHA have interpreted ''similarly authenticated'' as allowing authentication by use of a PIN or digital signature. On the other hand, the use of an account number and taxpayer identification number may not be sufficient for the Board and NACHA. Thus, our current means of allowing the electronic submission of a debit entry authorization in *TreasuryDirect* may differ from that allowed by the Board and NACHA.

We have decided not to adopt the ''similarly authenticated'' language used by the Board and NACHA, for two reasons. First, in the Government Paperwork Elimination Act, Congress defined the term ''electronic signature.'' Congress also stated its intent that executive agencies use and accept such signatures. Of course, we wish to be consistent with Congress. Second, by not adopting the ''similarly authenticated'' language, we reserve some right to determine what constitutes an acceptable means of electronically submitting a debit entry authorization. In deciding what qualifies as an approved ''electronic signature,'' we will be influenced, but not bound, by the Board and NACHA's interpretation of ''similarly authenticated.''

We can differ from Regulation E on this point because Regulation E excludes from its coverage ''[a]ny transfer of funds the primary purpose of which is the purchase or sale of a security * * * [h]eld in book-entry form by a Federal Reserve Bank or federal agency.'' Transactions involving book-entry securities held in *TreasuryDirect* fall within this exclusion. As noted above, it only is for these types of securities that the Bureau of the Public Debt allows debit entry authorizations to be completed electronically.

Even without this exclusion, we are consistent with Regulation E. The ''signed or similarly authenticated'' language in Regulation E applies only to authorizations for recurring debit entries. However, all electronically submitted debit authorizations in *TreasuryDirect* are for single-entry debits. Accordingly, to the extent that we allow debit entry authorizations to be electronically signed, the ''signed or similarly authenticated'' requirement of Regulation E is not triggered.

In the future, we may wish to accept electronically submitted debit entry authorizations for our sales of definitive savings bonds. As opposed to book-entry securities, Regulation E applies to debit entry transactions involving definitive securities. Thus, an authorization of recurring debit entries for the sale of definitive savings bonds may have to qualify as ''signed or similarly authenticated'' under Regulation E, though single-entry authorizations may not have to so qualify. If we decide to pursue sales of definitive savings bonds through electronic debit entry authorizations, we would consider making the ''signed or similarly authenticated'' requirement explicit in our regulations. However, no such electronic transactions are currently planned for definitive savings bonds.

We can differ from the NACHA Rules because the NACHA Rules are private law. More importantly, today's final rule is consistent with Regulation E, which has carved out an exclusion for transactions involving certain book-entry Treasury securities. Furthermore, although the ''signed or similarly authenticated'' language in the NACHA Rules applies to single-entry debit authorizations, we note that this application was inspired by NACHA's desire to protect consumers from aggressive telemarketers. This is an admirable purpose but one that has little meaning with regard to consumer dealings with Treasury. We believe we're justified in not following the NACHA Rules on this point.

No matter how an electronic signature of a debit entry authorization may be completed, we have at our disposal several measures to prevent fraud. For instance, for a book-entry security held in *TreasuryDirect*, we reserve the right to prevent the owner from disposing of the security for up to thirty days after purchase. If fraud is reported during this time, we can cancel the security, preventing the fraud from succeeding. Also, even after this thirty-day period, any attempt to transfer out or otherwise collect the value of a security requires the owner to provide identification, in person, to a bank or other institution. In other words, a person attempting a fraud cannot do it anonymously; instead, he must identify himself. Finally, to the extent that fraud may occur, the United States is better capable of prosecuting cases than may be a small, private entity.

In addition, the section states that credit and debit entries with respect to a security must be made to the same deposit account. This is another security feature. The provision helps ensure that funds are placed back into the same deposit account from which the funds were drawn, rather than going to an improper account.

What Rights Do I Have To Terminate or Suspend Debit Entries? (§ 370.25)

This section is amended to state that if you submit a debit entry authorization in conjunction with a Treasury auction tender for the purchase of a book-entry security, you cannot terminate or suspend a debit entry after the auction closes. This is to prevent a person from unfairly withdrawing the remittance if the person receives an unfavorable yield at an auction.

What Limitations Exist on Liability? (§ 370.26)

This section is amended to state that our liability does not extend beyond the amount of the debit entry. Furthermore, if a financial institution causes us a loss because it fails to follow this part, the financial institution cannot be liable to us for more than the amount of the debit.

Can I Be Held Accountable if My Negligence Contributes to a Forged Signature? (§ 370.40)

This section is amended to state that it has no application in any dispute involving a debit authorization or credit card transaction. Instead, we will rely upon the error resolution procedures of the NACHA Rules, credit card association rules, and the Board's regulations.

What Is the Status of a Security if the Remittance Cannot Be Collected? (§ 370.45)

This new section states that if we cannot promptly collect all of the remittance for a security, we may in our discretion cancel the security unless it has been legally transferred for value to a third person who had no knowledge of the improper debit entry at the time of the transfer.

III. Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action,'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects

31 CFR part 315

Government Securities, Federal Reserve System, Banks and Banking.

31 CFR part 353

Bonds, Electronic Funds Transfers, Government Securities.

31 CFR part 357

Bonds, Electronic funds transfer, Federal Reserve System, Government securities, Securities.

31 CFR part 370

Bonds, Electronic Funds Transfers, Government Securities, Securities.

For the reasons set forth in the preamble, 31 CFR parts 315, 353, 357, and 370 are amended as follows:

PART 315—REGULATIONS GOVERNING U.S. SAVINGS BONDS, SERIES A, B, C, D, E, F, G, H, J, AND K, AND U.S. SAVINGS NOTES

1. The authority citation for part 315 continues to read as follows:

Authority: 31 U.S.C. 3105 and 5 U.S.C. 301.

2. Amend § 315.31 as follows:

a. Remove the last two sentences of paragraph (b);

b. Remove the last sentence of paragraph (c);

c. Revise paragraph (h)(1) to read as set forth below.

d. Remove paragraph (h)(2);

e. Redesignate paragraphs (h)(3), (h)(4), (h)(5), and (h)(6) as (h)(2), (3), (4), and (5);

f. Revise redesignated paragraph (h)(5) to read as set forth below.

g. Remove paragraph (h)(7);

h. Redesignate paragraph (h)(8) as (h)(6) and revise redesignated paragraph (h)(6) to read as set forth below.

i. Redesignate paragraph (i) as (h)(7) and revise redesignated paragraph (h)(7) to read as set forth below.

§ 315.31 Series H bonds.

* * * * *

(h) * * *

(1) *Payments on same account.* Payments on all Series H bonds assigned to the same account maintained by the Bureau will be made to the same deposit account at a financial institution.

* * * * *

(5) *Cancellation of ACH arrangement.* An ACH arrangement shall remain in effect until it is terminated by a request from the owner or coowner submitted to the Bureau of the Public Debt, Parkersburg, WV 26102–1328.

(6) *Rules.* Series H interest payments made by the ACH method are governed by the regulations at 31 CFR part 370.

(7) *Nonreceipt or loss of interest payment.* The Bureau of the Public Debt, Parkersburg, WV 26102 should be notified if:

(i) An interest check is not received or is lost after receipt or

(ii) An ACH payment is not credited to the designated account and the financial institution has no record of receiving it. The notice should include the owner or coowner's name and taxpayer identifying number and the interest payment date.

PART 353—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS, SERIES EE AND HH

1. The authority citation for part 353 continues to read as follows:

Authority: 31 U.S.C. 3105 and 5 U.S.C. 301.

2. Amend § 353.31 as follows:

a. Remove the third sentence of paragraph (b);

b. Revise the last sentence of paragraph (b) to read as set forth below.

c. Redesignate paragraph (c)(1) as paragraph (c) and remove the last sentence from the redesignated paragraph (c);

d. Remove paragraphs (c)(2), (d), and (e);

e. Redesignate paragraphs (f) and (g) as paragraphs (d) and (e), respectively;

f. Redesignate paragraph (h) as (f);

g. Revise redesignated paragraph (f)(1) to read as set forth below.

h. Remove redesignated paragraph (f)(2);

i. Redesignated paragraphs (f)(3), (f)(4), (f)(5) and (f)(6) are further redesignated as (f)(2), (f)3), (f)(4), and (f)(5), respectively.

j. Revise redesignated (f)(5)(ii) to read as set forth below.

k. Remove redesignated paragraph (f)(7).

l. In redesignated paragraph (f), further redesignate paragraph (f)(8) as (f)(6) and revise to read as set forth below.

m. Redesignate paragraph (i) as (f)(7) and revise to read as set forth below.

§ 353.31 Series HH bonds.

* * * * *

(b) * * * Series H interest payments made by the ACH method are governed by the regulations at 31 CFR part 370.

* * * * *

(f) * * *

(1) *Submission of deposit account information.* Payments on all Series HH bonds assigned to the same account maintained by the Bureau must be made to the same deposit account at a financial institution.

* * * * *

(5) * * *

(ii) Bonds issued prior to October 1, 1989. An ACH arrangement established for Series HH bonds issued prior to October 1, 1989, shall remain in effect until it is terminated by a request from the owner or coowner submitted to the Bureau of the Public Debt, Parkersburg, WV 26102–1328

(6) *Rules.* Series HH interest payments made by the ACH method are governed by the regulations at 31 CFR part 370.

(7) *Nonreceipt or loss of interest payment.* The Bureau of the Public Debt, Parkersburg, WV 26102 should be notified if:

(i) An interest check is not received or is lost after receipt or

(ii) An ACH payment is not credited to the designated account and the financial institution has no record of receiving it. The notice should include the owner or coowner's name and taxpayer identifying number and the interest payment date.

PART 357—GENERAL REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS.

1. The authority citation for part 357 continues to read as follows:

Authority: 31 U.S.C. 31, 5 U.S. 301 and 12 U.S.C. 391.

2. Amend § 357.26 as follows:

a. Revise the section heading as set forth below.

b. Revise paragraph (a) to read as set forth below.

c. Revise the heading for paragraph (b) to read as set forth below.

d. Remove paragraphs (b)(1)(i), (b)(1)(iv), (b)(2), (b)(3), (c) and (d);

e. Redesignate paragraph (b)(1)(ii) as paragraph (b);

f. Redesignate paragraph (b)(1)(iii) as paragraph (c) and add a heading to read as set forth below.

g. Redesignate paragraph (b)(1)(v) as paragraph (d) and add a heading to read as set forth below.

h. Redesignate paragraph (b)(1)(vi) as paragraph (e) and add a heading to read as set forth below.

§ 357.26. Direct Deposit.

(a) *General.* A payment by the Department with respect to a security shall be by direct deposit unless it is deemed necessary by the Department to make payment by another means. Direct Deposit payments are governed by the regulations at 31 CFR part 370.

(b) *Names on account.* * * *

(c) *Inquiry to financial institution.* * * *

(d) *Payments to master account.* * * *

(e) *Deposit account.* * * *

3. Revise § 357.30 to read as follows.

§ 357.30 Cases of delay or suspension of payment.

If evidence required by the Department in support of a transaction request is not received by the Department at least ten (10) business days before the maturity date of the security, or if payment at maturity has been suspended pursuant to 31 CFR 370.10, in cases of reinvestment, the Department will redeem the security and hold the redemption proceeds in the same form of registration as the security redeemed, pending further disposition. No other interest shall accrue or be paid on such proceeds after the security is redeemed.

1. Revise part 370 to read as follows:

PART 370—ELECTRONIC TRANSACTIONS AND FUNDS TRANSFERS RELATING TO UNITED STATES SECURITIES

Subpart A—General Information

Sec.
370.0 What does this part cover?
370.1 What special terms do I need to know to understand this part?

Subpart B—Credit ACH Entries

370.5 How can I appoint a financial institution to receive payments on my behalf?
370.6 What requirements apply to a financial institution that handles a credit entry?
370.7 How can my financial institution change my designated deposit account?
370.8 Are there any requirements related to a prenotification entry?
370.9 How can my payment instructions be changed?
370.10 What can cause my payments to be suspended?
370.11 What must my financial institution do when it receives a payment?
370.12 What happens if an error is made in a credit entry, or if a duplicate credit entry is made?
370.13 Can time limits for taking an action on a credit entry be extended?
370.14 Can substitute payment procedures be used?
370.15 What limitations exist on liability?

Subpart C—Debit Entries

370.20 What requirements apply if I want to authorize a debit entry to my deposit account?
370.21 Are there any requirements related to a prenotification entry?
370.22 What requirements apply to a financial institution that debits a deposit account?
370.23 What other requirements apply to a financial institution?
370.24 What right does the Bureau of the Public Debt have to terminate or suspend debit entries?
370.25 What rights do I have to terminate or suspend debit entries?
370.26 What limitations exist on liability?

Subpart D—Electronic Submission of Transaction Requests Through the Bureau of the Public Debt

370.35 Does the Bureau of the Public Debt accept all electronically signed transaction requests?
370.36 When does a transaction request become effective?
370.37 Where is the point of transaction for an electronically submitted transaction request?
370.38 What is the legal effect of an electronic signature?
370.39 To what extent is a digital signature admissible in any civil litigation or dispute?
370.40 Can I be held accountable if my negligence contributes to a forged signature?
370.41 What limitations exist on liability?

Subpart E—Additional Provisions

370.45 What is the status of a security if the remittance cannot be collected?
370.46 Are there any situations in which the Bureau of the Public Debt may waive these regulations?
370.47 To what extent may the Bureau of the Public Debt change these regulations?

Authority: 12 U.S.C. 391; 31 U.S.C. chapter 31.

Subpart A—General Information

§ 370.0 What does this part cover?

(a) *Scope.* This part applies to the transfer of funds by the Automated Clearing House method as used by us in connection with United States securities. This part also provides regulations for the electronic submission of transaction requests through us, except as varied by agreement or as otherwise provided. This part does not apply to transactions for the sale of United States Savings Bonds accomplished through savings bond issuing agents generally, except and to the extent we direct otherwise.

(b) *Operating Rules of the National Automated Clearing House Association and Regulations of the Financial Management Service.* The Operating Rules of the National Automated Clearing House Association generally apply to these transactions. However, the Operating Rules do not apply to the extent that the Operating Rules are preempted entirely and excluded specifically by application of Financial Management Service regulations in part 210 of this chapter. In the event of any inconsistencies between this part 370 and either the Operating Rules or part 210, this part 370 applies.

(c) *Regulations of the Board of Governors of the Federal Reserve.* To the extent that Regulation E (12 CFR part 205) and Regulation Z (12 CFR part 226) of the Board of Governors of the Federal Reserve System apply to transactions authorized by this part, those Federal laws are unaffected by this part 370.

(d) *Variance by agreement.* The terms of this part may be varied by agreement.

§ 370.1 What special terms do I need to know to understand this part?

Automated Clearing House (ACH) entry means a transaction in accordance with the Operating Rules of the National Automated Clearing House Association, as modified by these regulations and other law. The regulations in this part control in the event of any inconsistencies with the applicable Operating Rules.

Credit entry means an ACH entry for the payment of money to a deposit account.

Debit entry means an ACH entry for the collection of money from a deposit account.

Deposit account means a demand deposit (checking), savings, or asset account (other than an occasional or incidental credit balance in a credit plan) held directly or indirectly by a financial institution.

Digital signature means a type of electronic signature. A signer creates a digital signature by using public-key encryption to transform a message digest of an electronic message. If a recipient of the digital signature has an electronic message, message digest function, and the signer's public key, the recipient can verify:

(1) whether the transformation was accomplished with the private key that corresponds to the signer's public key; and

(2) Whether the electronic message has been altered since the transformation was made.

Electronic message means information that is stored in an electronic medium and is retrievable in perceivable form.

Electronic signature means a signature of an electronic message that:

(1) identifies and authenticates a particular person as the source of the electronic message; and

(2) indicates such person's approval of the information contained in the electronic message.

Financial institution means:

(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank that is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank that is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank that is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(4) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union that is eligible to make application to become an insured credit union pursuant to section 201 of such Act (12 U.S.C. 1781);

(5) any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) that is an insured depository institution as defined in that act or is eligible to apply to become an insured depository institution under that act; and

(6) any Federal branch or agency of a foreign bank as defined in section 1(b) of the International Banking Act, as amended (12 U.S.C. 3101).

Investor account is our record of your *TreasuryDirect* holdings, including a list of your total security holdings, the exact form of registration of your account, your mailing address, your *TreasuryDirect* account number, your social security account number or employer identification number, and your deposit account instructions.

Message digest function means an algorithm that transforms an electronic message into a seemingly unintelligible, generally smaller, result called the message digest. A message digest function has these qualities:

(1) the same electronic message yields the same message digest every time the algorithm is executed;

(2) it is computationally infeasible that an electronic message can be derived from the message digest result produced by the algorithm; and

(3) it is computationally infeasible that two electronic messages can be

found that produce the same message digest using the algorithm.

Payment means, for the purpose of this part, funds paid by us to you.

Person means any natural person or organization.

Public-key encryption means a cryptographic process which generates and employs a key pair, consisting of a public key and a different but mathematically related private key. One use of the public key is to verify a digital signature created by the private key.

Security means an obligation offered by the Secretary of the Treasury.

Settlement date means the date an exchange of funds with respect to an ACH entry is reflected on the books of the Federal Reserve Bank(s).

Signature means any symbol or method executed or adopted by a person with present intention to be bound.

We (or ''us'') refers to the Secretary of the Treasury and the Secretary's delegates at the Treasury Department and Bureau of the Public Debt. The term also extends to any fiscal or financial agent acting on behalf of the United States when designated to act by the Secretary or the Secretary's delegates. The term does not extend to United States Savings Bond issuing and paying agents.

You means a deposit account owner, in subparts B and C, unless stated otherwise. The word ''you'' means a person who electronically submits transaction requests through us, in subpart D.

Subpart B—Credit ACH Entries

§ 370.5 How can I appoint a financial institution to receive payments on my behalf?

You must name a financial institution to receive payments through credit entries using the ACH method. You also must identify the deposit account to which payments are to be made. To do this, you must use a form approved by us.

§ 370.6 What requirements apply to a financial institution that handles a credit entry?

A financial institution that accepts and handles a credit entry initiated by us agrees to the provisions of this subpart, and warrants that it will comply with all requirements imposed upon Receiving Depository Financial Institutions under the Operating Rules of the National Automated Clearing House Association, as modified by these regulations and other law.

§ 370.7 How can my financial institution change my designated deposit account?

If your financial institution requests us to make a change in your deposit account number or type of your account, we will change the information without requiring any confirmation from you. The request from the financial institution must be made following the Operating Rules of the National Automated Clearing House Association. The financial institution's request will be deemed an agreement by the institution to indemnify us and you for any loss resulting from the requested change.

§ 370.8 Are there any requirements related to a prenotification entry?

(a) *Use of prenotification in our discretion.* In our discretion, we may initiate a prenotification entry to a financial institution before we send a credit entry. We may also send a prenotification message whenever there is a change in the payment instructions. If we send a prenotification message, we will follow the time frames as established by the Operating Rules of the National Automated Clearing House Association. A prenotification is a zero-dollar ACH entry that can help us determine whether there might be problems with sending a subsequent credit entry.

(b) *Requirements placed upon financial institution that receives a prenotification.* A financial institution must respond to a prenotification within the time frame for such responses as established by the Operating Rules of the National Automated Clearing House Association. If the receiving financial institution does not respond to the prenotification message within the specified time period, we may interpret the nonresponsiveness as the financial institution's agreement to this subpart. Furthermore, a financial institution warrants by its nonresponsiveness that the deposit account number and the type of account contained in the prenotification entry message was accurate as of the moment the financial institution received it.

§ 370.9 How can my payment instructions be changed?

Your payment instructions will continue to apply until either you or your financial institution requests us to make a change.

§ 370.10 What can cause my payments to be suspended?

(a) *Change in deposit account.* We will suspend payments if we receive notice that your deposit account has been closed, that someone named on your deposit account is dead or has been declared legally incompetent, that there is a change in the title of your deposit account that alters your interests; or, if a corporation is the owner, that it has been dissolved.

(b) *Change in status of owner.* We will suspend payments when we receive notice that an owner of a bond, security, or investor account is dead or has been declared legally incompetent, or in any case where we receive notice of a change in the name or status of an organization or representative named on a bond, security, or investor account.

(c) *Continuation of Suspension.* Payments will continue to be suspended until we receive satisfactory evidence as to who is authorized or entitled to receive payments.

§ 370.11 What must my financial institution do when it receives a payment?

An institution which receives a payment on behalf of its customer must:

(a) Upon receipt, make the payment available to you on the payment date. If a scheduled payment date is not a business day for the Federal Reserve Bank of the district in which the institution is located, payment will be made on the next-succeeding business day. If the institution is unable to make a credit entry to the designated account, it must return the payment in accordance with the Operating Rules of the National Automated Clearing House Association.

(b) Promptly notify us when your account has been closed, or when it is on notice of the death or legal incapacity of you or any other individual named on your account, or when it is on notice of the dissolution of a corporation in whose name the deposit account is held. The institution must return all payments received along with an explanation for the return.

§ 370.12 What happens if an error is made in a credit entry, or if a duplicate credit entry is made?

If we make an erroneous credit entry under this part, we will make a corrected credit entry to your account. We will then take action to recover the erroneous credit entry, or any duplicate credit entry, as follows:

(a) *Return of amount of erroneous or duplicate credit entry by financial institution.* We will send a notice to the financial institution to which the erroneous or duplicate credit entry was sent. When it receives this notice, the financial institution must immediately return to the appropriate Federal Reserve Bank an amount equal to the credit entry. If the institution is unable to do this, the institution must immediately notify us, and provide any

information that it has about the matter. We reserve the right to request the return of a partial amount of an erroneous or duplicate credit entry.

(b) *Collection of amount of unreturned erroneous or duplicate credit entry.* Where the erroneous or duplicate credit entry has not been returned, we will undertake any other actions that are appropriate. To the extent permitted by law, the collection action may include deducting the amount owed from future credit entries made to the deposit account to which the erroneous or duplicate credit entry was made.

(c) *Authorization of Debit to collect unreturned dulicate or erroneous credit entry.* If a financial institution has not responded within 60 calendar days of the notice, its acceptance of the credit entry will be considered an authorization for a debit in the amount of the entry. The debit will be made from the account maintained or utilized by the financial institution at the Federal Reserve Bank to which the entry was made. An institution designated by a financial institution to receive payment on its behalf, in permitting the usage, is deemed to have authorized a debit. The debit will be made from its account maintained at the Federal Reserve Bank to which the entry was made. The institution to which the credit entry has been directed is deemed to have agreed to provide information and assistance to recover any erroneous or duplicate entry. You are also deemed to have agreed to provide information and assistance, and to take any action provided by law to recover an erroneous or duplicate credit entry.

§ 370.13 Can time limits for taking an action on a credit entry be extended?

If we or your financial institution are delayed beyond applicable time limits in taking any action with respect to a credit entry because of circumstances beyond our control, then the time for taking that action will be extended as necessary until the cause of the delay ends.

§ 370.14 Can substitute payment procedures be used?

We may use substitute payment procedures, instead of ACH, if we consider it to be necessary. Any such action is final.

§ 370.15 What limitations exist on liability?

(a) We may rely on the information provided by you or anyone else authorized to provide information concerning your financial institution or deposit account to which payments are to be made. We do not need to verify this information. We are not liable for any action we may take in reliance on the information furnished.

(b) Our liability does not extend beyond the amount of the payment due.

(c) When you name a financial institution to receive payments on your behalf, you are appointing that institution as your agent for the receipt of payments. When a credit entry is made to your financial institution for deposit to your account following your instructions, we no longer have any further responsibility for that payment. Where your financial institution has arranged with the Federal Reserve Bank to have payments made through another financial institution, the crediting of your payment to that institution relieves us of any further responsibility for that payment.

Subpart C—Debit Entries

§ 370.20 What requirements apply if I want to authorize a debit entry to my deposit account?

(a) *General.* You may pay for a security and related fees by authorizing us to initiate one or more debit entries to your deposit account. For a purchase of a book-entry security to be held in an investor account maintained by us, you must be named on the investor account. The authorization must be accomplished only through forms or means approved by us.

(b) *Single-entry and recurring debit entries.* You only may authorize single-entry debits for purchases of book-entry securities held in *TreasuryDirect.* You only may authorize recurring debit entries for purchases of definitive savings bonds.

(c) *Credit entries to be made to same deposit account.* To the extent that payments by us with respect to a security are to be made through credit entries, you must receive debit and credit entries in the same deposit account.

(d) *Signature.* The authorization must have your signature and that of any other person whose signature is required to withdraw funds from the deposit account. We need not verify your identity or the authenticity of your signature.

§ 370.21 Are there any requirements related to a prenotification entry?

(a) *Use of prenotification in our discretion.* In our discretion, we may initiate a prenotification entry to a financial institution prior to sending a debit entry. A prenotification is a zero-dollar ACH entry that can help us determine whether there might be problems with sending a subsequent debit entry.

(b) *Requirements placed upon financial institution that receives a prenotification.* If sent, a financial institution must respond to a prenotification within the time frame for such responses as established by the National Automated Clearing House Association. If the receiving financial institution does not respond to the prenotification message within the specified time period, we may interpret the nonresponsiveness as the financial institution's agreement to this subpart. Furthermore, a financial institution warrants by its nonresponsiveness that the deposit account number and the type of account contained in the prenotification entry message was accurate as of the moment the financial institution received it.

§ 370.22 What requirements apply to a financial institution that debits a deposit account?

A financial institution that debits a deposit account upon receiving a debit initiated by us agrees to the provisions of this subpart. A financial institution that does so also warrants that it has the authority to receive debit entries.

§ 370.23 What other requirements apply to a financial institution?

The financial institution warrants that it will comply with all requirements imposed upon Receiving Depository Financial Institutions under the Operating Rules of the National Automated Clearing House Association, as modified by these regulations and other law.

§ 370.24 What right does the Bureau of the Public Debt have to terminate or suspend debit entries?

We may terminate or suspend the availability of one or more debit entries in any case or class of cases, and may do so without notice at any time. A decision to terminate or suspend the availability of debit entries is in our sole discretion and is final.

§ 370.25 What rights do I have to terminate or suspend debit entries?

(a) *General.* If you are an investor account owner or deposit account owner, you generally may terminate or suspend one or more debit entries by notifying us orally or in writing at least three business days before the scheduled date of a transfer. In response to an oral notice, we may require you to give written notice, to be received by us within fourteen days of an oral notice. An oral notice ceases to be binding after fourteen days if you fail to provide the required written confirmation. A suspension will remain in effect for the duration you specify, but for no more

than six months. The termination and suspension methods need not be recited in the authorization. These termination or suspension rights are in addition to those that you may have through your financial institution under Regulation E of the Board of Governors of the Federal Reserve System (12 CFR part 205).

(b) *Exception.* If you submit a debit entry authorization in conjunction with a Treasury auction tender for the purchase of a book-entry security, you cannot terminate or suspend a debit entry after the auction closes.

§ 370.26 What limitations exist on liability?

If we sustain a loss because a financial institution fails to handle an entry in accordance with this part, the financial institution is liable to us for the loss, but not beyond the amount of the debit entry. In no instance does our liability extend beyond the amount of the debit entry.

Subpart D—Electronic Submission of Transaction Requests Through the Bureau of the Public Debt

§ 370.35 Does the Bureau of the Public Debt accept all electronically signed transaction requests?

An electronic signature will not be accepted if it has not been accomplished through a method that has been approved for specific purposes by us.

§ 370.36 When does a transaction request become effective?

Except for auction bids of U.S. securities or unless otherwise agreed, a transaction request becomes effective at the moment we send a confirmation message. In no instance does a transaction request become effective before we actually receive the request.

§ 370.37 Where is the point of transaction for an electronically submitted transaction request?

For jurisdiction and venue purposes, the point of transaction for a transaction request handled pursuant to this subpart is Parkersburg, West Virginia, regardless of from where the transaction request is transmitted or where the transaction request is actually processed.

§ 370.38 What is the legal effect of an electronic signature?

An electronic signature and any electronic message to which it is affixed or attached may not be denied legal effect, including legal effect as a signature, a writing, or an original, solely because the signature or record is in electronic form.

§ 370.39 To what extent is a digital signature admissible in any civil litigation or dispute?

In asserting a digital signature against you in any civil litigation or dispute, extrinsic evidence of authenticity as a condition precedent of admissibility (such as testimony about the scientific validity of digital signatures) is not necessary to establish:

(a) That a digital signature corresponds to a specific public key pair, and;

(b) That an electronic message to which the digital signature is affixed has not been altered from its original form.

§ 370.40 Can I be held accountable if my negligence contributes to a forged signature?

(a) *General.* If your failure to exercise ordinary care substantially contributes to the submission of a forged signature, then you cannot claim that the signature is a forgery. However, we cannot invoke this section against you if we cannot first establish that we were reasonable in relying upon the signature. If we can do so, you bear the burden of production and the burden of persuasion in establishing your exercise of ordinary care. If you cannot do so, then you cannot claim that the signature is a forgery.

(b) *Exception.* This section has no application in any dispute involving a debit authorization or credit card transaction.

§ 370.41 What limitations exist on liability?

In no instance does our liability extend beyond the amount of the transaction.

Subpart E—Additional Provisions

§ 370.45 What is the status of a security if the remittance cannot be collected?

If we cannot promptly collect all of the remittance for a security, we may in our discretion cancel the security unless it has been legally transferred for value to a third person who had no knowledge of the improper debit entry at the time of the transfer.

§ 370.46 Are there any situations in which the Bureau of the Public Debt may waive these regulations?

We reserve the right, in our discretion, to waive any provision of these regulations in any case or class of cases. We may do so if such action is not inconsistent with law and will not subject the United States to substantial expense or liability.

§ 370.47 To what extent may the Bureau of the Public Debt change these regulations?

Any aspect of this part may be changed at any time and without notice. You assume the risk that a change may terminate a provision that was to your advantage. Nothing in this part creates vested rights in your favor.

Dated: June 28, 1999.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 99–18919 Filed 7–23–99; 8:45 am]

BILLING CODE 4810–39–P

federal register

Monday
July 26, 1999

Part VI

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 12, 14 et al.

Federal Acquisition Regulation; Empowerment Contracting; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 12, 14, 15, 26, 36, and 52

[FAR Case 97–603]

RIN 9000–AH58

Federal Acquisition Regulation; Empowerment Contracting

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Withdrawal of proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have decided to withdraw FAR case 97–603, Empowerment Contracting, published in the **Federal Register** at 62 FR 19200, April 18, 1997. The rule proposed to amend the Federal Acquisition Regulation (FAR) to establish phase one of an Empowerment Contracting Program that provided procurement incentives to both large and small businesses to encourage their activity in areas of general and severe economic distress. That action was taken to implement Executive Order 13005 of May 21, 1996, Empowerment Contracting.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAR case 97–603, Empowerment Contracting; Withdrawal.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 13005 established the Empowerment Contracting Program to encourage business activity in areas of general economic distress by providing procurement incentives to qualified businesses. This initiative has been effectively superseded by the HUBZone Act of 1997, enacted on December 2, 1997, and the subsequent implementation of Sections 601–607 of the Act in the Federal Acquisition Regulation under FAR case 97–307, HUBZone Program. An interim rule was published in the **Federal Register** on December 12, 1998 (63 FR 70265). Therefore, the proposed rule for FAR case 97–603 is withdrawn.

List of Subjects in 48 CFR Parts 12, 14, 15, 26, 36, and 52

Government procurement.

Dated: July 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–19011 Filed 7–23–99; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Monday
July 26, 1999

Part VII

Department of Housing and Urban Development

24 CFR Part 985

Technical Amendment to the Section 8 Management Assessment Program (SEMAP); Interim Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 985

[Docket No. FR–4498–I–01]

RIN 2577–AC10

Technical Amendment to the Section 8 Management Assessment Program (SEMAP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations for the Section 8 Management Assessment Program (SEMAP) for the purpose of incorporating technical revisions recommended by the Office of Management and Budget to conform to requirements under the Single Audit Act Amendments of 1996. This interim rule revises the basis upon which HUD assigns ratings under eight SEMAP indicators. For the eight SEMAP indicators where the HUD verification method is the latest independent auditor (IA) annual audit report, this interim rule provides that the rating will be based on the housing agency (HA) SEMAP certification to HUD, rather than on statements in the annual audit report. Under this interim rule, SEMAP ratings will be subject to change after HUD receives the HA's annual audit report if the audit report contains information that the HA's SEMAP certification is not accurate.

DATES: *Effective Date:* August 25, 1999. *Comments Due Date:* September 24, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communications submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, 451 Seventh Street, S.W., Washington, DC 20410–0500. Telephone: (202) 708–0477 (voice); (202) 708–0850 (TTY). Persons with hearing or speech-impairments may call 1–800–877–8339 (Federal Information Relay Service TTY). (Other than the ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

On September 10, 1998 (63 FR 48548), HUD published a final rule which established the Section 8 Management Assessment Program (SEMAP). The September 10, 1998 final rule provided that HUD would rate the performance of a housing authority (HA) under eight SEMAP indicators based on statements in the latest independent auditor (IA) annual audit report. The eight indicators are: (1) Selection from the Waiting List; (2) Reasonable Rent; (3) Determination of Adjusted Income; (4) Utility Allowance Schedule; (5) Housing Quality Standards (HQS) Quality Control Inspections; (6) HQS Enforcement; (7) Expanding Housing Opportunities; and (8) Deconcentration Bonus. HUD intended that IAs would independently test a minimum sample of files for HA compliance with requirements under five of these eight indicators and would include specific statements concerning HA compliance in the audit report on compliance with all eight. Procedures of the Office of Management and Budget (OMB) implementing the Single Audit Act Amendments of 1996, however, do not permit HUD to include audit procedures in the OMB Circular A–133 compliance supplement which require either minimum samples of files or any specific reporting on compliance.

II. This Rule

In accordance with OMB requirements under the Single Audit Act Amendments of 1996, HUD is amending the September 10, 1998 final rule to base ratings for the eight indicators on the HA's SEMAP certification to HUD, rather than on the IA annual audit report. The OMB Circular A–133 compliance supplement for the Section 8 tenant-based programs will still provide procedures for the IA to audit compliance for the eight SEMAP indicators, and to verify the accuracy of the HA's SEMAP certification to HUD. Therefore, the HUD method of verification of HA performance under the eight indicators remains the IA annual audit report. The Department continues to rely on IA's to verify the accuracy of the HA's SEMAP certification with respect to the eight indicators. This interim rule also clarifies that HUD confirmatory reviews will be used as an additional method of verification to the extent they are performed.

This technical amendment to the September 10, 1998 final rule requires the HA to submit a SEMAP certification concerning the results of its supervisory quality control reviews of file samples drawn in an unbiased manner to ensure compliance under four SEMAP indicators ((1) Selection from the Waiting List; (2) Reasonable Rent; (3) Determination of Adjusted Income; and (4) HQS Enforcement). The interim rule, therefore, requires the HA to perform annual quality control reviews of its performance under these indicators in order to complete the SEMAP certification form. While there has previously been no regulatory requirement that an HA perform quality control reviews in these four areas, many HAs would have instituted such procedures under the September 10, 1998 final rule. Further, sound management practices require adequate internal control systems, such as supervisory quality control reviews, which the Department has required and encouraged in the past.

This technical amendment also revises the SEMAP standard under § 985.3(e) for HQS quality control inspections. This indicator is changed to require HQS quality control samples of the same minimum sample size as required for other supervisory quality control reviews. The requirement for a 5 percent HQS quality control sample no longer applies.

III. Justification for Interim Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. Part 10 provides, however, that prior public procedure will be omitted if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.0). HUD finds that in this case prior comment is unnecessary. This interim rule amends §§ 985.1, 985.2, 985.3, and 985.103, only to make technical changes to the basis for HUD ratings on eight SEMAP indicators and to the minimum sample size for HQS quality control inspections. Rather than relying on statements in the IA annual audit report to assign ratings under the eight indicators, HUD will rely on the HA's SEMAP certification to assign ratings. The HA's SEMAP certification for these eight indicators may be subject to a compliance audit under the Single Audit Act Amendments of 1996, or to a HUD confirmatory review, and if the audit report on compliance or the

confirmatory review report contains information that the HA's SEMAP certification is not accurate, SEMAP ratings will be subject to change.

IV. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities. Nevertheless, the Department is sensitive to the fact that the uniform application of requirements on entities of differing sizes often places a disproportionate burden on small businesses. The Department, therefore, is soliciting alternatives for compliance from small entities as to how these small entities might comply in a way less burdensome to them.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not have ''federalism implications'' because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program numbers assigned to the Section 8 Management Assessment Program are 14.855 and 14.857.

List of Subjects for 24 CFR Part 985

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 985 of title 24 of the Code of Federal Regulations is amended as follows:

PART 985—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

1. The authority citation for 24 CFR part 985 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

2. Section 985.1 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 985.1 Purpose and applicability.

(a) *Purpose.* * * * SEMAP also establishes a system for HUD to measure HA performance in key Section 8 program areas and to assign performance ratings. * * *

* * * * *

3. In § 985.2 amend paragraph (b) by adding definitions of ''confirmatory review'' and ''HA's quality control sample'' in alphabetical order to read as follows:

§ 985.2 Definitions.

* * * * *

(b) * * *

Confirmatory review means an on site review performed by HUD to verify the management performance of an HA.

* * * * *

HA's quality control sample means an annual sample of files or records drawn in an unbiased manner and reviewed by an HA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. The minimum size of the HA's quality control sample is as follows:

Universe	Minimum number of files or records to be sampled
50 or less	5.
51–600	5 plus 1 for each 50 (or part of 50) over 50.
601–2000	16 plus 1 for each 100 (or part of 100) over 600.
Over 2000	30 plus 1 for each 200 (or part of 200) over 2000.

Where the universe is: the number of admissions in the last year for each of the two quality control samples under the SEMAP indicator at § 985.3(a) Selection from the Waiting List; the number of families assisted for the SEMAP indicators at § 985.3(b) Reasonable Rent, and 985.3(c) Determination of Adjusted Income; the number of units under HAP contract during the last completed HA fiscal year for the SEMAP indicator at § 985.3(e) HQS Quality Control Inspections; and the number of failed HQS inspections in the last year for the SEMAP indicator at § 985.3(f) HQS Enforcement.

* * * * *

4. Section 985.3 is amended by revising the last sentence of the first introductory paragraph, the first sentence of the second introductory paragraph, and paragraphs (a)(2), (a)(3) introductory text, (a)(3)(i) introductory text, (a)(3)(i)(B), (a)(3)(ii), (b)(2), (b)(3) introductory text, (b)(3)(i) introductory text, (b)(3)(i)(B), (b)(3)(ii), (b)(3)(iii), (c)(2), (c)(3) introductory text, (c)(3)(i) introductory text, (c)(3)(ii), (c)(3)(iii), (d)(2), (d)(3), (e), (f)(2), (f)(3), (g)(2), (g)(3) introductory text, (g)(3)(i) introductory text, (g)(3)(ii), (h)(2) and (h)(3) to read as follows:

§ 985.3 Indicators, HUD verification methods and ratings.

* * * The method for selecting the HA's quality control sample under paragraphs (a), (b), (c) and (f) of this section must leave a clear audit trail that can be used to verify that the HA's quality control sample was drawn in an unbiased manner.

An HA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor (IA), will not be rated under the SEMAP indicators in paragraphs (a) through (g) of this section for which the annual IA audit report is a HUD verification method. * * *

(a) * * *

(2) HUD verification method: The independent auditor (IA) annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that:

* * * * *

(B) Based on the HA's quality control samples, drawn separately for applicants reaching the top of the waiting list and for admissions, documentation shows that at least 98 percent of the families in both samples of applicants and admissions were selected from the waiting list for admission in accordance with these policies and met the selection criteria that determined their places on the waiting list and their order of selection. 15 points.

(ii) The HA's SEMAP certification does not support the statement in paragraph (a)(3)(i) of this section. 0 points.

(b) * * *

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that:

* * * * *

(B) Based on the HA's quality control sample of tenant files, the HA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable in accordance with § 982.503 for at least 98 percent of units sampled at the time of initial leasing, if there is any increase in the rent to owner and, at the HAP contract anniversary if there is a 5 percent decrease in the published FMR in effect 60 days before the HAP contract anniversary. 20 points.

(ii) The HA's SEMAP certification includes the statements in paragraph (b)(3)(i) of this section, except that the HA documents its determination of reasonable rent for only 80 to 97 percent of units sampled at initial leasing, if there is any increase in the rent to owner, and at the HAP contract anniversary if there is a 5 percent decrease in the published FMR in effect 60 days before the HAP contract anniversary. 15 points.

(iii) The HA's SEMAP certification does not support the statements in either paragraph (b)(3)(i) or (b)(3)(ii) of this section. 0 points.

(c) * * *

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that, based on the HA's quality control sample of tenant files, for at least 90 percent of families:

* * * * *

(ii) The HA's SEMAP certification includes the statements in paragraph (c)(3)(i) of this section, except that the HA obtains and uses independent verification of income, properly attributes allowances, and uses the appropriate utility allowances for only 80 to 89 percent of families. 15 points.

(iii) The HA's SEMAP certification does not support the statements in either paragraph (c)(3)(i) or (c)(3)(ii) of this section. 0 points.

(d) * * *

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that the HA reviewed utility rate data within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised. 5 points.

(ii) The HA's SEMAP certification does not support the statement in paragraph (d)(3)(i) of this section. 0 points.

(e) *HQS quality control inspections.* (1) This indicator shows whether an HA supervisor or other qualified person reinspects a sample of units under contract during the HA fiscal year, which meets the minimum sample size requirements specified at § 983.2 under HA's quality control sample, for quality control of HQS inspections. The HA supervisor's reinspected sample is to be drawn from recently completed HQS inspections (i.e., performed during the 3 months preceding reinspection) and is to be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors. (24 CFR 982.405(b))

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that an HA supervisor or other qualified person performed quality control HQS reinspections during the HA fiscal year for a sample of units under contract which meets the minimum sample size requirements specified in § 983.2 under HA's quality control sample. The HA's SEMAP certification also states that the reinspected sample was drawn from recently completed HQS inspections (i.e., performed during the 3 months preceding the quality control reinspection) and was drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors. 5 points.

(ii) The HA's SEMAP certification does not support the statements in paragraph (e)(3)(i) of this section. 0 points.

(f) * * *

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that the HA's quality control sample of case files with failed HQS inspections shows that, for all cases sampled, any cited life-threatening HQS deficiencies were corrected within 24 hours from the inspection and, for at least 98 percent of cases sampled, all other cited HQS deficiencies were corrected within no more than 30 calendar days from the inspection or any HA-approved extension, or, if any life-threatening HQS deficiencies were not corrected within 24 hours and all other HQS deficiencies were not corrected within 30 calendar days or any HA-approved extension, the HA stopped (abated) housing assistance payments beginning no later than the first of the month following the correction period, or took prompt and vigorous action to enforce family obligations. 10 points.

(ii) The HA's SEMAP certification does not support the statement in paragraph (f)(3)(i) of this section. 0 points.

(g) * * *

(2) HUD verification method: The IA annual audit report covering the HA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The HA's SEMAP certification states that:

* * * * *

(ii) The HA's SEMAP certification does not support the statement in paragraph (g)(3)(i) of this section. 0 points.

(h) * * *

(2) HUD verification methods: HA data submitted for the deconcentration bonus, the IA annual audit report covering the HA fiscal year entered on the SEMAP certification, and on-site confirmatory review if performed.

(3) Rating: (i) The data submitted by the HA for the deconcentration bonus shows that the HA met the requirements for bonus points in paragraph (h)(1)(i), (ii) or (iii) of this section. 5 points.

(ii) The data submitted by the HA for the deconcentration bonus does not show that the HA met the requirements for bonus points in paragraph (h)(1)(i), (ii) or (iii) of this section. 0 points.

* * * * *

5. Section 985.103 is amended by redesignating paragraph (d) as paragraph (e), adding a new paragraph (d), and revising newly redesignated paragraph (e)(3), to read as follows:

§ 985.103 SEMAP score and overall performance rating.

* * * * *

(d) *Modified rating on an indicator.* A rating on any of the indicators at §§ 985.3(a) through 985.3(h) will be subject to change after HUD receives the HA's annual audit report or after HUD conducts a confirmatory review if the

audit report or the confirmatory review report contains information that the HA's SEMAP certification concerning an indicator is not accurate.

(e) *Modified or withheld overall rating.* * * *

(3) When HUD modifies or withholds a rating for any reason, it shall explain in writing to the HA the reasons for the modification or for withholding the rating.

Dated: June 23, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–18877 Filed 7–23–99; 8:45 am]

BILLING CODE 4210–33–P

federal register

Monday
July 26, 1999

Part VIII

The President

Memorandum of July 16, 1999—Delegation of Authority Under Section 1304(b)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

Federal Register
Vol. 64, No. 142
Monday, July 26, 1999

Presidential Documents

Title 3—

The President

Memorandum of July 16, 1999

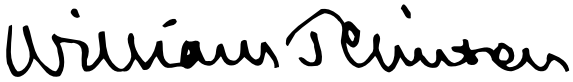
Delegation of Authority Under Section 1304(b)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Defense the authority vested in me under section 1304(b)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261). The authority delegated by this memorandum may be redelegated not lower than the Under Secretary level.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 16, 1999.

[FR Doc. 99–19232
Filed 7–23–99; 8:45 am]
Billing code 5001–10–M

Reader Aids

Federal Register

Vol. 64, No. 142

Monday, July 26, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, JULY

35559–35920 1
35921–36236 2
36237–36558 6
36559–36762 7
36763–37032 8
37033–37392 9
37393–37662 12
37663–37832 13
37833–38102 14
38103–38286 15
38287–38534 16
38535–38814 19
38815–38998 20
38999–39392 21
39393–39896 22
39897–40280 23
40281–40504 26

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6575 36229
6982 36549
7206 36229
7207 36549
7208 37389
7208 37393
7209 39895

Executive Orders:
July 12, 1911 (Revoked in part by PLO 7400) 38212
12722 (See Notice of July 20, 1999 39897
12724 (See Notice of July 20, 1999 39897
13010 38535
13129 .....36757, 37033
13130 38535

Administrative Orders:
Notice of July 20, 1999) 39897

Memorandums:
July 7, 1999 37393
July 9, 1999 38101
July 16, 1999 40503

Presidential Determinations:
No. 99–30 of June 23, 1999 35921
No. 99–31 of June 30, 1999 .....37033, 38075
No. 99–32 of July 1, 1999 .....37035, 38075

5 CFR

531 36763
550 36763
591 36763
890 36237

Proposed Rules:
1204 35952
1205 35957

7 CFR

47 38103
271 38287
272 38287
273 38287
274 38287
275 38287
276 38287
277 38287
278 38287
279 38287
280 38287
281 38287
282 38287
283 38287
284 38287
285 38287
300 37663
301 .....37663, 38815, 40281
319 38108
400 38537
762 38297
925 37833
944 37833
1477 35559
1980 38297

Proposed Rules:
29 39432
54 38315
56 37886
70 37886
210 38839
220 38839
225 38839
226 38839
250 36978
251 36978
253 39432
254 39432
271 37454
273 37454
276 37454
319 36608
906 38597
924 37888
948 37890
1000 .....37892, 39092
1001 .....37892, 39092
1002 .....37892, 39092
1004 .....37892, 39092
1005 .....37892, 39092
1006 .....37892, 39092
1007 .....37892, 39092
1012 .....37892, 39092
1013 .....37892, 39092
1030 .....37892, 39092
1032 .....37892, 39092
1033 .....37892, 39092
1036 .....37892, 39092
1040 .....37892, 39092
1044 .....37892, 39092
1046 .....37892, 39092
1049 .....37892, 39092
1050 .....37892, 39092
1064 .....37892, 39092
1065 .....37892, 39092
1068 .....37892, 39092
1076 .....37892, 39092
1079 .....37892, 39092
1106 .....37892, 39092
1124 .....37892, 39092
1126 .....37892, 39092
1131 .....37892, 38144, 39092
1134 .....37892, 39092
1135 .....37892, 39092
1137 .....37892, 39092
1138 .....37892, 39092
1139 .....37892, 39092
1218 .....39790, 39803
1430 39442
1710 36609

8 CFR

214 36423
235 36559
Proposed Rules:
241 ....37461, 39560

9 CFR

1 38546
2 38546
3 38546
52 37395
78 36775
94 38548
331 37666
381 37666
Proposed Rules:
3 38145
94 ....37897, 38599
96 37897
130 37903

10 CFR

9 39393
50 38551
170 38816
171 38816
708 37396
Proposed Rules:
30 40295
31 40295
32 40295
40 36615
50 ....36291, 39447
72 36291
170 40295
171 40295
430 37706
474 37905
810 35959

11 CFR

110 37397
Proposed Rules:
110 39095

12 CFR

615 38110
Proposed Rules:
229 37708

13 CFR

114 40282
Proposed Rules:
120 40310
121 ....40311, 40314
123 36617

14 CFR

23 39899
25 38999
39 ....35559, 36561, 36563, 36777, 37667, 37669, 37838, 37841, 38299, 38301, 38557, 38817, 38821, 39001, 39003, 39005, 39396, 39398, 40283
71 ....36565, 36566, 36567, 36568, 37671, 38302, 38303, 38304, 38305, 38306, 38560, 38822, 38823, 38824, 39007, 39008, 39009, 39011, 39012, 39013, 39014, 39015, 39403, 40285
73 39016
97 ....35562, 35564, 38561, 38562
257 38111
258 38111
1206 39404
Proposed Rules:
21 35902
25 39095
27 35902
29 35902
39 ....36307, 36618, 36623, 36624, 36626, 36628, 37046, 37465, 37471, 37911, 37913, 37915, 37917, 37918, 37920, 38150, 38152, 38154, 38156, 38157, 38316, 38319, 38322, 38325, 38329, 38332, 38335, 38338, 38341, 38345, 38348, 38351, 38355, 38358, 38362, 38365, 38368, 38371, 38374, 38378, 38379, 38382, 38383, 38603, 38605, 38606, 38844, 38846, 38848, 38850, 39097, 39100, 39102, 39104, 39448, 39450, 39944, 39946, 40319
71 ....36630, 36631, 37713, 37714, 37715, 37716, 37717, 38385, 38386, 38607, 38609, 39949, 39950
91 ....35902, 37018
93 ....35963, 37296, 37304, 38851
139 37026
193 40472

15 CFR

774 36779
902 ....36780, 39017
Proposed Rules:
710 39194
711 39194
712 39194
713 39194
714 39194
715 39194
716 39194
717 39194
718 39194
719 39194
720 39194
721 39194
740 40106
743 40106
774 40106
801 37049
922 38853

16 CFR

Proposed Rules:
23 37051
Ch. II 38387
432 38610
453 35965
1213 37051
1500 37051
1513 37051

17 CFR

1 36568
3 39912
9 ....39913, 39915
240 ....37586, 39918
249 37586
Proposed Rules:
1 38159

18 CFR

2 37037
153 37037
157 37037
275 37037
284 37037
290 37037
385 37037
430 35566
Proposed Rules:
330 37718
385 37718

20 CFR

220 36239

21 CFR

74 39414
173 38563
520 ....37672, 39918
524 37400
556 35923
558 ....35923, 37672
1020 35924
1308 ....35928, 37673, 39560
1312 35928
Proposed Rules:
16 ....36492, 36517
101 ....36492, 36517, 36824
115 ....36492, 36517
291 39810
333 39452
510 35966
514 ....35966, 40321
558 35966

22 CFR

514 40286
Proposed Rules:
103 39244

23 CFR

655 38307
661 38565
1225 35568

24 CFR

291 36210
570 38812
985 40496
Proposed Rules:
5 40262
200 ....36216, 40262
247 40262
290 38284
880 40262
882 40262
884 40262
891 40262
Ch. IX 38853
960 40262
966 40262
972 ....40323, 40340
982 40262

25 CFR

Proposed Rules:
516 38164

26 CFR

1 ....35573, 36092, 36116, 36175, 37037, 37675, 37677, 38825
20 37675
25 37675
31 37675
40 37675
301 ....36092, 36569, 37677, 39020
602 ....36092, 36116, 36175, 37678
Proposed Rules:
1 ....35579, 37727
301 ....37727, 39106

28 CFR

0 37038
90 39744
553 36750
600 37038
Proposed Rules:
5 37065

29 CFR

1203 40286
1205 40286
1209 40286
1614 37644
4044 ....38114, 38534
Proposed Rules:
1908 35972
1926 38078
2510 38390

30 CFR

210 38116
216 38116
227 36782
920 36784
934 38826
Proposed Rules:
57 ....36632, 36826
72 36826
75 ....36632, 36826
904 37067
914 38165
916 40323
917 38391
920 38392
924 40326
938 36828

31 CFR

100 39919
306 38124
Ch. V 35575
315 40484
353 40484
357 40484
370 40484

32 CFR

199 38575
989 38127
Proposed Rules:
775 37069
776 37473

33 CFR

100 ....37583, 39027, 39415
110 38828
117 ....36239, 36569, 36570, 37678, 38829, 38830
165 ....36571, 36572, 36573, 37679, 39027, 39032, 39033
173 36240
Proposed Rules:
110 38166
117 ....36318, 39454
165 ....36633, 39108, 39454

34 CFR

Proposed Rules:
600 38272

668 ..... 38272, 38504
694 39109

36 CFR

242 ..... 35776, 35821
251 37843
Proposed Rules:
327 38854
1010 39951
1191 37326
1275 37922

37 CFR

201 36574
202 36574
203 36574
204 36574
211 36574
212 36576
251 36574
253 36574
259 36574
260 36574
Proposed Rules:
212 36829
255 38861

38 CFR

21 38576

39 CFR

111 38831
3002 37401

40 CFR

9 ..... 36580, 37624
22 40138
51 35714
52 ..... 35577, 35930, 35941, 36243, 36248, 36586, 36786, 36790, 37402, 37406, 37681, 37847, 38577, 38580, 38832, 38836, 39034, 39037, 39920, 39923, 40287
60 ..... 37196, 38241
62 ..... 36600, 37851, 38582
63 ..... 37683, 38950
75 37582
80 37687
81 ..... 37406, 39416
82 39040
90 36423
180 ..... 36252, 36794, 37855, 37861, 37863, 37870, 38307, 39041, 39049, 39053, 39060, 39068, 39072, 39078
185 ..... 39068, 39072, 39078
186 ..... 39072, 39078
228 39927
260 36466
261 36466
262 37624
264 ..... 36466, 37624
265 ..... 36466, 37624
268 36466
270 ..... 36466, 37624
273 36466
300 39878
430 36580
745 39418
Proposed Rules:
35 ..... 40064, 40084
52 ..... 36635, 36830, 36831, 37491, 37492, 37734, 37923, 38616, 38617, 38862, 38863, 39110, 39963, 40328
62 ..... 36426, 36639, 37923, 38617
63 ..... 37734, 38993
81 37492
131 37072
148 40192
180 36640
261 40192
268 40192
271 40192
300 ..... 39886, 40328
302 40192
403 39564
442 38863
745 40064

41 CFR

101-35 38588
102-2 39083
Ch. 301 38587
301–52 38528
301–54 38528
301–70 38528
301–71 38528
301–76 38528

42 CFR

431 39934
482 36070
498 39934
1001 39420
1002 39420
1003 39420
Proposed Rules:
8 39810
405 38395
409 36320
410 ..... 36320, 39608
411 ..... 36320, 39608
412 36320
413 36320
414 39608
415 39608
416 36321
419 36320
488 36321
489 36320
498 36320
1003 36320

43 CFR

Proposed Rules:
2530 38172

44 CFR

7 38308
64 ..... 38309, 38311

45 CFR

260 40290
261 40290
262 40290
263 40290
264 40290
265 40290
2522 37411
2525 37411
2526 37411
2527 37411
2528 37411
2529 37411
Proposed Rules:
5b 37081

46 CFR

Proposed Rules:
10 39455
15 39455
90 39455
98 39455
125 39455
126 39455
127 39455
128 39455
129 39455
130 39455
131 39455
132 39455
133 39455
134 39455
170 39455
174 39455
175 39455
388 36831

47 CFR

1 ..... 35832, 39938
18 37417
20 38313
63 39938
73 ..... 35941, 36254, 36255, 36256, 36257, 36258, 37875, 37876, 38588, 38589, 38590, 38591, 38592, 39940, 39941, 40292
76 ..... 35948, 36605
90 ..... 36258, 39942
Proposed Rules:
1 38617
15 38877
20 38396
22 38617
27 36642
73 ..... 36322, 36323, 36324, 36642, 37924, 37925, 37926, 37927, 38621, 38622, 39963, 39964, 39965, 40331
101 38617

48 CFR

1 36222
12 36222
14 36222
15 36222
19 36222
26 36222
33 36222
52 36222
53 36222
Ch. 1 36222
201 39429
237 39430
252 39431
Ch. 5 37200
829 38592
1615 36271
1632 36271
1652 36271
1801 36605
1804 36605
1809 36605
1815 36605
1827 36605
1832 36605
1833 36606
1845 36605
1852 36605
2832 37044
6103 38143
Proposed Rules:
9 37360
12 40494
14 40494
15 40494
26 40494
31 37360
36 40494
47 37640
52 ..... 37640, 40494
208 38878
212 38878
213 38878
214 38878
215 38878
232 38878
245 39456
252 ..... 38878, 39456
1807 38880
1811 38880
1812 38880
1815 38880
1816 38880
1823 38880
1842 38880
1846 38880
1852 38880

49 CFR

1 36801
177 36802
180 36802
395 37689
567 38593
574 36807
578 37876
591 37878
Proposed Rules:
71 40331
192 35580
195 38173
571 36657
1420 39111

50 CFR

17 ..... 36274, 37638, 39560
100 ..... 35776, 35821
216 37690
600 ..... 36817, 39017
622 ..... 36780, 37690
635 ..... 36818, 37700, 37883
660 ..... 36817, 36819, 36820, 40293
679 ..... 37884, 39087, 39089, 39090, 40293
Proposed Rules:
17 ..... 36454, 36836, 37492, 40333
20 39460
622 ..... 35981, 36325, 37082
640 37082
648 35984
660 ..... 39479, 39965

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 26, 1999

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Open access same-time information system (OASIS); published 6-25-99

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Fuels and fuel additives—

Puerto Rico gasoline; compliance baseline modification; published 6-9-99

Clean Air Act:

Interstate ozone transport reduction—

Nitrogen oxides budget trading program; Section 126 petitions; findings of significant contribution and rulemaking; published 5-25-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Florida; published 6-18-99

Missouri; published 6-22-99

Montana; published 6-18-99

Texas; published 6-18-99

Wisconsin; published 6-18-99

Television broadcasting:

Cable television systems—

Markets definition for purposes of broadcast signal carriage rules; published 6-24-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Government National Mortgage Association (Ginnie Mae):

Mortgage-backed securities; book-entry securities; published 6-24-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Lloyd's hedgehog cactus; published 6-24-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Organization and operations—

Fidelity bond and insurance coverage; published 5-27-99

NATIONAL MEDIATION BOARD

Practice and procedure:

Administrative corrections; published 7-26-99

SMALL BUSINESS ADMINISTRATION

Organization, functions, and authority delegations:

Disaster Area Counsel et al; administrative claims approval, denial, etc.; published 7-26-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pratt & Whitney; published 5-26-99

TREASURY DEPARTMENT

Fiscal Service

Bonds and notes, U.S. Treasury:

U.S. securities; electronic transactions and funds transfers; published 7-26-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:

Return to home country two-year requirement; waiver requests; processing fee; published 7-26-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—

Michigan et al.; comments due by 8-6-99; published 6-7-99

Nectarines and peaches grown in—

California; comments due by 8-6-99; published 6-7-99

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:

Dogs and cats; acclimation certificates; comments due by 8-6-99; published 6-7-99

Exportation and importation of animals and animal products:

Ports of entry—

New Jersey and New York; ports designated for exportation of horses; comments due by 8-2-99; published 6-4-99

Plant-related quarantine, domestic:

Fire ant, imported; comments due by 8-6-99; published 6-7-99

Mediterranean fruit fly; comments due by 8-6-99; published 6-7-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Designated critical habitats—

Snake River spring/summer chinook salmon; comments due by 8-2-99; published 6-2-99

Fishery conservation and management:

Northeastern United States fisheries—

Northeastern multispecies; comments due by 8-2-99; published 6-1-99

DEFENSE DEPARTMENT

Air Force Department

Military personnel:

Military personnel, employees, and dependents available to civilian authorities for trial; comments due by 8-2-99; published 6-1-99

DEFENSE DEPARTMENT

Defense Logistics Agency

Defense contracting:

Wildfire Suppression Aircraft Transfer Act of 1996; implementation; comments due by 8-2-99; published 6-1-99

EDUCATION DEPARTMENT

Family educational rights and privacy

Amendments; comments due by 8-2-99; published 6-1-99

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines; and fuels and fuel additives:

Tier 2 motor vehicle emission standards and gasoline sulphur control requirem ents; comments due by 8-2-99; published 5-13-99

Tier 2 motor vehicle emission standards and gasoline sulphur control requirements; comments due by 8-2-99; published 6-30-99

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Illinois; comments due by 8-6-99; published 7-7-99

Air quality implementation plans; approval and promulgation; various States:

Delaware; comments due by 8-6-99; published 7-7-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Emergency exemptions; time-limited tolerances; comments due by 8-2-99; published 6-3-99

Water programs:

Underground injection control program; Alabama's Class II program withdrawn; plic hearing and comment request; comments due by 8-5-99; published 5-21-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services, etc.:

Agency competitive bidding authority; comments due by 8-2-99; published 6-7-99

Radio stations; table of assignments:

Texas; comments due by 8-2-99; published 6-22-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Dietary supplements; effect on structure or function of body; types of statements definition; meeting; comments due by 8-4-99; published 7-8-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs:

Single family mortgage insurance—

Appraiser roster; placement and removal

procedures; comments due by 8-2-99; published 7-2-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting:

Seasons, limits, and shooting hours; establishment, etc.

Meeting; comments due by 8-2-99; published 7-22-99

INTERIOR DEPARTMENT

Minerals Management Service

Federal regulatory review; request for comments; comments due by 8-6-99; published 6-7-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Kentucky; comments due by 8-2-99; published 7-16-99

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Nonimmigrant classes:

Adjustment of status; H-1 and L-1 status applicants; continued validity of nonimmigrant status, unexpired employment authorization, and travel authorization; comments due by 8-2-99; published 6-1-99

Status adjustment; H-1 and L-1 status applicants; continued validity of nonimmigrant status, unexpired employment authorization, and travel authorization

Correction; comments due by 8-2-99; published 6-4-99

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine and metal and nonmetal mine safety and health:

Underground mines—

Self-rescue devices; comments due by 8-6-99; published 7-7-99

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards:

Tuberculosis; occupational exposure; comments due by 8-2-99; published 6-17-99

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

Vessel hulls; design protection; comments due by 8-6-99; published 7-7-99

NUCLEAR REGULATORY COMMISSION

Early site permits standard design certifications and combined licenses for nuclear power plants:

AP600 design certification; comments due by 8-3-99; published 5-20-99

Production and utilization facilities; domestic licensing:

Nuclear power reactors—

Reporting requirements; comments due by 8-5-99; published 7-6-99

SMALL BUSINESS ADMINISTRATION

Disaster loan program:

Pre-disaster mitigation loans; comments due by 8-6-99; published 7-7-99

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Mandatory ship reporting systems; comments due by 8-2-99; published 6-1-99

Correction; comments due by 8-2-99; published 6-9-99

San Pedro Bay, CA; safety zone; comments due by 8-2-99; published 6-2-99

Vessel inspection alternatives:

Alternate Compliance Program; incorporations by reference; comments due by 8-6-99; published 6-8-99

TRANSPORTATION DEPARTMENT

Workplace drug and alcohol testing programs:

Organizations certifying substance abuse professionals; procedure to have members included in DOT's substance abuse professional definition; comments due by 8-2-99; published 6-3-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Aging airplane safety; comments due by 8-2-99; published 4-2-99

Air traffic operating and flight rules, etc.:

Flight plan requirements for helicopter operations under instrument flight rules; comments due by 8-2-99; published 7-1-99

Airworthiness directives:

Bell Helicopter Textron, Inc.; comments due by 8-2-99; published 6-3-99

Boeing; comments due by 8-6-99; published 6-22-99

Bombardier; comments due by 8-6-99; published 7-7-99

British Aerospace; comments due by 8-6-99; published 7-7-99

Israel Aircraft Industries, Ltd.; comments due by 8-6-99; published 7-7-99

Class E airspace; comments due by 8-2-99; published 6-11-99

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Emergency relief program; comments due by 8-6-99; published 6-7-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Long-term contracts, income accountability; comments due by 8-3-99; published 5-5-99

Long-term contracts; income accountability

Correction; comments due by 8-3-99; published 6-16-99

Recognition of gain on stock or securities distributions; comments due by 8-2-99; published 5-3-99

VETERANS AFFAIRS DEPARTMENT

Acquisition regulations:

Simplified acquisition procedures; comments due by 8-3-99; published 6-4-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 775/P.L. 106–37

Y2K Act (July 20, 1999; 113 Stat. 185)

Last List June 29, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listserv@www.gsa.gov** with the text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–038–00005–9)	27.00	Jan. 1, 1999
1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–038–00010–5)	47.00	Jan. 1, 1999
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–038–00014–8)	41.00	Jan. 1, 1999
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–038–00020–2)	41.00	Jan. 1, 1999
2000–End	(869–038–00021–1)	27.00	Jan. 1, 1999
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–0002–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–038–00033–4)	25.00	Jan. 1, 1999
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–038–00042–3)	25.00	Jan. 1, 1999
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
*240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
*300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
*§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
*§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
*§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0-42	(869–034–00098–3)	36.00	July 1, 1998
43-end	(869-034-00099-1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	18.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	29.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.