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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

RIN 3150–AF58

Fissile Material Shipments and Exemptions; Response to Comments and Request for Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: Response to public comments and request for information.

SUMMARY: The Nuclear Regulatory Commission (NRC) published on February 10, 1997; 62 FR 5907, an emergency final rule which amended its regulations regarding the shipment of exempt quantities of fissile material and the shipment of fissile material under a general license. The NRC issued the emergency final rule without a notice of proposed rulemaking and the accompanying opportunity for public comment prior to the rule's finalization, because NRC found good cause to dispense with these steps as being impracticable and contrary to the public interest, as permitted under the Administrative Procedure Act. Notwithstanding the final status of the rule, NRC solicited public comments on the rule during a 30-day comment period following publication in accordance with the Commission's regulations. This notice contains the NRC response to public comments received on the rule. These comments essentially stated that the emergency rule, although needed for shipments with special moderators, caused an unnecessary economic burden to shippers of fissile material exempt and general licensed shipments that use water as the moderator. In order to quantify any unintended economic impact caused by the emergency rule, the NRC is requesting information on the costs of implementing the emergency final rule.

DATES: The final rule became effective February 10, 1997. Comments on the costs associated with shipments of fissile material made under the fissile material exemption and general license provisions of Part 71 are requested by January 10, 2000.

ADDRESSES: Comments on the costs associated with shipments of fissile material made under the fissile material exemption and general license provisions of Part 71 should be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attn: Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site (http://ruleforum.llnl.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 the emergency final rule, including comments received by the NRC on the costs associated with shipments of fissile material made under the fissile material exemption and general license provisions of Part 71, 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 the emergency final rule.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6103, e-mail nst@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 10, 1997; 62 FR 5907, the NRC published an emergency final rule to expeditiously correct a defect in its fissile material regulations, that was discovered 5 months earlier by Babcock & Wilcox, Naval Nuclear Fuel Division (B&W). B&W, an NRC licensee, had notified the NRC by telephone on September 11, 1996, that it had discovered that the NRC and the U.S. Department of Transportation (DOT) regulations (10 CFR 71.53 and 49 CFR 173.453, respectively) on fissile exempt shipments did not provide adequate criticality safety for certain shipments of fissile material [1] (enriched uranium containing beryllium oxide.) Specifically, B&W demonstrated through calculations that a shipment, containing large amounts of an exempt concentration of enriched uranium in the presence of beryllium, intended to be shipped pursuant to the then existing 10 CFR 71.53(d), could result in a nuclear criticality.[2] B&W indicated that a beryllium oxide-enriched uranium mixture would be produced as a waste product from its processing of strategic material resulting from operations to commercially downblend weapons-usable fissile material from the former Soviet Union. B&W promptly notified the NRC of its concern, provided its calculations to the NRC, and made commitments not to make any such shipments. The NRC staff subsequently reviewed and verified B&W's calculations and determined that expeditious revisions to NRC regulations were needed to correct the deficiency because an inadvertent nuclear criticality in the public domain could involve fatalities, health effects from the resulting radiation exposures, and extensive cleanup costs.

The NRC also brought this problem immediately to the attention of the DOT and the U.S. Department of Energy (DOE). The DOT is a coregulator of fissile material shipments, and the DOE makes many shipments of fissile exempt

[1] Fissile is defined in 10 CFR Part 71 and 49 CFR Part 173 as: plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Packages used for shipment of materials containing these radionuclides must meet specific standards and operating limits designed to preclude nuclear criticality during transport, unless excepted by specific regulations (e.g., 10 CFR 71.53 or 49 CFR 173.453).

[2] For transportation purposes, nuclear criticality means a condition in which an uncontrolled, self-sustaining and neutron-multiplying fission chain reaction occurs. Nuclear criticality is generally a concern when sufficient concentrations and masses of fissile material and neutron moderating material exist together in a favorable configuration. The neutron moderating material cannot achieve criticality by itself in any concentration or configuration. It can enhance the ability of fissile material to achieve criticality by slowing down neutrons or reflecting neutrons.

material each year. The NRC informed the DOT of its intent to issue an emergency final rule. The DOT decided to defer any rulemaking until DOT staff could review the public comments on the NRC's emergency final rule.

The criticality safety problem brought to NRC's attention with respect to § 71.53 caused the NRC staff to review Part 71 to determine whether any other provisions of this part might be similarly deficient. The general licenses in §§ 71.18 and 71.22 provide for criticality control by limiting the quantity of fissile material in a single package (i.e., similar to the quantity-based fissile exemptions in § 71.53). Section 71.18 (General license: Fissile material, limited quantity per package) also assigns a criticality transport index [3] (pursuant to § 71.4) to each package. These sections were found to have deficiencies comparable to those discovered in § 71.53, where there were no restrictions placed on special moderating materials (i.e., materials which would increase the number of neutrons available to cause fission as compared with ordinary water. Section 71.22 (General license: Fissile material, limited quantity, controlled shipment) had the additional deficiency of not limiting the total amount of fissile material in a conveyance. During the NRC staff's review, §§ 71.20 and 71.24, which also provide general licenses, were found to be adequate in that the moderators of concern were excluded.

Packages for shipments made in accordance with a fissile material exemption in § 71.53 or the general license in § 71.18 or § 71.22, are not required to be certified by the NRC. The intent of §§ 71.53, 71.18, and 71.22, is that any materials packaged and shipped in accordance with the limits in these sections (and the other applicable sections of 10 CFR Part 71 and 49 CFR Part 173) were inherently safe (incapable of an inadvertent criticality). The B&W analyses demonstrated that a deficiency existed in these requirements.

The safety problem uncovered by the B&W calculations, and verified by the NRC, involved quantities, geometries, and concentrations of fissile materials and moderators that could result in criticality when shipped in compliance with sections of the regulations for which criticality analyses are not required. Fissile exemptions in § 71.53 and the general licenses in §§ 71.18 and 71.22, were originally based on the assumption that water is the only moderator that might be present in fissile exempt shipments. In these cases, these rules provide inherent criticality safety without a need for shippers to perform separate analyses. However, some moderators (herein referred to as special moderating materials) can increase the number of neutrons available to cause fission as compared to ordinary water and result in the potential for criticality in shipments where these moderators are present, even though the shipments are in compliance with 10 CFR 71.53 and 49 CFR 173.453.

When the issue was identified to the NRC in September 1996, the presence of special moderating materials in significant quantities in NRC-regulated shipments of fissile exempt materials had not been anticipated. However, certain international initiatives, including efforts to reduce stockpiles of strategic weapons material by processing for commercial use, have resulted in the greater likelihood of inclusion of these materials in NRC regulated shipments. The materials proposed to be shipped by B&W resulted from such a source. B&W had been awarded a contract to process weapons-usable enriched uranium materials from the Republic of Kazakstan. The waste product of the processing, a uranium-beryllium filtercake, met the fissile exemption provisions in then existing 10 CFR 71.53(d) and 49 CFR 173.453(d). However, B&W used a computer model of the enriched uranium-beryllium oxide waste packages to demonstrate that, if the packages were loaded for shipment into a sea-land container at the regulatory fissile exempt concentration limit, adequate confidence in nuclear criticality safety would not have been provided. NRC had verified through independent analyses that the concerns raised by the B&W analysis were valid and apply to other geometries and moderating characteristics as well. To avoid inadvertent criticality, the NRC determined that it was necessary to restrict shipments of fissile material with three special moderating materials: beryllium, graphite, and deuterium.

However, the NRC concluded that limiting beryllium, graphite, and deuterium to trace quantities would not completely eliminate the possibility of criticality in fissile exempt or generally licensed shipments. There was also a need to limit the quantity of material in a single consignment (the B&W criticality model calculations were performed using 200-centimeter high infinite slab configuration). The problem of a lack of control on the total amount of fissile exempt material in an exempt shipment was originally identified during the revision process for the 1996 Edition of the International Atomic Energy Agency's (IAEA's) ''Regulations for the Safe Transport of Radioactive Material,'' Safety Requirement No. ST–1. The problem was addressed in ST–1 by adopting a consignment limit on the amount of fissile exempt material that a shipper could transport as a private carrier (400g for Uranium-235, and 250g for other fissile material), or deliver to a common carrier for shipment. Before the emergency final rule, the NRC could not enforce a limit on the total quantity of fissile material in a common carrier shipment because the regulations did not require a transport index for each package or require shipment by exclusive use. The latter would restrict the ability to use common carriers, while requiring a transport index would negate much of the advantage gained by the exemption. Consignment limits are enforceable and represent a practical operating limit that would prevent the potentially unsafe accumulation of fissile exempt materials during shipment.

The NRC addressed these regulatory defects by issuing the emergency final rule in February 1997. The final rule amended §§ 71.18, 71.22, and 71.53 by restricting the quantity of fissile material in a shipment—if trace quantities of special moderating materials (*i.e.*, beryllium, graphite, or deuterium) were present. The final rule also restricted the quantity of fissile material shipped under a general license or exempt shipment to a consignment limit of no greater than 400 grams.

The NRC issued the emergency final rule without a notice of proposed rulemaking and opportunity for public comment prior to finalization because the Commission found good cause for dispensing with these steps as being impracticable and contrary to the public interest under the good cause tests for omitting notice and comment of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). Notwithstanding the final status of the rule, the Commission solicited public comments on the final rule during a 30-day comment period following publication of the rule, in accordance with the provisions of 10 CFR 2.804(e). The Commission stated

[3] Transport index is defined in 10 CFR Part 71 as: the dimensionless number (rounded to the next tenth) placed on the label of a package, to designate the degree of control to be exercised by the carrier during transportation. For a fissile material package, the transport index is considered to be the larger of two numbers: the first is for external radiation control and is calculated based on the maximum radiation level at one meter from the external surface of the package, and the second is for criticality control purposes and is calculated based on the allowable number of packages stacked together during transportation.

that it would publish a statement in the **Federal Register** containing an evaluation of the significant comments received and any revisions to the rule to be made as a result of the comments. The comment period ended on March 12, 1997. Following publication of the emergency rule and receipt of public comments, the NRC staff sought to study the technical issues raised by the public comments, and to perform an independent evaluation of part 71 regulations relating to the fissile material exemption and general license limits. The NRC awarded a contract to the Oak Ridge National Laboratory (ORNL). The results of the ORNL study were published by NRC in July 1998 and noticed in the **Federal Register** on August 13, 1998. This notice responds to the comments received on the rule and the results of the ORNL study.

II. Discussion

In developing the emergency final rule, NRC staff noted that the regulatory and technical bases for the fissile exemption and general license provisions of Part 71 were internally inconsistent and not thoroughly documented. Based on these regulatory/technical bases questions and the public comments received on the rule, the NRC issued a contract to Oak Ridge National Laboratory (ORNL) to: (1) perform an independent evaluation of Part 71 regulations relating to the fissile material exemption and general license limits; (2) review the technical issues raised by public comments on the emergency final rule; (3) perform independent calculations of the minimum critical mass limits for different combinations of fissile material and moderating material; and (4) identify potential changes to the fissile material exemption and general license limits which may be warranted. The results of the ORNL study are contained in NUREG/CR–5342,[4] Assessment and Recommendations for Fissile Material Packaging Exemptions and General Licenses Within 10 CFR Part 71, issued July 1998. Publication of NUREG/CR–5342 was noticed in the **Federal Register** (63 FR 44777; August 13, 1998).

ORNL researched the historical bases for the fissile material exemption and general license regulations in Part 71 and discussed the impact of the emergency final rule's restrictions on NRC licensees. ORNL also performed calculations of k_{eff} (k-effective) for various combinations of fissile material and moderating material, including beryllium, carbon, deuterium, silicon-dioxide, and water, to verify the accuracy of minimum critical mass values. These minimum critical mass values were applied to the regulatory structure contained in the current Part 71, and revised mass limits for both the general license and exemption provisions to Part 71 were determined. ORNL concluded, and NRC staff agreed, that the restrictions imposed by the emergency final rule on shipments with special moderating material were necessary to protect public health and safety; however, the restrictions are excessive for water-moderated shipments. Based on its new k_{eff} calculations, we also agree that: (1) The mass limits in the general license and exemption provisions could be safely increased and thereby provide greater flexibility to licensees shipping fissile radioactive material; and (2) additional revisions to Part 71 were appropriate to provide greater clarification and simplification of the regulations. We believe these changes will resolve the issues raised in the public comments on the emergency final rule, and provide greater usability to these Part 71 regulations.

III. Response to Comments on the Emergency Final Rule

The NRC received eight letters commenting on the emergency final rule. Four were from NRC fuel-cycle licensees; one from a remediation and decommissioning company, one from DOE, one from the Nuclear Energy Institute (NEI); and one from a member of the public (same comments as DOE's). None of the commenters objected to the rule insofar as it imposes restrictions on the shipments of fissile material when special moderating materials (*i.e.*, beryllium, graphite, or deuterium) are present. However, all the commenters also believed that the changes to Part 71 that imposed consignment limits when special moderating materials are not used, were too restrictive and imposed an unnecessary burden on licensees. Several commenters believed that the final rule would significantly increase the number of shipments and would increase licensee costs and paperwork burdens to transport the same quantity of fissile material. Some commenters indicated that the number of shipments of fissile material involving the presence of special moderators was only a small percentage of the total number of shipments involving fissile exempt and general license material which occur each year, and that the negative aspects of the rule for all shipments were not balanced by the accompanying increase in public health and safety. Some commenters requested that the consignment limits be removed, others requested that the table after 10 CFR 71.53(a) be clarified to indicate that it applied only to shipments with special moderating material present. Overall, the commenters indicated that the final rule was excessively burdensome for a large number of shipments that do not contain special moderators and requested that further rulemaking be accomplished to address their concerns. Detailed discussion of the comments is presented below. Response to this general comment is presented first, with responses to other specific comments presented later. Copies of the comment letters are available for public inspection and copying, for a fee, at the Commission's Public Document Room, located at 2120 L Street NW. (Lower Level), Washington, DC 20003–1527.

General Comment: All eight commenters objected to the imposition of the 400-gram limit of fissile material per consignment when special moderating materials (*i.e.*, beryllium, graphite, or deuterium) are not present. The commenters stated that the 400-gram limit was unnecessarily restrictive for the majority of shipments (*i.e.*, water-moderated), and imposed a penalty on shippers for what had been considered perfectly safe controls under the old requirements without a justification being provided. Two commenters stated that this new limit would double or triple the number of separate shipments needed to transport the same amount of fissile material, and that this increase in the number of shipments of fissile material would cause a corresponding increase in probability of worker injuries and transportation accidents, and would increase licensee costs and paperwork burdens to ship the same amount of fissile material. Two commenters indicated that the rule will impose unnecessary accounting and recordkeeping requirements on licensees to assure compliance with the rule. These commenters also believe that shippers will now need to more accurately determine the concentration of fissile material present in a package to assure compliance with this rule. One commenter was concerned that these negative aspects of the rule were not balanced by the accompanying increase in public health and safety. One

[4] Copies of NUREGS may be purchased from the Reproduction and Distribution Section, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying for a fee at the NRC Public Document Room, 2120 L street, NW. (Lower Level), Washington, DC.

commenter stated that instead of globally restricting shipments which do not contain special moderating materials, the NRC should have identified a category of material descriptive of the special moderator-containing material, and restricted only that category.

Response: The 400-gram limit of fissile material per consignment is essential to preclude an inadvertent criticality occurring during a transportation accident involving fissile material shipments with special moderators. However, the Commission agrees with the commenters that the 400-gram limit may have caused an unintended and unnecessary economic burden to licensees whose fissile material exempt and general licensed shipments use water as the moderator because the 400-gram consignment limit may be too restrictive, in some cases. The Commission will address these unintended economic impact issues in an upcoming rulemaking currently being developed to revise Part 71 to make it compatible with the 1996 IAEA standards. This rulemaking effort will more thoroughly examine these issues, however, the Commission has not, as yet, been able to obtain specific information regarding the burden claim made by the commenters. The staff is currently seeking specific information from the commenters to quantify this burden. The NRC needs this cost/benefit data from the fissile material shipping industry to quantify the unintended impact of the emergency rule. Therefore, the Commission is taking this opportunity to explicitly request this information from the commenters, the industry and the DOE.

The Commission had imposed the 400-gram consignment limit because of the regulatory latitude given to these fissile exempt and general license shippers. Shipments of exempt quantities of fissile material under § 71.53 occur without NRC prior review or imposition of any additional requirements on the quantity of fissile material which may be placed on a conveyance. Therefore, the Commission imposed a 400-gram limit on the amount of fissile material that could be shipped in a single package. This limit was intended to ensure that a nuclear criticality accident would be precluded under highly unlikely, but theoretically conceivable, circumstances by restricting the quantity of fissile material that could be inadvertently assembled to less than one-half that of a critical mass needed for criticality to occur. These circumstances could exist when exempt quantities of fissile material, from two different shippers, wind up on the same conveyance and that conveyance is subsequently involved in an accident.

Additionally, in the emergency final rule the Commission simplified the regulations to require that control be maintained over one parameter (*e.g.*, the mass of the fissile material), rather than controlling five separate parameters (*e.g.*, the mass of fissile material, the fissile material concentration, moderation, reflection, and geometry (*i.e.*, the spatial arrangement of the fissile material, moderating material, and any reflecting material)). This was accomplished by limiting the quantity of fissile material to less than one-half of a critical mass, while using bounding assumptions for the other parameters. Therefore, the fissile material can be in any geometrical configuration or concentration, and water can be present in any density (*i.e.*, moderating effectiveness and reflection) and the fissile material still remains subcritical. Further reductions in the mass limit were imposed if nuclides other than uranium ^{235} (*e.g.*, uranium ^{233} or any isotope of plutonium) were present or if moderating materials with a hydrogen density greater than water (*i.e.*, oil or plastic) were present.

Licensees desiring to ship fissile materials in quantities that do not meet the limits of the fissile material exemption, or the general license regulations, may use other provisions of Part 71 to submit an application to the NRC for approval of the design of a transportation package to ship the fissile material (*e.g.*, Type A(F) or Type B(F) packages), or may use previously approved Type A(F) or B(F) packages. [Note, the use of a Type B(F) package would also require a licensee to have a quality assurance program in place which meets the requirements of Part 71, Subpart H.]

Taken with the 0.1 percent limit on the presence of special moderating materials (*i.e.*, beryllium, deuterium, or graphite), the final rule sought to achieve a balanced approach with relaxation of controls over concentration, moderation, and reflection, while requiring greater control on the quantity of fissile mass, and assuming that prior NRC review and approval were not obtained.

The NRC has reviewed the factors which initiated the emergency final rulemaking, the ORNL evaluation, and public comments received on the emergency final rule, and concluded that the changes imposed by the emergency final rule were clearly warranted to protect public health and safety and the environment from an accidental criticality occurring during the transport of a special class of fissile material shipments (*i.e.*, those with special moderators). Although the Commission believes that the commenters may have valid concerns with respect to the unintended burden imposed by the emergency final rule on a large number of shipments that do not use special moderators, the staff has not been able to obtain specific information regarding the burden estimates. The Commission has decided to consider an additional rulemaking revising the fissile exemptions and general license regulations of Part 71 to: (1) Address the concerns raised by public comments; (2) provide greater clarity and simplicity to these Part 71 regulations; and (3) provide increased flexibility for licensees who use these regulations. This rulemaking is scheduled to revise Part 71 to make it consistent with the IAEA transportation standards, and would be undertaken in coordination with the DOT and the Agreement States.

Specific Comments

Comment: One commenter stated that the rule will double the number of water-moderated shipments that will be needed to transport the same amount of fissile material. The commenter further stated that the increase in the number of shipments will increase the cost of shipping the material, increase the chance of injury to workers due to increased probability of loading accidents, and will increase the probability of highway accidents due to the increased number of transport vehicles on the road.

Response: The Commission agrees that there may be an increase in the number of water-moderated shipments. [See response to the general comment.] Although the staff has not been able to quantify the cost, the Commission will consider the costs for fissile material shipments in the scheduled Part 71 rulemaking as part of the regulatory analysis.

Comment: One commenter stated that the term ''unpackaged material'' may be inadequate or misunderstood.

Response: The Commission agrees. The term ''unpackaged material'' is not currently defined in Part 71. In § 71.53(a)(1), the Commission considered imposing a 15-gram limit on fissile material in an individual package. For fissile material which is not contained in discrete packages (*i.e.*, unpackaged material or bulk material), the 15-gram limit is instead applied to all of the fissile material being transported on a specific conveyance. The Commission will address this issue in a future rulemaking.

Comment: One commenter stated that changes in the emergency final rule that are not directly associated with the special moderating materials (*i.e.*, total mass per consignment), may be needed, but these should be issued only after they go through the normal rulemaking review process.

Response: As stated in the emergency final rule (at 62 FR 5910), ''[t]he Commission is promulgating this emergency final rule because the problem of regulatory safety limits over quantities and concentrations of fissile material and moderators * * * is an important safety issue meriting immediate corrective action. An accidental criticality in the public domain would very likely involve fatalities, health effects from the resulting radiation, and extensive cleanup costs.'' Consequently, for this reason, and as described in the general comment above, the changes made to Part 71 in the emergency final rule were necessary and met the good cause test of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), to dispense with notice and prepromulgation public comment as being impracticable and contrary to the public interest.

Comment: One commenter stated that because this special moderators issue was known for more than 2 years, they failed to understand why an emergency action was needed at this time.

Response: The Commission disagrees. The NRC was unaware of the regulatory defect that existed in Part 71 until it was notified by B&W in September 1996. Once the NRC became aware of the potential to affect public health and safety and the environment, the Commission deemed that prompt action was necessary to ensure that public health and safety and the environment remained protected; and hence the emergency final rule was issued.

Comment: One commenter stated that the emergency final rule addressed only a small number of specialized shipments, the size of a large freight container, and that the final rule appeared to be too conservative for smaller packages.

Response: The Commission agrees in part. The emergency final rule was too restrictive for small packages with water as the moderator. The Commission will address this issue in a future rulemaking. Also, see response to general comment.

Comment: One commenter stated that the rulemaking failed to address the value and impact of the rule change and that the rule does not consider the type and number of shipments that have been or will be impacted.

Response: The Commission agrees in part. A separate regulatory analysis was not prepared for the final rule because of its emergency nature. However, the Commission considered the values and impacts of the final rule in the discussion entitled ''Alternatives Considered'' on page 5909 of the **Federal Register** notice (62 FR 5907). The value of this rule was in preventing the possibility of an accidental criticality from occurring in the public domain during the transport of fissile material. As stated earlier, an accidental criticality could result in fatalities or other adverse health effects and would require extensive cleanup efforts. The Commission did consider that a limited number of licensees possess quantities of fissile material which could be affected by this change in regulations. However, the emergency nature of this rulemaking did not allow time for the NRC to complete as thorough a review of the type and number of impacted shipments as would occur during normal rulemaking. The NRC will address this issue in a future rulemaking. The NRC staff is currently attempting to collect cost/benefit data for this rulemaking. However, the NRC staff has had difficulty in collecting this data from affected licensees and shippers, and is working to obtain the necessary information. The NRC is requesting comments on the costs associated with shipments of fissile material made under the fissile material exemption and general license provisions of Part 71 implementing the emergency final rule.

Comment: One commenter stated that the rationale for limiting the mass of special moderating material to only 0.1 percent of the fissile mass is not clear.

Response: The Commission's basis for using the 0.1 percent limit was that it was consistent with the limit contained in the 1996 IAEA standard ST–1. The NRC believed that given the emergency nature of the rulemaking and absent sufficient time to develop a national standard, the use of an international consensus technical standard was a reasonable alternative. The NRC did depart from the standard established in ST–1 by including graphite in the list of special moderating material. The Commission will continue to impose limits on the allowable fissile mass if special moderators are present; however, the Commission will solicit comment on the continued use of a consensus technical standard in a future rulemaking. This effort will be a major rulemaking which will revise Part 71 to make it compatible with the IAEA ST–1, to revise fissile material exempt and general license provisions, and to revise other Non-IAEA provisions.

Comment: One commenter stated that it is not clear from the wording of the rule whether the 0.1 percent limit applies to all of the deuterium present in a shipment or only to the quantity that exceeds the amount of naturally occurring deuterium.

Response: The Commission intended that the 0.1 percent limit apply to all of the deuterium present in a shipment because the ability of deuterium to moderate neutrons is not dependent upon whether the deuterium is natural or created via a man-made process. The NRC will clarify this ambiguity in the rule language as part of its planned revision of Part 71.

Comment: One commenter stated that it is not so much the average hydrogen density that is important as it is the moderating effect of the material. The commenter suggested replacing ''average hydrogen density greater than that of water,'' with ''moderating effect greater than that of water.''

Response: The Commission agrees that moderating effectiveness is the parameter of concern. However, in the past, the concept of average hydrogen density has been substituted for moderator effectiveness, because the principal focus was on moderation by ordinary water. The NRC believes this terminology, which had been widely used, is still appropriate and did not change this approach in the emergency final rule. The NRC will address this terminology issue in a future rulemaking.

Comment: One commenter stated that the use of absolute moderator limitations was too restrictive. The commenter believes that waste shipments from remediation and decommissioning of nuclear facilities often contain incidental quantities of special moderating materials (*e.g.*, process materials, motors, charcoal filters, batteries, and pencils). The commenter suggested that the rule be revised to specify a quantitative limit only for those deformable materials that can form a homogenous or latticed mixture of fissile and moderating material. Further, intact components, blocks, or articles would be considered exempt from consideration as special moderating materials. The commenter also recommended that the NRC encourage the DOT to make equivalent or similar changes to 49 CFR Part 173.

Response: The Commission agrees that the original problem with beryllium and enriched uranium involved homogenous mixtures of these substances and that discrete articles, blocks, or components would be less

effective as moderating agents. The Commission will address this issue of homogenous versus heterogeneous mixture in a future rulemaking.

IV. Request for Cost Information

As stated above, the NRC has received comments on the emergency final rule which indicated that the rule had an unintended economic impact. NRC staff has attempted to solicit information on the costs associated with implementing the emergency final rule so as to quantify the unintended impact of the emergency final rule. However, staff has not been successful in obtaining this information. Consequently, the Commission is using this opportunity to explicitly request information from the public, industry, and the DOE on the costs of shipments made under the fissile material exemption and general license provisions of Part 71 prior to the emergency rule; and those costs and/or changes in costs resulting from implementation of the emergency final rule. The Commission is requesting that comments be submitted to the NRC by January 10, 2000.

V. Conclusion

The NRC staff is in the process of developing a rulemaking plan to revise Part 71 to make it compatible with the 1996 IAEA transportation standard ST–1, as well as to include other non-IAEA amendments. The staff intends to include in this rulemaking plan, proposed revisions to the fissile material exemption and general license limits, based on the ORNL recommendations.

As stated previously, the DOT deferred any rulemaking on 49 CFR 173.453 until DOT staff could review the public comments received on the NRC's emergency final rule and review the NRC's study on the fissile exemptions contained in NUREG/CR–5342. The NRC staff is currently coordinating with the DOT the resolution of these issues and the development of the rulemaking plan for the Part 71 revisions. In addition, NRC will coordinate the rulemaking plan with the Agreement States for issues that are a matter of compatibility.

Dated at Rockville, Maryland, this 20th day of October, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary for the Commission.

[FR Doc. 99–28049 Filed 10–26–99; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AE85

Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement

AGENCY: Social Security Administration.

ACTION: Interim final rules with a request for comments.

SUMMARY: We are amending our rules concerning the family maximum provisions under title II of the Social Security Act (the Act). These rules amend how we compute the total monthly benefits payable to a family when one or more of the beneficiaries are entitled to benefits on another earnings record. In certain specific circumstances, this change to our rules will increase the amount of benefits payable to some family members entitled on the record to which the family maximum applies. These final rules adopt nationwide the holding of the U.S. Court of Appeals for the First Circuit in *Parisi by Cooney* v. *Chater.* Although we are issuing these rules as interim final rules, we are also asking for public comments on this change.

DATES: These regulations are effective October 27, 1999. To be sure your comments are considered, we must receive them by December 27, 1999.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703, sent by telefax to (410) 966–2830, sent by E-mail to ''*regulations@ssa.gov*,'' or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document-Bill E. Hilton, Social Insurance Specialist, Office of Program Benefits, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–2468 or TTY (410) 966–5609; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Background

Section 203(a) of the Act establishes a limit, derived from a worker's primary insurance amount (PIA), on the total monthly benefits to which dependents or survivors may be entitled on the basis of one worker's earnings record (the family maximum). Under our previous regulations, the benefits of each claimant entitled on the worker's earnings record were reduced proportionally so that the total monthly benefits of those entitled on the record in one month did not exceed the family maximum. In calculating total monthly benefits, we included all benefits of the claimants who were entitled on the worker's record without considering whether the benefits were actually due or payable.

Our previous regulations were challenged in court by the child of a worker who was disabled. The worker and his dependent child, the plaintiff in this case, began receiving Social Security benefits on the worker's earnings record. The worker's spouse became entitled to retirement benefits (old-age benefits) based on her own earnings record. Under section 202(r) of the Act, she was deemed also to have applied for and become entitled to wife's benefits based on the worker's earnings record. The Social Security Administration (SSA) determined that because the monthly retirement benefits that she was entitled to receive on her own exceeded the amount of her monthly wife's benefits on the worker's earnings record, she could only receive payment for the retirement benefits payable on her own earnings record. However, SSA counted the benefits to which she was entitled on the worker's earnings record, but which were not actually paid to her, toward the monthly maximum amount of benefits payable on the worker's earnings record (the family maximum). Because the total monthly amount of the worker's disability benefits, the plaintiff's child's benefits, and the wife's benefits exceeded the monthly family maximum limit, SSA reduced the amount of the plaintiff's and the wife's monthly benefits.

In *Parisi By Cooney* v. *Chater,* 69 F.3d 614 (1st Cir., 1995), the court held that, when computing a reduction under the family maximum pursuant to section 203(a) of the Act, SSA should not include the monthly benefit that would otherwise be payable to a spouse if payment of that spouse's benefit is precluded (by section 202(k)(3)(A) of the Act), due to the spouse's dual entitlement to a higher benefit on the spouse's own earnings record. To

implement the Court's ruling in the First Circuit, we issued an Acquiescence Ruling (AR) on January 13, 1997 (62 FR 1792). Under this ruling (AR 97–1(1)), which applied only to claims for benefits in the First Circuit, SSA considers only the amount of monthly dependent's or survivor's benefits actually due or payable to the dually-entitled person when determining the amount of the benefit reduction because of the family maximum. As a result of the Court's decision, we reassessed our interpretation in our prior regulations and consistent with our rules on acquiescence which were designed to restore national uniformity to our programs, we have decided to adopt the court's holdings nationwide.

Explanation of Changes

We are amending § 404.403 of our regulations by adding a new paragraph (a)(5). This new paragraph specifies that, in cases involving benefits subject to reduction for both the family maximum and dual entitlement, we consider only the amount of monthly dependent's or survivor's benefits actually due or payable to the dually-entitled person when we determine how much to reduce total monthly benefits because of the family maximum. We have included examples of how we compute benefits payable in such cases.

These changes are effective for benefits payable for months beginning October 1999.

In conjunction with the revisions we are making to adopt the holdings of the *Parisi* court nationwide, we are publishing elsewhere in today's **Federal Register** a notice rescinding AR 97–1(1).

Clarity of These Regulations

Executive Order (E.O.) 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these rules, we invite your comments on how to make these rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear.
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office *http://www.access.gpo.gov/su__docs/aces/aces140.html*. It is also available on the Internet site for SSA (i.e., SSA Online): *http://www.ssa.gov/*.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. We have determined that prior public notice and comment in this instance would be contrary to the public interest since any delay in issuing these rules as final rules would unnecessarily deprive the small number of affected beneficiaries of increased benefits. Therefore, we are issuing these regulations as interim final rules. However, even though we are issuing these rules as interim final regulations, we are requesting public comments and will issue revised rules if necessary.

For the same reasons, we also find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d).

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these interim final rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998. However, as noted earlier, we invite your comments on how to make the rules easier to understand.

Regulatory Flexibility Act

We certify that these interim final regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These interim final regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: October 20, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending subpart E of part 404 of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart E—[Amended]

1. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

2. We are amending § 404.403 by adding a new paragraph (a)(5) to read as follows:

§ 404.403 Reduction where total monthly benefits exceed maximum family benefits payable.

(a) * * *

(5) When a person entitled on a worker's earnings record is also entitled to benefits on another earnings record, we consider only the amount of benefits actually due or payable on the worker's record to the dually-entitled person when determining how much to reduce total monthly benefits payable on the worker's earnings record because of the maximum. We do not include, in total benefits payable, any amount not paid because of that person's entitlement on another earnings record (see § 404.407). The effect of this provision is to permit payment of up to the full maximum benefits to other beneficiaries who are not subject to a deduction or reduction.

(See § 404.402 for other situations where we apply deductions or reductions before reducing total benefits for the maximum.)

Example 1: A wage earner, his wife and child are entitled to benefits. The wage earner's primary insurance amount is $600.00. His maximum is $900.00. Due to the maximum limit, the monthly benefits for the wife and child must be reduced to $150.00 each. Their original benefit rates are $300.00 each.

Maximum—$900.00
Subtract primary insurance amount—$600.00
Amount available for wife and child—$300.00
Divide by 2—$150.00 each for wife and child

The wife is also entitled to benefits on her own record of $120.00 monthly. This reduces her wife's benefit to $30.00. The following table illustrates this calculation.

Wife's benefit, reduced for maximum—$150.00
Subtract reduction due to dual entitlement—$120.00
Wife's benefit—$30.00

In computing the total benefits payable on the record, we disregard the $120.00 we cannot pay the wife. This allows us to increase the amount payable to the child to $270.00. The table below shows the steps in our calculation.

Amount available under maximum—$300.00
Subtract amount due wife after reduction due to entitlement to her own benefit—$30.00
Child's benefit—$270.00

Example 2: A wage earner, his wife and 2 children are entitled to benefits. The wage earner's primary insurance amount is $1,250.00. His maximum is $2,180.00. Due to the maximum limit, the monthly benefits for the wife and children must be reduced to $310.00 each. Their original rates (50 percent of the worker's benefit) are $625.00 each. The following shows the calculation.

Maximum—$2,180.00
Subtract primary insurance amount—$1,250.00
Amount available for wife and children—$930.00
Divide by 3—$310 each for wife and children

The children are also entitled to benefits on their own records. Child one is entitled to $390.00 monthly and child two is entitled to $280.00 monthly. This causes a reduction in the benefit to child one to 0.00 and the benefit to child two to $30.00. Again, the following illustrates the calculation.

Benefit payable to child 1 reduced for maximum—$310.00
Subtract reduction due to dual entitlement—$390.00
Benefit payable to child 1—$0.00
Benefit payable to child 2, reduced for maximum—$310.00
Subtract reduction for dual entitlement—$280.00
Benefit payable to child 2—$30.00

In computing the total benefits payable on the record, we consider only the benefits actually paid to the children, or $30. This allows payment of an additional amount to the wife, increasing her benefit to $625.00. This is how the calculation works.

Amount available under maximum for wife and children—$930.00
Subtract amount due children after reduction due to entitlement to their own benefits—$30.00
Amount available for wife—$900.00
Amount payable to wife (original benefit)—$625.00

Example 3: A wage earner, his wife and 4 children are entitled to benefits. The wage earner's primary insurance amount is $1,250.00. His maximum is $2,180.00. Due to the maximum limit, the monthly benefits for the wife and children must be reduced to $186.00 each. Their original rates are $625.00 each. This is how the calculation works.

Maximum—$2,180.00
Subtract primary insurance amount—$1,250.00
Amount available for wife and children—$930.00
Divide by 5—$186.00 each for wife and four children

Two children are also entitled to benefits on their own records. Child one is entitled to $390.00 monthly and child two is entitled to $280.00 monthly. This causes a reduction in the benefit to child one to $0.00 and the benefit to child two to $0.00. This calculation is as follows.

Benefit to child 1, reduced for maximum—$186.00
Subtract reduction due to dual entitlement—$390.00
Benefit payable to child 1—$0.00
Benefit to child 2, reduced for maximum—$186.00
Subtract reduction for dual entitlement—$280.00
Benefit payable to child two—$0.00

In computing the total benefits payable on the record, we disregard the $372.00 we cannot pay the children. This allows payment of an additional amount to the wife, and the two remaining children as follows:

Amount available under maximum for wife and children—$930.00
Subtract amount due child one and child two after reduction due to entitlement to their own benefits—$0.00
Amount available for wife and the other two children—$930.00
Amount payable to the wife and each of the remaining two children—$310.00

* * * * *

[FR Doc. 99–28017 Filed 10–26–99; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 26

[Docket No. 98S–1064]

Mutual Recognition of Pharmaceutical Good Manufacturing Practices Annex; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to discuss the progress of implementing the Mutual Recognition Agreement (MRA) Pharmaceutical Good Manufacturing Practices (GMP's) Annex between the United States and the European Community (EC). FDA is inviting interested persons, including industry, trade, and consumer groups.

DATES: The meeting will be held on Wednesday, December 8, 1999, from 9 a.m. to 1 p.m. Registration and requests to make an oral presentation should be received by Monday, November 22, 1999.

ADDRESSES: The meeting will be held in the Center for Drug Evaluation and Research Advisory Committee Conference Room, 5630 Fishers Lane, Rockville, MD 20857. To register and request time for an oral presentation, send or fax written material to the listed contact person.

FOR FURTHER INFORMATION CONTACT: Charles A. Gaylord, Office of International and Constituent Relations (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0909, FAX 301–443–0235.

SUPPLEMENTARY INFORMATION:

I. Background

Regulations implementing the MRA were published as a final rule in the **Federal Register** of November 6, 1998 (63 FR 60122). In the preamble to the final rule, FDA stated that it plans to hold periodic meetings with interested parties and make public summaries of key meetings held with its EU counterparts concerning implementation of the MRA (63 FR 60122 and 60127). The regulations were codified in part 26 (21 CFR part 26). FDA established Docket No. 98S–1064 to share public information concerning the implementation of part 26 (64 FR 11376, March 9, 1999). FDA has and

will continue to make information concerning the implementation of the MRA and part 26 available to the public on FDA's web site at http://www.fda.gov/oia/homepage.htm (International section).

II. The Public Meeting

The December 8, 1999, meeting is the first public meeting FDA has held on the Pharmaceutical GMP's Annex to the MRA since the final rule published. The purpose of the meeting is to provide information concerning FDA activities related to the implementation of the MRA Pharmaceutical GMP's Annex (covering human and animal drug and human biological products) and to provide an opportunity to hear comments and address concerns from interested members of the public.

The meeting agenda will include: (1) FDA presentations with a summary of the progress made in the implementation of the Pharmaceutical GMP's Annex; discussion of the two-way alert system; public access to information; the process used to determine the equivalence of the regulatory systems for pharmaceutical GMP's and work plan, (2) outside presentations, and (3) panel discussion; question and answer session.

When submitting a request for time for an oral presentation at the meeting, please indicate your topic, provide a presentation outline, and identify any presentation needs (an overhead projector, slide projector, etc.). Time allowed for accepted presenters will depend on the number of presentation requests. Registration information (including name, title, firm name, address, telephone, and fax number) and requests for presentation (including topic and outline) should be submitted to the listed contact person by November 22, 1999. Space is limited, therefore, interested parties are encouraged to register early. Special accommodations due to disability should be submitted at least 7 days in advance.

Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: October 19, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–27973 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC–2012a; FRL–6457–1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Stage II Gasoline Vapor Recovery and RACT Requirements for Major Sources of VOC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the District of Columbia State Implementation Plan (SIP). These revisions amend the requirements for all major volatile organic compounds (VOC) sources to implement reasonably available control technology (RACT) in the District of Columbia. These revisions also revise Stage II gasoline vapor recovery requirements. The intended effect of this action is to approve the revisions to the District's VOC regulations because they strengthen the SIP. This action is being taken in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on December 13, 1999 without further notice, unless EPA receives adverse comment by November 26, 1999. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of the SIP Revisions

On June 21, 1985, the Mayor of the District of Columbia submitted a formal revision of the District of Columbia SIP. This 1985 submittal consisted of D.C. Law 5–165, ''The District of Columbia Air Pollution Control Act of 1984''. This law covered a variety of air pollution control programs including RACT requirements for major sources of VOC and Stage II gasoline vapor recovery requirements.

On October 22, 1993, the District of Columbia submitted a revision to its SIP for VOC RACT to comply with the RACT fix-up and catch-up requirements of the Clean Air Act (the Act). This 1993 submittal consisted of D.C. Law 10–24, ''Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Amendment Act of 1993''. The revision consists of new regulations which require sources that emit or have the potential to emit 50 tons per year (tpy) or more of VOC in the District ozone nonattainment area to comply with the RACT requirements, as well as amendments to Title 20 District of Columbia Municipal Regulations (DCMR) Chapter 7—Volatile Organic Compounds.

On April 8, 1993, the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Environmental Regulation Administration submitted a negative declaration for 25 source categories of VOC covered by control technique guideline documents (CTG) issued prior to November 15, 1990. A negative declaration is a certification that no sources exist in the District for specified source categories.

On September 4, 1997, the District of Columbia submitted a supplement to its October 22, 1993, VOC RACT SIP revision. This supplement included a negative declaration for additional categories of VOC sources covered by CTGs prior to November 15, 1990 and non-CTG major sources, to certify that no such sources are located in the District.

On December 16, 1998, the District of Columbia Department of Health submitted a revision to its SIP regarding RACT for solvent cleaning (degreasing) activities and offset lithography printing operations. Amendments to Appendix 5–1, *Test Methods for Sources of Volatile Organic Compounds* and to the definitions and abbreviations were also included in this submittal.

Portions of the June 21, 1985 and October 22, 1993 submittal have already been approved into the District's SIP. These include most of the definitions in Section 199 of Title 20 of the DCMR, the monitoring, reporting and record keeping requirements in Sections 500, 501, and 502 applicable to the VOC sources covered under *Chapter 7—Volatile Organic Compounds, and Section 710—Engraving and Plate Printing.* The deficiencies previously

identified by EPA in the District's VOC RACT regulations have either been rendered moot by the submittal of a negative declaration or corrected by the District of Columbia in its October 22, 1993 submittal.

For *Section 701—Storage of Petroleum Products, Section 702—Control of VOC Leaks from Petroleum Refinery Sources* and *Section 709—Cutback Asphalt of Title 20 of the DCMR, Chapter 7—Volatile Organic Compounds,* the District decided to take no action on the deficiencies identified by EPA because the District has determined that there are no sources located in the District subject to these regulations. A negative declaration has been submitted by the District of Columbia that covers these sources categories. If new major sources in these source categories were to locate in the District, they would be subject to the SIP's more stringent provisions for New Source Review (NSR).

Chapter 5—Source Monitoring and Testing of Title 20 of the DCMR has been amended by the District of Columbia in its October 22, 1993 and December 16, 1998 submittals. The District has amended *Section 500—Records and Reports* by adding subsections 500.6 and 500.7 to address EPA's requirement that owners and operators of stationary sources must maintain written records for at least two years. The District of Columbia has also amended *Section 502—Sampling Test and Monitoring* by adding subsections 503.13, 502.17 and appendix No. 5 to address the federal requirement for specifying the applicable test methods for sources of VOC.

Title 20 of the DCMR, *Chapter 7—Volatile Organic Compounds* has been amended by the District of Columbia in their October 22, 1993 submittal. The District of Columbia amended *Section 703—Terminal Vapor Recovery—Gasoline or Volatile Organic Compounds* regarding bulk gasoline plants and bulk gasoline terminals by adding subsection 703.7 and by modifying subsections 703.1 and 703.4. The District also added subsection 703.6 regarding leaks from gasoline tank trucks and vapor collection systems.

The October 22, 1993 submittal amended requirements in *Section 705—Stage II Gasoline Vapor Recovery* that established Stage II gasoline vapor controls to be applied to any facility that dispenses more than 10,000 gallons per month or 50,000 gallons per month in the case of independent small businesses marketers. Language was also incorporated to indicate that applicability will be based upon the average monthly throughput determined for the two year period prior to November 15, 1992 and that any periods of facility inactivity would not be included. The regulation stated the average monthly throughput shall be calculated using a thirty day rolling average. Also, the term ''selling'' was replaced in the regulation with the term ''dispensing''. EPA has determined that the District of Columbia has complied with section 182 (b)(3) of the Act and is approving the revised *Section 705—Stage II Gasoline Vapor Recovery* as a revision to the District of Columbia's SIP.

The December 16, 1998 submittal amended Chapter 1 by adding and revising definitions; Chapter 5 by adding test methods for degreasing and offset lithography to Appendix 5–1, and Chapter 7 by adding new sections 708.9 through 708.12 and 716 to regulate solvent cleaning (degreasing) activities and offset lithography printing operations.

II. Final Action

EPA is approving revisions to the District of Columbia SIP submitted on June 21, 1985, October 22, 1993, and December 16, 1998. The revisions to Title 20 DCMR, *Chapter 7—Volatile Organic Compounds* consist of the District's revised Stage II gasoline vapor recovery requirements and RACT requirements for major sources of VOC.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 13, 1999 without further notice unless EPA receives adverse comment by November 26, 1999. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

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 EPA complies by consulting, E.O. requires EPA to 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. On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on 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, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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 final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of 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 a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve amendments to the District of Columbia's VOC RACT rules and its Stage II Vapor Recovery Program must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 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, Hydrocarbons, Incorporation by reference, Ozone.

Dated: October 5, 1999.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart J—District of Columbia

2. In § 52.470, the entries for Chapter 1, Section 199; Chapter 5, Section 599; all of Chapter 7; and all of Chapter 9 in the ''EPA Approved Regulations for the District of Columbia'' table in paragraph (c) are revised. The entry for Chapter 5, Sections 500.6 is added to this table after the existing entry for Chapter 5, Sections 500.4 and 500.5. The entry for Chapter 5, Sections 502.17 is added to this table after the existing entry for Chapter 5, Sections 502.1 through 502.15. The entry for Appendices is added to this table after the revised entry for Chapter 9. The amendments read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Chapter 1—General				
* *	*	*	*	* *
Section 199	Definitions and Abbreviations	10/02/98	10/27/99 [Insert Federal Register cite]	Added/revised definitions, effective 03/15/85: condensate, dry cleaning facility, external floating roof, petroleum refinery complex, solvent recovery dryer, vapor mounted seal, waxy heavy pour crude oil effective 10/02/98: Director, volatile organic compounds
* *	*	*	*	* *
Chapter 5—Source Monitoring and Testing				
* *	*	*	*	* *
Section 500.6	Records and Reports	09/30/93	10/27/99 [Insert Federal Register cite]	
* *	*	*	*	* *
Section 502.17	Sampling Tests, and Measurements.	09/30/93	10/27/99 [Insert Federal Register cite]	
* *	*	*	*	* *
Section 599	Definitions and Abbreviations	09/30/93	10/27/99 [Insert Federal Register cite]	
* *	*	*	*	* *
Chapter 7—Volatile Organic Compounds				
Section 700	Organic Solvents	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 701.1 through 701.3	Storage of Petroleum Products	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 702	Control of VOC leaks from Petroleum Refinery Equipment.	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 703.2, 703.3	Terminal Vapor Recovery—Gasoline or VOCs.	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 703.1, 703.4 through 703.7.	Terminal Vapor Recovery—Gasoline or VOCs.	09/30/93	10/27/99 [Insert Federal Register cite].	
Section 704	Stage I—Vapor Recovery	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 705.4 through 705.14	Stage II—Gasoline Vapor Recovery.	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 705.1 through 705.3	Stage II—Gasoline Vapor Recovery.	09/30/93	10/27/99 [Insert Federal Register cite].	
Section 706	Petroleum dry Cleaners	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 707	Perchloroethylene Dry Cleaning.	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 708.1 through 708.8	Solvent Cleaning	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 708.9 through 708.12	Solvent Cleaning	10/02/98	10/27/99 [Insert Federal Register cite].	
Section 709	Asphalt Operations	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 710	Engraving and Plate Printing	03/15/85	8/4/92 57 FR 34249.	
Section 711	Pumps and Compressors	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 712	Waste Gas Disposal from Ethylene Producing Plant.	03/15/85	10/27/99 [Insert Federal Register cite].	
Section 713	Waste Gas Disposal from Blow-down Systems.	03/15/85	10/27/99 [Insert Federal Register cite].	

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 715	Reasonably Available Control Technology.	09/30/93	10/27/99 [Insert Federal Register cite].	
Section 716	Offset Lithography	10/02/98	10/27/99 [Insert Federal Register cite].	
Section 799	Definitions and Abbreviations	10/02/98	10/27/99 [Insert Federal Register cite].	
* *	*	*	*	* *
Chapter 9—Motor Vehicle Pollutants, Lead, Odors, and Nuisance Pollutants				
Section 904	Oxygenated Fuels	09/30/93	1/26/95 60 FR 5134.	
Appendices				
Appendix 1	Emission Limits for Nitrogen Oxide.	03/15/85	8/28/95 60 FR 44431.	
Appendix 2	Table of Allowable Particulate Emissions from Process Sources.	03/15/85	8/28/95 60 FR 44431.	
Appendix 3	Allowable VOC Emissions Under Section 710.	03/15/85	8/28/95 60 FR 44431.	
Appendix 5	Test Methods for Sources of Volatile Organic Compounds.	10/02/98	10/27/99 [Insert Federal Register cite].	
* *	*	*	*	* *

3. Section 52.478 is added to read as follows:

§ 52.478 Rules and Regulations.

(a) On April 8, 1993, the District of Columbia submitted a letter to EPA declaring that there are no sources located in the District belonging to the following VOC categories:

(1) Automobile and light-duty truck manufacturing;

(2) Coating of cans, coils, paper, fabric and vinyl, metal furniture, large appliances, magnet wire, miscellaneous metal parts and products, and flatwood paneling;

(3) Storage of petroleum liquids in fixed-roof tanks and external floating-roof tanks;

(4) Bulk gasoline plants and terminals;

(5) Petroleum refinery sources;

(6) Petroleum refinery equipment leaks;

(7) Manufacture of synthesized pharmaceutical products, pneumatic rubber tires, vegetable oil, synthetic organic chemicals (fugitive VOCs and air oxidation), and high density polyethylene, polypropylene and polystyrene resins;

(8) Graphic arts systems;

(9) Storage, transportation and marketing of VOCs (fugitive VOCs from oil and gas production and natural gas and gasoline processing).

(b) On September 4, 1997, the District of Columbia submitted a letter to EPA declaring that there are no sources located in the District which belong to the following VOC categories:

(1) Coating of plastic parts (business machines and other);

(2) Aerospace;

(3) Shipbuilding and repair;

(4) Automobile refinishing;

(5) Industrial wastewater;

(6) Distillation or reactor or batch processes in the synthetic organic chemical manufacturing industry;

(7) Volatile organic storage;

(8) Wood furniture coatings;

(9) Offset lithography;

(10) Clean-up solvents.

[FR Doc. 99–26849 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA022–4089a; FRL–6456–4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Pennsylvania; Control of Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the section 111(d) plan submitted by the Commonwealth of Pennsylvania for the purpose of controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills. The plan was submitted to fulfill requirements of the Clean Air Act (the Act). The Pennsylvania plan establishes emission limits for existing Kraft Pulp Mills, and provides for the implementation and enforcement of those limits.

DATES: This final rule is effective December 27, 1999 unless by November 26, 1999 adverse or critical comments are received. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public the rule will not take effect.

ADDRESSES: Comments may be mailed to Harold A. Frankford, Office of Air Programs, Mail Code 3AP20, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania

Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108, or by e-mail at frankford.harold@epamail.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, wherever ''we'', ''us'', or ''our'' is used, we mean EPA. This portion of this document poses and provides responses to the following questions:

What Action is EPA Taking?
What does the plan consist of?
What EPA Administrative Requirements was Pennsylvania required to meet?
What actions did the State take to satisfy these requirements?
What is EPA's Evaluation?

What Action Is EPA Taking?

We are approving Pennsylvania's section 111(d) plan for the control of total reduced sulfur (TRS) emissions from kraft pulp mills.

What Does the Plan Consist of?

Pennsylvania's section 111(d) plan consists of the following elements:

1. Emissions Standards for five source points: recovery furnaces, lime kilns, digesters, evaporators, smelt dissolving tanks. Among the recovery furnaces, there are emissions standards for two separate designs. These standards are described in Section 129.17(a) of Pennsylvania's air quality control regulations. The standards are:

Source point	PPM (volume) dry	Condition
Recovery furnace—old construction design (without welded wall or membrane wall construction or emission-control designed air systems).	20	12 hour average—corrected to 8% oxygen by volume
Recovery furnace—new design (with both welded wall or membrane wall construction or emission-control designed air systems).	5	12 hour average—design corrected to 8% oxygen by volume
Lime kiln (a rotary or fluosolid unit used to calcine calcium carbonate into calcium oxide)	20	Never to be exceeded—corrected to 10% oxygen by volume
Digester systems (continuous or batch process for cooking wood chips in sodium hydroxide and sodium sulfide to produce cellulosic material).	5	Never to be exceeded
Multiple effect evaporator system (vapor heads, heating elements, hot wells, condensers and associated equipment used to concentrate spent pulp mill cooking liquid).	5	Never to be exceeded
Smelt dissolving tank (the vessel used to produce an aqueous solution from the molten mixture discharged from the floor of a recovery furnace).	20	Never to be exceeded

2. TRS emissions are to be monitored continuously at the recovery furnaces, digester systems, and multiple effect evaporator systems unless emissions are incinerated at 1,200°F.

3. Provisions for compliance testing: provisions are found in Pennsylvania Regulations 129.17(b), 139.13(3) & (4), 139.15, 139.102(3), and 139.108 (except for 1994 amendment—parenthetical expression at end of § 139.108(1)). These provisions cross-reference EPA Methods 16, 16A and 16B found in 40 CFR part 60, Appendix A. (Last revision: May 20, 1986 (51 FR 18545) for emissions monitoring, February 14, 1990 (55 FR 5212) for test methods and procedures.)

4. Compliance schedule: All sources except for new source recovery furnaces were to be in final compliance with Section 129.17(a) by May 7, 1991. All new source recovery furnaces were to be in final compliance with Section 129.17(a) by May 7, 1994.

5. Identification of kraft pulp mills subject to this plan: Pennsylvania has identified three sources which are subject to the plan's provisions:

Appleton Papers—Blair County
P.H. Gladfelter—York County
Penntech Papers—Elk County

6. Expected reduction in TRS Emissions: Pennsylvania estimates that TRS emissions from the three kraft pulp mills totaled about 640 tons per year. Pennsylvania further states that the requirements of the State TRS regulations would reduce TRS emissions by about 80% (640 tons/year), thus reducing total TRS emissions to about 120 tons per year.

What EPA Administrative Requirements Was Pennsylvania Required To Meet?

Public Hearings, as per 40 CFR 60.23(d)

Submittal by designated official, as per 40 CFR 60.23(a)(2)

Evidence of legal authority, as per 40 CFR 60.26

What Actions Did the State Take To Satisfy These Requirements?

1. Hearing and Submittal Requirements

Original submittal:

Public Hearings held: 7/24/97

Submitted by designated official: 7/19/88

Revision No. 1:

Public Hearings held: 9/21/89, 9/25/89, 9/27/89

Submitted by designated official: 1/11/91

Revision No. 2:

Public Hearings held: 7/25/90, 7/30/90, 8/1/90

Submitted by designated official: 8/15/91

2. Evidence of Legal Authority

Pennsylvania cites Section 5 of the Pennsylvania Air Pollution Control Act (35 P.S. § 4005).

What Is EPA's Evaluation?

Prior to Pennsylvania's July 19, 1988 formal submittal, we evaluated a draft submittal dated December 31, 1985 under the parallel processing procedures. In a notice of proposed rulemaking (NPR) published on September 4, 1987 (52 FR 33605), we announced that we would approve Section 129.17 if Pennsylvania's rules establish a 12-hour averaging limit which is consistent with the requirements of 40 CFR part 60. During the public comment period, we had received comments indicating that Pennsylvania's proposed standard for lime kilns had not contained a 10% correction factor for oxygen by volume as allowed by 40 CFR part 60, Appendix B (the new source performance standard for kraft pulp mills).

The 1991 provisions of Section 129.17 and Chapter 139 incorporate the revisions suggested by the commenters of EPA's parallel process NPR. Since Pennsylvania's current version of Section 129.17 and Chapter 139 differs than that on which our proposal action was based, we are evaluating Pennsylvania current TRS requirements

in a direct final rulemaking action and concurrent proposed rulemaking action.

We have determined that Pennsylvania's current limits for the various individual process facilities listed in Section 129.17(a) are in compliance with EPA guidelines except for the smelt dissolving tanks. Pennsylvania's standard for smelt dissolving tanks is 20 ppm, while the NSPS limit is 16 ppm. Nevertheless, EPA considers Pennsylvania's 20 ppm limit to be a reasonable limit for existing sources.

Section 129.17(b)(3) allows Pennsylvania to use data from alternate monitoring systems in order to determine compliance with the applicable emissions standards set forth in Section 129.17(a). According to Pennsylvania's November 7, 1987 proposed rulemaking package, this provision was meant to provide the targeted sources with flexibility to obtain compliance. We do not interpret this provision as giving Pennsylvania the discretion to approve an alternative monitoring system for the targeted sources. Rather, we interpret the State's discretion as being limited to the data obtained from alternative systems prescribed in Chapter 139. Therefore, we have determined that the provision set forth in Section 129.17(b)(3) meets the applicable Agency requirements. However, the use of any alternate monitoring system other than that which is prescribed in Chapter 139 of Pennsylvania's regulations must be approved by both the Pennsylvania Department of Environmental Protection (PADEP) and EPA.

II. Final Action

Based upon the rationale discussed above and in further detail in the Technical Support Document (TSD) associated with this action, we are approving the Commonwealth of Pennsylvania's Kraft Pulp Mill 111(d) plan for the control of TRS emissions from affected facilities. Copies of the TSD are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** portion of this document.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve Pennsylvania's Section 111(d) plan for controlling TRS emissions from kraft pulp mills if adverse comments are filed. This rule will be effective on December 27, 1999 without further notice unless we receive adverse comment by November 26, 1999. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

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 EPA complies by consulting, E.O. requires EPA to 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. On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on 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, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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 final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of 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 approvals under section 111(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 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 a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning section 111(d) plans on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. 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 December 27, 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 to approve Pennsylvania's section 111(d) plan controlling TRS emissions from existing kraft pulp mills may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Total reduced sulfur.

Dated: September 30, 1999.

Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

Subpart NN—Pennsylvania

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

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

2. Under the following undesignated centerhead, § 62.9611 is added to read as follows:

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

* * * * *

§ 62.9611 Identification of plan—Pennsylvania

(a) Title of Plan. Commonwealth of Pennsylvania Plan under section 111(d) for Designated Pollutants from Existing Facilities—Kraft Pulp Mills.

(b) The plan was officially submitted by the Pennsylvania Department of Environmental Resources on July 19, 1988, with revisions submitted on January 11, 1991, and August 15, 1991.

(c) Identification of sources. The Plan includes the following kraft pulp mills:

(1) Appleton Papers—Roaring Spring, Blair County

(2) P.H. Gladfelter—Spring Grove, York County

(3) Penntech Papers—Johnsonburg, Elk County

[FR Doc. 99–26853 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 64, No. 207
Wednesday, October 27, 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 Part 30

[Docket No. PRM–30–62]

Employee Protection Training; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking dated August 13, 1999, that was filed with the Commission by the Union of Concerned Scientists. The petition was docketed by the NRC on August 18, 1999, and has been assigned Docket No. PRM–30–62. The petitioner requests that the NRC amend its regulations concerning deliberate misconduct to require licensees to provide specific training to management, i.e., first line supervisors, managers, directors, and officers, on their obligations under the employee protection regulations. The petitioner believes that the amendment would prevent nuclear energy management from using ''ignorance of the law'' as an excuse for a violation and allow the NRC to take enforcement actions against individuals who violate the employee protection regulations.

DATES: Submit comments by January 10, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, 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 a.m. and 4:15 p.m. Federal workdays.

For a copy of the petition, write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *cag@nrc.gov).*

The Petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7162 or Toll Free: 1–800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Petitioner

The Union of Concerned Scientists (UCS) has had a nuclear safety program for over two decades and continue to work with nuclear workers—including employees of the Nuclear Regulatory Commission—who raise safety concerns. The UCS notes examples of anonymous concerns received by its organization that have led to significant improvements in safety levels, e.g., concerns that UCS forwarded to the State of Maine in December 1996 that led to the identification of faults in the safety analyses for the Maine Yankee plant. Other concerns received by UCS and presented to the NRC in January 1998 led to the discovery of serious defects in the ice condenser containment at the Donald C. Cook nuclear plant.

Grounds for Interest

The petitioner states that on May 14, 1996 (61 FR 24336) the NRC issued a policy statement that set forth its expectation that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious environment in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. The responsibility for maintaining such an environment rests with each NRC licensee, as well as with contractors, subcontractors and employees in the nuclear industry. This policy statement is applicable to NRC regulated activities of all NRC licensees and their contractors and subcontractors.

The petitioner also notes that Title 10 of the Code of Federal Regulations contains regulations to protect such conscientious workers from discrimination. The petitioner asserts that these regulations are frequently violated, yet the individuals determined by the NRC staff as being responsible for these illegal activities are seldom held accountable.

Fitness-for-Duty Rule

The petitioner states that 10 CFR Part 26 that contains the ''Fitness-For-Duty'' regulations requires nuclear workers to be free from impairment by drugs and alcohol. The petitioner states that of the 111 individual enforcement actions listed in Attachment 1 to the petition, 17 involved violation of the fitness-for-duty rule. The petitioner stated that the NRC did not take actions against the licensees for these cases, but limited its sanctions to those individuals responsible for the violations.

To the contrary, the petitioner states that NRC treats violations of employee protection regulations differently. As an example, in Attachment 2 to the petition, the petitioner states that when the NRC establishes that a violation of an employee protection regulation has occurred such as the May 20, 1999, enforcement action that the NRC imposed against FirstEnergy, the NRC seldom takes enforcement action against the individuals responsible for the violations, but limits its enforcement actions to the licensees.

The petitioner believes that nuclear safety demands that workers not be impaired by drug and alcohol and that when any worker violates the fitness-for-duty rule, that individual should be held accountable. The petitioner believes it is equally important that nuclear workers feel free to raise safety issues without fear of discrimination and believes that when a nuclear worker violates the employee protection

regulations, that individual should be held accountable.

The petitioner offers that the NRC holds individuals who violate the fitness-for-duty rule accountable. However, the agency is not holding individuals who violate the employee protection regulations accountable. The petitioner is attempting to remedy this inequity by this petition for rulemaking. The petitioner believes that by requiring licensees to train management on their obligations under the employee protection regulations, the NRC staff would no longer be able to claim that individuals were unaware that their actions were illegal.

Supporting Information

The petitioner states that ''10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150 each contain a regulation against deliberate misconduct by employees and/or contractors of NRC licensees.'' The petitioner specifically set out in the petition the text from 10 CFR 50.5 to reflect the scope and content of the deliberate misconduct regulations.

The petitioner included three attachments to the petition that summarize the enforcement actions that NRC imposed against individuals, nuclear power plant owners, and non-nuclear power plant licensees between March 1996 and August 5, 1999. The enforcement data contained in the attachments were obtained from the website of the NRC Office of Enforcement, *http://nrc.gov.OE/*.

Sanctions Against Individuals

Attachment 1 to the petition indicates that NRC took enforcement action against individuals 111 times between March 1996 and August 5, 1999. The petitioner notes that only four cases involved enforcement actions taken by the NRC because the individual discriminated against nuclear workers raising safety concerns. The petitioner states that Federal regulations protect nuclear workers from being discriminated against for raising safety concerns and cites as an example the text of 10 CFR 50.7, Employee Protection, that applies to workers at nuclear power plants. The petitioner further states that 10 CFR contains equivalent regulations that apply to workers at non-power nuclear facilities.

The petitioner specifies that the four cases listed in Attachment 1 to the petition where NRC imposed enforcement action against individuals for their discriminatory actions against nuclear workers clearly demonstrate that the NRC can take such actions. However, according to the petitioner, the evidence is just as clear that the NRC seldom imposes enforcement actions against individuals even when it concludes that individuals were responsible for illegal discriminatory actions.

Sanctions Against Nuclear and Non-Nuclear Licensees

Attachment 2 to the petition lists eighteen enforcement actions imposed against nuclear power plant owners for discrimination against nuclear power plant workers. The petitioner states that in 12 of the 18 enforcement actions against the owners, the NRC also imposed a civil penalty. The penalties ranged between $55,000 and $200,000 with the average being $104,417.

Attachment 3 to the petition lists five enforcement actions imposed against non-nuclear power plant licensees for discrimination against workers. The petitioner states that in four of the five enforcement actions against non-nuclear plant licensees, the NRC also imposed a civil penalty. The penalties ranged between $4,400 and $10,000 with the average being $7,800.

The petitioner states that from March 1996 to August 5, 1999, the NRC took 23 enforcement actions against licensees for discriminating against nuclear workers. The petitioner notes that before taking the enforcement actions and imposing the fines, the NRC staff's investigations determined who did what to whom. According to the petitioner, the NRC concluded that the ''what'' violated the employee protection regulations of 10 CFR.

The petitioner states that despite identifying ''who'' was responsible for violating Federal regulations in the 23 cases, the NRC staff only took enforcement action against individuals on four occasions. The petitioner further adds that the fact that the NRC took actions against four individuals demonstrates that it has the statutory authority to do so and in fact revised its regulations on January 13, 1998 (63 FR 1890) to extend the Deliberate Misconduct Rule to six categories of persons. These categories included applicants for NRC licenses; applicants for, or holders of, certificates of compliance; applicants for, or holders of, early site permits, standard design certifications, or combined licenses for nuclear power plants; applicants for, or holders of, certificates of registration; applicants for, or holders of, quality assurance program approvals; and the employees, contractors, subcontractors and consultants of the above five categories of persons.

10 CFR 2.206 Petition

On May 25, 1999, the petitioner filed a petition with the NRC under 10 CFR 2.206. The petition requested that the individual who was the Radiation Protection Manager at the Perry Nuclear Power Plant be banned by the NRC from participation in licensed activities at and for any nuclear power plant for a period of at least five years.

An NRC News Announcement RIII–99–31 dated May 24, 1999, stated that an NRC investigation found that the Radiation Protection Manager at the Perry Nuclear Power Plant discriminated against a supervisor in 1997 for testifying in a United States Department of Labor hearing involving possible discrimination against another plant worker. The Announcement stated that the NRC has banned individuals in the recent past for five years for retaliation.

By letter dated June 23, 1999, the NRC denied the petition. According to the letter, the NRC stated that while consideration was given to taking enforcement action against the manager, it determined that the manager was not familiar with the requirements of 10 CFR 50.7. The NRC issued the manager a letter stating that the manager's actions contributed to the enforcement action against FirstEnergy. Additionally, the letter informed the manager that involvement in a future discrimination violation could result in enforcement action against the manager. The NRC proposed a $110,000 fine against FirstEnergy Nuclear Operating Company, for violation of the employee protection requirements of 10 CFR 50.7.

Conclusion

The petitioner states NRC's decision regarding its 2.206 petition makes little sense. The petitioner asserts that NRC inaction endorses the view that ignorance of the law is an excuse—at least when it comes to violating regulations promulgated to protect nuclear workers from discrimination. The petitioner noted that when the NRC revised the Deliberate Misconduct rule in January, 1998, it stated—

> The objective of the rule is to explicitly put those persons encompassed by this modification of the Deliberate Misconduct Rule on notice that enforcement action may be taken against them for deliberate misconduct or deliberate submission of incomplete or inaccurate information, in relation to NRC licensed activities. Under Section 234 of the Atomic Energy Act, the Commission may impose civil penalties on any person who violates any rule, regulation, or order issued under any one of the enumerated provisions of the Act, or who commits a violation for which a license may

be revoked. The enforcement actions that may be taken, including orders limiting activities of wrongdoers in the future and civil penalties, will serve as a deterrent to others throughout the industry. [emphasis added by Petitioner]

The petitioner states that the NRC staff believes that people will be aware that the deliberate misconduct regulation was expanded to apply to them, but that these same people will be oblivious to all of the other regulations that define proper conduct. Further, the petitioner believes that rather than debating whether the NRC staff can really excuse illegal activities of nuclear industry management based on their ignorance of Federal regulations, UCS, the petitioner, is opting for this petition for rulemaking change to disallow the ignorance excuse.

Dated at Rockville, Maryland, this 21st day of October, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–28050 Filed 10–26–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–183–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Aerospatiale Model ATR42 and ATR72 series airplanes. This proposal would require modification of the alerting capability of the anti-icing advisory system to improve crew awareness of icing conditions, replacement of the median wing de-icing boots with extended de-icing boots, and installation of de-icing boots on the metallic wing leading edge. 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 degradation of lift and drag characteristics in prolonged severe icing exposure, which could result in loss of lift and consequent reduced controllability of the airplane.

DATES: Comments must be received by November 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–183–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–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Aerospatiale Model ATR42 and ATR72 series airplanes. The DGAC advises that, in several instances, crews have failed to activate the de-icing boots, despite the fact that ice accretion had been detected by the Anti-icing Advisory System (AAS). This failure to activate the de-icing boots may indicate that the current design of the AAS may not provide adequate alerting to the flight crew in all instances of ice accretion. In addition, the existing wing de-icing boots may not be adequate to protect the airplane during prolonged exposure to severe icing conditions. Such prolonged exposure could result in degradation of lift and drag characteristics, which could result in loss of lift and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Aerospatiale has issued Service Bulletins ATR42–30–0064, Revision 1, dated May 7, 1999, and ATR42–30–0063, Revision 1, dated May 7, 1999 (for Model ATR42 series airplanes); and Service Bulletins ATR72–30–1032, Revision 1, dated May 7, 1999, and ATR72–30–1033, Revision 1, dated May 7, 1999 (for Model ATR72 series airplanes). These service bulletins describe procedures for replacing the median wing de-icing boots with extended de-icing boots and installing de-icing boots on the metallic wing leading edge.

Additionally, Aerospatiale has issued Service Bulletin ATR42–30–0065, Revision 1, dated May 17, 1999 (for Model ATR42 series airplanes), and Service Bulletin ATR72–30–1034, Revision 1, dated May 17, 1999 (for Model ATR72 series airplanes). These service bulletins describe procedures for modifying the ICING light flashing logic of the AAS.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French

airworthiness directives 1999–165–077(B), dated April 21, 1999 (for Model ATR42 series airplanes), and 1999–166–041(B), dated April 21, 1999 (for Model ATR72 series airplanes), in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 140 airplanes of U.S. registry would be affected by this proposed AD.

The proposed replacement of existing de-icing boots and the new installation of de-icing boots would take approximately 75 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $5,500 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,400,000, or $10,000 per airplane.

The proposed modification of the alerting capability of the Anti-icing Advisory System (AAS) would take approximately 30 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,000 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $532,000, or $3,800 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospatiale: Docket 99–NM–183–AD.

Applicability: All Model ATR42 and ATR72 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of lift and drag characteristics in prolonged severe icing exposure, which could result in loss of lift and consequent reduced controllability of the airplane, accomplish the following:

Boot Replacement/Installation

(a) Within 30 months after the effective date of this AD, replace the median wing de-icing boots with extended de-icing boots in accordance with Aerospatiale Service Bulletin ATR42–30–0063, Revision 1, dated May 7, 1999 (for Model ATR42 series airplanes), or ATR72–30–1032, Revision 1, dated May 7, 1999 (for Model ATR72 series airplanes); as applicable.

(b) Within 30 months after the effective date of this AD, install de-icing boots on the metallic wing leading edge in accordance with Aerospatiale Service Bulletin ATR42–30–0064, Revision 1, dated May 7, 1999 (for Model ATR42 series airplanes), or ATR72–30–1033, Revision 1, dated May 7, 1999 (for Model ATR72 series airplanes); as applicable.

Modification

(c) Within 30 months after the effective date of this AD, modify the ICING light flashing logic of the Anti-icing Advisory System (AAS), in accordance with Aerospatiale Service Bulletin ATR42–30–0065, Revision 1, dated May 17, 1999 (for Model ATR42 series airplanes), or Aerospatiale Service Bulletin ATR72–30–1034, Revision 1, dated May 17, 1999 (for Model ATR72 series airplanes); as applicable.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directives 1999–

165–077(B), dated April 21, 1999 (for Model ATR42 series airplanes), and 1999–166–041(B), dated April 21, 1999 (for Model ATR72 series airplanes).

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28080 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–209–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90 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 McDonnell Douglas Model MD–90 series airplanes. This proposal would require a one-time detailed visual inspection to detect fatigue cracking of certain longerons and the attaching frames of the lower left nose; and repair, if necessary. The proposal also would require installation of a preventive modification. This proposal is prompted by several reports of fatigue cracking of certain longerons and the attaching frames. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the fuselage, and consequent loss of pressurization of the airplane.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–209–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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Carl Fountain, Aerospace Engineer, Airframe Branch, ANM–120L; FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5222; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–209–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–209–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracking of the fuselage longerons-to-frame attachment holes occurred on three McDonnell Douglas Model DC–9 series airplanes. The fatigue cracking was found between longerons 22 though 26 on the left side at stations Y=160.000 and Y=200.000. These airplanes had accumulated between 59,110 and 74,445 total flight cycles. The cracking of the longeron segments has been attributed to fatigue. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the fuselage, and consequent loss of pressurization of the airplane.

The fuselage longerons-to-frame attachments of McDonnell Douglas Model MD–90 series airplanes are similar to those of the affected McDonnell Douglas Model DC–9 series airplanes. Therefore, the Model MD–90 may be subject to the same unsafe condition.

Other Relevant Rulemaking

On November 20, 1998, the FAA issued AD 98–24–33, amendment 39–10919 (63 FR 66739, December 3, 1998), applicable to certain McDonnell Douglas DC–9 and MD–88 series airplanes, to require a one-time visual inspection to detect fatigue cracks between longerons 22 through 26 and the attaching frames, and corrective action, if necessary. However, this proposed AD would not affect the current requirements of that previously issued AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–53–004, dated August 20, 1998, which describes procedures for a one-time detailed visual inspection to detect cracking of longerons 22 through 26 and the attaching frames at stations Y=160.000 and Y=200.000 of the lower left nose, and repair, if necessary. The service bulletin also provides procedures for a preventive modification (i.e., installation of clips and doublers under longeron flanges and shims longeron) to relieve preloads.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 7 airplanes of the affected design in the worldwide fleet. The FAA estimates that 6 airplanes of U.S. registry would be affected by this proposed AD.

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

It would take approximately 6 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Parts would cost approximately $312 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $4,032, or $672 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–209–AD.

Applicability: Model MD–90 series airplanes, as listed in McDonnell Douglas Service Bulletin MD90–53–004, dated August 20, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of longerons 22 through 26 and the attaching frames, which could result in reduced structural integrity of the fuselage, and consequent loss of pressurization of the airplane; accomplish the following:

Inspection and Modification

(a) Prior to the accumulation of 40,000 total landings, or within 24 months after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection to detect cracking of longerons 22 through 26 (inclusive) and the respective attaching frames at station frames Y=160.000 and Y=200.000 of the left lower nose, in accordance with McDonnell Douglas Service Bulletin MD90–53–004, dated August 20, 1998.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no cracking is detected: Prior to further flight, install clips and doublers under the longeron flanges and shim the longerons in accordance with the service bulletin.

(2) If any cracking is detected: Prior to further flight, repair the cracks and install clips and doublers under the longeron flanges and shim the longerons in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28079 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 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 McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the main landing gear (MLG) piston, and repair, if necessary. This proposal is prompted by reports of MLG failures during towing of in-service airplanes due to fatigue cracks. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of MLG pistons, which could result in failure of the pistons, and

consequent damage to the airplane structure and injury to flight crew, passengers, or ground personnel.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Carl Fountain, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5222; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–210–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–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of main landing gear (MLG) piston failures during towing of McDonnell Douglas Model DC–9–80 (MD–80) series airplanes. Investigation revealed that the fracture surface extended around the barrel section at the piston/axle transition. The fractures originated at a fatigue crack located where the inner/upper edge of a torque link lug blended into this transition. This condition, if not corrected, could result in failure of the pistons, and consequent damage to the airplane structure and injury to flight crew, passengers, or ground personnel.

The subject MLG torque link lugs on Model MD–90–30 series airplanes are similar to those on the affected McDonnell Douglas Model DC–9–80 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Other Relevant Rulemaking

On September 5, 1996, the FAA issued AD 96–19–09, amendment 39–9756 (61 FR 48617, September 16, 1996), applicable to certain McDonnell Douglas DC–9 and MD–88 series airplanes, to require a one-time inspection to detect cracking of the MLG pistons, and repair or replacement of the pistons with new or serviceable parts, if necessary. However, this proposed AD would not affect the current requirements of that previously issued AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997, and Revision 01, dated June 2, 1998, which describes procedures for repetitive fluorescent penetrant and magnetic particle inspections of the MLG torque link lugs to detect fatigue cracking, and repair, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Operators also should note that, although the service bulletin recommends accomplishing the fluorescent inspections only for MLG's that have accumulated more than a specified number of landings, the FAA has determined that all of the subject parts are subject to the same fatigue cracking. Therefore, the compliance times for the proposed inspections address all MLG's of the affected design. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two hours). In light of all of these factors, the FAA finds that intervals of 4,000 landings for inspection of MLG piston, part number (P/N) 5935347–509, and 5,000 landings for MLG piston, P/N's 5935347–511 and –513, address the identified unsafe condition in a timely manner. Therefore, the FAA has determined these compliance times for initiating the required actions to be warranted, in that they represent an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Interim Action

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

FAA may consider additional rulemaking.

Cost Impact

There are approximately 19 airplanes of the affected design in the worldwide fleet. The FAA estimates that 15 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspections, 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 $1,800, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–210–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Service Bulletin MD90–32–012, Revision 01, dated June 2, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of main landing gear (MLG) pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flight crew, passengers, or ground personnel, accomplish the following:

Inspection of MLG Piston Part Number 5935347–509

(a) For MLG pistons, part number (P/N) 5935347–509: Perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997; or Revision 01, dated June 2, 1998, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Repeat the inspections thereafter at intervals not to exceed 2,500 landings.

(1) Prior to the accumulation of 4,000 landings; or

(2) Within 2,500 landings or 12 months after the effective date of this AD whichever occurs first.

Inspection of MLG Piston Part Numbers 5935347–511 and –513

(b) For MLG pistons P/N's 5935347–511 and –513: Within 5,000 landings after the effective date of this AD, perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997; or Revision 01, dated June 2, 1998. Repeat the inspections thereafter at intervals not to exceed 5,000 landings.

Repair

(c) If any crack is found during any inspection required by this AD: Repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28078 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–217–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 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 McDonnell Douglas Model DC–8 series airplanes. This proposal would require a one-time eddy current conductivity test to determine the material type of the lower cap of the wing front spar; and modification of the lower cap of the wing front spar, if necessary. This proposal is prompted by reports of stress corrosion cracking in the forward tang of the lower caps of the wing front spar. The actions specified by the proposed AD are intended to prevent such stress corrosion cracking,

which if not corrected, could result in reduced structural integrity of the wing.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–217–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–217–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–217–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of stress corrosion cracking in the forward tang of the lower cap of the wing front spar of McDonnell Douglas Model DC–8 series airplanes. Investigation revealed that some front spar lower caps were manufactured from 7079–T6 material, which is susceptible to stress corrosion cracking. This condition, if not corrected, could result in reduced structural integrity of the wing.

Other Relevant Rulemaking

AD 90–16–05, amendment 39–6614 (55 FR 31818, August 6, 1990) requires certain inspections and structural modifications. McDonnell Douglas Service Bulletin DC8–57–030, Revision 3, dated December 10, 1970, was mandated as part of the service action requirements program required by AD 90–16–05. Revision 3 of the service bulletin describes procedures for a one-time visual inspection for cracks in the forward tang of the lower cap of the front spar, and modification, if cracking is detected.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC8–57–030, Revision 04, dated August 17, 1995; and Revision 05, dated April 28, 1998. Revisions 04 and 05 of the service bulletin describe procedures for a one-time eddy current conductivity test to determine the material type of the forward tang of the lower cap of the wing front spar, and modification of the front spar, if necessary. The modification involves replacement of lower cap of the wing front spar with a new lower cap. Revision 04 of the service bulletin recommends that airplanes previously modified in accordance with Revision 3 of the service bulletin be reworked if the lower cap was made of 7079–T6 material. (Revision 04 of the service bulletin was approved as an alternative method of compliance to AD 90–16–05.) Revision 05 of the service bulletin adds 52 additional airplanes to the list of effective airplane serial numbers. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 294 airplanes of the affected design in the worldwide fleet. The FAA estimates that 251 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $45,180, or $180 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket.

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–217–AD.

Applicability: Model DC–8 series airplanes, as listed in McDonnell Douglas Service Bulletin DC8–57–30, Revision 05, dated April 28, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent stress corrosion cracking of the lower cap of the wing front spar, which if not corrected, could result in reduced structural integrity of the wing, accomplish the following:

(a) Within 48 months after the effective date of this AD, perform a one-time eddy current conductivity test to determine the material type of the forward tang of the lower cap of the front spar in the center section of the wing, in accordance with McDonnell Douglas Service Bulletin DC8–57–30, Revision 05, dated April 28, 1998, or Revision 04, dated August 17, 1995.

(1) If 7079–T6 aluminum is not found, no further action is required by this AD.

(2) If any 7079–T6 aluminum is found, within 48 months after the effective date of this AD, modify the forward tang of the lower cap of the front spar, in accordance with the service bulletin.

(b) Accomplishment of the eddy current conductivity test, and modification, if necessary, specified in paragraph (a) of this AD constitutes terminating action for the repetitive inspection requirements of paragraph (a) of AD 90–16–05, amendment 39–6614, as it applies to the inspections of the forward tang of the lower cap of the front spar specified in McDonnell Douglas Service Bulletin DC8–57–30, Revision 3, dated December 10, 1970.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28077 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–232–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This proposal would require replacement of the clevis ends on the tie rods for the center stowage bin supports with improved clevis ends. This proposal is prompted by a report that, under ultimate load conditions, the aluminum clevis ends on the tie rods for the center stowage bin supports can break. The actions specified by the proposed AD are intended to prevent broken tie rods, which could result in the center stowage bins dropping onto the passenger seats below, causing possible injury to the occupants.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–232–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Julie Alger, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone (425) 227–2779; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice

must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–232–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–232–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report from Boeing indicating that, under ultimate load conditions on certain Boeing Model 777 series airplanes, the aluminum clevis ends on the tie rods that attach the center stowage bin support structure to the airplane structure can break. Such breakage has been attributed to the material of which the clevis ends are made (aluminum). This condition, if not corrected, could result in misalignment of the center stowage bins. Multiple broken tie rods could allow the center stowage bins to drop onto the passenger seats below, causing possible injury to the occupants.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 777–25–0120, dated February 11, 1999, which describes procedures for replacement of the aluminum clevis ends on affected tie rods (81 locations on 777–200 airplanes, 115 locations on 777–300 airplanes) with new steel clevis ends. The steel clevis ends are stronger than the aluminum clevis ends and will not break under ultimate load conditions. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 184 airplanes (168 Model 777–200 and 16 Model 777–300) of the affected design in the worldwide fleet. The FAA estimates that 41 airplanes of U.S. registry, all Model 777–200 airplanes, would be affected by this proposed AD, and that it would take approximately 12 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $15,938 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $682,978, or $16,658 per airplane.

Currently, there are no Model 777–300 airplanes on the U.S. Register that would be affected by this AD. However, should an unmodified airplane be imported and placed on the U.S. Register in the future, it would take approximately 17 work hours per airplane to accomplish the actions proposed by this AD, at an average labor rate of $60 per work hour. Required parts would cost approximately $18,457 per airplane. Based on these figures, the cost impact of the proposed AD on these airplanes is estimated to be $19,477 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–232–AD.

Applicability: Model 777 series airplanes, line numbers 2 through 103 inclusive, 105 through 119 inclusive, and 121 through 187 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent broken tie rods, which could result in the center stowage bins dropping onto the passenger seats below, causing possible injury to the occupants, accomplish the following:

(a) Within 4 years after the effective date of this AD, replace the aluminum clevis ends on the tie rods for the center stowage bin supports with new steel clevis ends, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–25–0120, dated February 11, 1999.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28076 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–202–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300–600 Series Airplanes Equipped with Dowty Ram Air Turbines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A310, and A300–600 series airplanes, that currently requires repetitive deployment tests of the ram air turbine (RAT) and checks of the adjustment of the locking rod. This action would require modification of the RAT, which would terminate the repetitive tests and checks. 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 ensure the availability of the RAT in case of need.

DATES: Comments must be received by November 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–202–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–202–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–202–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 7, 1994, the FAA issued AD 94–04–05, amendment 39–8823 (59 FR 7208, February 15, 1994), applicable to certain Airbus Industrie Model A300, A310, and A300–600 series airplanes, to require repetitive deployment tests of the ram air turbine (RAT) and checks of the adjustment of the locking rod. That action was prompted by reports of failure of the RAT to rotate when necessary, due to maladjustment of the locking rod. The requirements of that AD are intended to ensure the availability of the RAT in case of need.

Explanation of Relevant Service Information

Since the issuance of AD 94–04–05, Airbus Industrie has issued Airbus Service Bulletin A300–29–0106, Revision 02 (for Model A300 series airplanes); A310–29–2078, Revision 02 (for Model A310 series airplanes); and Airbus Service Bulletin A300–29–6039, Revision 02 (for Model A300–600 series airplanes); all dated January 26, 1999. These service bulletins describe procedures for modification of the RAT by installing a grease nipple and a scraper seal assembly, replacing the locking rod spring with a stronger spring, and re-identifying the RAT with a new part number. Such modification would eliminate the need for the repetitive tests and checks specified in Airbus All Operator Telex (AOT) 29–09, dated November 16, 1993. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition. The Direction Générale de l'Aviation Civile (DGAC) classified these service bulletins as mandatory and issued French airworthiness directive 98–448–262(B), dated November 18, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 94–04–05 to continue to require repetitive deployment tests of the ram air turbine (RAT) and checks of

the adjustment of the locking rod until accomplishment of the actions specified in the service bulletins described previously.

Explanation of Changes Made to Applicability

The applicability of this proposed AD is different from AD 94–04–05. Two RAT part numbers were incorrectly identified in the applicability of that AD: RAT 16C 116 VG and RAT 16C 117 VG. Those part numbers identify RAT's that have already incorporated the modifications that would be required by this proposed AD; therefore, they have been removed from the applicability.

Cost Impact

There are approximately 126 airplanes of U.S. registry that would be affected by this proposed AD.

The repetitive tests and checks that were previously required by AD 94–04–05, and retained in this proposed AD, take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this requirement of this proposed AD on U.S. operators is estimated to be $15,120, or $120 per airplane, per test/check cycle.

The new modification that is proposed in this AD action would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,995 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $548,730, or $4,355 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8823 (59 FR 7208, February 15, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 99–NM–202–AD. Supersedes AD 94–04–05, Amendment 39–8823.

Applicability: Model A300, A310, and A300–600 series airplanes; certificated in any category; equipped with Dowty ram air turbines (RAT) having the following part numbers:

RAT 16C 100 VG
RAT 16C 101 VG
RAT 16C 102 VG
RAT 16C 103 VG
RAT 16C 104 VG
RAT 16C 105 VG
RAT 16C 109 VG
RAT 16C 110 VG

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

Compliance: Required as indicated, unless accomplished previously.

To ensure the availability of the RAT in case of need, accomplish the following:

Restatement of Requirements of AD 94–04–05

Repetitive Tests and Checks

(a) Within 60 days after March 2, 1994 (the effective date of AD 94–04–05, amendment 39–8823), or 500 hours time-in-service after March 2, 1994, whichever occurs first, perform a deployment test of the RAT and check the adjustment of the locking rod, in accordance with Airbus All Operator Telex (AOT) 29–09, dated November 16, 1993. Repeat the deployment test and adjustment check thereafter at intervals not to exceed 10 months.

(1) If no discrepancy is found, prior to further flight, apply grease to the RAT leg at the entry and exit positions of the locking rod spring housing, in accordance with the AOT.

(2) If any discrepancy is found, prior to further flight, correct it and apply grease to the RAT leg at the entry and exit positions of the locking rod spring housing, in accordance with the AOT.

New Requirements of this AD

(b) Within 49 months after the effective date of this AD, modify the RAT by installing a grease nipple and a scraper seal assembly, replacing the locking rod spring with a stronger spring, and re-identifying the RAT with a new part number; in accordance with Airbus Service Bulletin A300–29–0106, Revision 02 (for Model A300 series airplanes); A310–29–2078, Revision 02 (for Model A310 series airplanes); or Airbus Service Bulletin A300–29–6039, Revision 02 (for Model A300–600 series airplanes); all dated January 26, 1999; as applicable. Accomplishment of the modification constitutes terminating action for the repetitive tests and checks required by paragraph (a) of this AD.

Note 2: The service bulletins refer to Sundstrand Service Bulletin ERPS26T–29–1 for modification instructions and new part numbers.

Note 3: Accomplishment of the actions specified in Airbus Service Bulletin A300–29–0106, Revision 01; A310–29–2078, Revision 01; or Airbus Service Bulletin A300–29–6039, Revision 01; all dated September 8, 1997; as applicable; is acceptable for compliance with the actions required by paragraph (b) of this AD.

Spares

(c) As of the effective date of this AD, no person shall install a RAT having the following part numbers on any airplane:

RAT 16C 100 VG
RAT 16C 101 VG
RAT 16C 102 VG
RAT 16C 103 VG
RAT 16C 104 VG
RAT 16C 105 VG
RAT 16C 109 VG
RAT 16C 110 VG

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 94–04–05, amendment 39–8823, are approved as alternative methods of compliance with paragraph (a) of this AD.

Note 4: 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

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

Note 5: The subject of this AD is addressed in French airworthiness directive 98–448–262(B), dated November 18, 1998.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28081 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–166–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) 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 Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. For certain airplanes, this proposal would require removing the hydraulic tube assemblies from the main landing gear (MLG) bay, installing new re-routed hydraulic tube assemblies, and repositioning a fuel line, as applicable. For certain other airplanes, this proposal would require a general visual inspection to determine the routing of certain hydraulic and fuel lines, and repair, if necessary. 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 damage to hydraulic and fuel lines resulting from failure of an MLG, which could cause a fire in the MLG wheel well.

DATES: Comments must be received by November 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–166-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–166–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–166–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. TCCA advises that a hard landing during touch-and-go training resulted in an in-flight separation of a main landing gear (MLG) from a Model CL–600–2A12 (CL–601) series airplane. This separation caused the rupture of hydraulic and fuel lines in the main wheel well area, which resulted in an in-flight fire. Investigation revealed that certain hydraulic and fuel lines are located such that separation of an MLG could cause damage to these hydraulic and fuel lines. This condition, if not corrected, could result in a fire in the MLG wheel well.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 600–0671, dated August 4, 1997 [for Model CL–600–1A11 (CL–600) series airplanes], which describes procedures for removing the five existing hydraulic tube assemblies from the main landing gear bay, installing six new re-routed hydraulic tube assemblies, and repositioning of a fuel line.

Bombardier also has issued Service Bulletin No. 601–0482, dated April 15, 1997, [Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and

–3R)], which describes procedures for removing five existing hydraulic tube assemblies from the main landing gear bay and replacing them with six new re-routed assemblies.

Bombardier also has issued Service Bulletin 604–29–001, dated December 20, 1996 [for Model CL–600–2B16 (CL–604) series airplanes], which describes procedures for performing a general visual inspection of the routing of the hydraulic lines in the main landing gear bay, and contacting the manufacturer for modification instructions, if necessary.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. TCCA classified these service bulletins as mandatory and issued Canadian airworthiness directive CF–99–14, dated May 7, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Relevant Service Information

Operators should note that, although Bombardier Service Bulletin 604–29–001, dated December 20, 1996, specifies that the manufacturer may be contacted for disposition of certain hydraulic and fuel line routing conditions, this proposal would require the modification of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 249 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that 231 Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and –3R) series airplanes would be affected by this proposed AD, that it would take approximately 20 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 of these airplanes is estimated to be $277,200, or $1,200 per airplane.

The FAA estimates that 18 Model CL–600–2B16 (CL–604) series airplanes would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection. Based on these figures, the cost impact of the proposed AD on U.S. operators of these airplanes is estimated to be $1,080, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket 99–NM–166–AD.

Applicability: Model CL–600–1A11 (CL–600) series airplanes, serial numbers 1004 through 1085 inclusive; Model CL–600–2A12 (CL–601) series airplanes, serial numbers 3001 through 3066 inclusive; Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes, serial numbers 5001 through 5194 inclusive, and 5301 through 5317 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to hydraulic and fuel lines resulting from failure of a main landing gear (MLG), which could cause a fire in the MLG wheel well, accomplish the following:

Inspection and Modification

(a) Within 300 landings or 12 months after the effective date of this AD, whichever occurs first, accomplish the actions in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For Model CL–600–1A11 (CL–600) series airplanes: Remove the five existing hydraulic tube assemblies from the MLG bay, install six new re-routed hydraulic tube assemblies, and reposition a fuel line, in accordance with Bombardier Service Bulletin 600–0671, dated August 4, 1997.

(2) For Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and –3R) series

airplanes: Remove the five existing hydraulic tube assemblies from the MLG bay, and install six new re-routed hydraulic tube assemblies, in accordance with Bombardier Service Bulletin 601–0482, dated April 15, 1997.

(3) For Model CL–600–2B16 (CL–604) series airplanes: Perform a general visual inspection of the routing of the hydraulic and fuel lines in the MLG bay in accordance with Bombardier Service Bulletin 604–29–001, dated December 20, 1996.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(i) If all hydraulic lines are routed in accordance with the service bulletin, no further action is required by this paragraph.

(ii) If any hydraulic line is not routed in accordance with the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–99–14, dated May 7, 1999.

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28082 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–130–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600R and A300 F4–600R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Model A300 B4–600R and A300 F4–600R series airplanes, that currently requires a one-time visual inspection for damage of the center tank fuel pumps and fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts. This action also would require repetitive visual inspections of the fuel pumps and repetitive eddy current inspections of the fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts. This action also would reduce the applicability to include only those airplanes that have a trim tank system installed. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect damage to the fuel pump and fuel pump canister, which could result in loss of flame trap capability and could provide a fuel ignition source in the center fuel tank.

DATES: Comments must be received by November 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–130–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule.

The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–130–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–130–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 15, 1998, the FAA issued AD 98–25–53, amendment 39–10956 (63 FR 70639, December 22, 1998), applicable to all Airbus Model A300 B4–600R and A300 F4–600R series airplanes, to require a one-time visual inspection for damage of the center tank fuel pumps and fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts. That

action was prompted by reports of damaged center tank fuel pump canisters and damaged center tank fuel pumps. The requirements of that AD are intended to detect damage to the fuel pump and fuel pump canister, which could result in loss of flame trap capability and could provide a fuel ignition source in the center fuel tank.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, airplane inspections have revealed additional cases of damaged center tank fuel pump canisters and pumps. The purpose of this proposed AD is to render mandatory a program of repetitive inspections in order to avoid the existence of ignition sources in the center tank caused by damage to the center tank fuel pump canisters and pumps.

In the preamble to AD 98–25–53, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Explanation of Relevant Service Information

Airbus has issued Alert Service Bulletin A300–28A6061, dated February 19, 1999, which describes procedures for repetitive visual inspections of the fuel pumps and repetitive eddy current inspections of the fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts. The Direction Gènèrale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified this alert service bulletin as mandatory and issued French airworthiness directive 1999–149–280(B), dated April 7, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–25–53 to continue to require a one-time visual inspection for damage of the center tank fuel pumps and fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts. The proposed AD also would require repetitive visual inspections of the fuel pumps and repetitive eddy current inspections of the fuel pump canisters, and replacement of damaged fuel pumps and fuel pump canisters with new or serviceable parts.

Reduced Applicability of the NPRM

The proposed AD would remove airplanes from the applicability of AD 98–25–53 to include only those airplanes that have a trim tank installed. This revised applicability corresponds to the applicability specified in the French airworthiness directive.

Cost Impact

There are approximately 67 airplanes of U.S. registry that would be affected by this proposed AD.

The inspection that is currently required by AD 98–25–53, and retained in this proposed AD, takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $120 per airplane.

The new inspections that are proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $8,040, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10956 (63 FR 70639, December 22, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 99-NM–130-AD. Supersedes AD 98–25–53, Amendment 39–10956.

Applicability: Model A300 B4–600R and A300 F4–600R series airplanes, on which Airbus Modification 4801 (trim tank system) has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect damage to the fuel pump and fuel pump canister, which could result in loss of flame trap capability and could provide a fuel ignition source in the center fuel tank, accomplish the following:

Inspections

(a) Prior to the accumulation of 5,000 total hours time-in-service, or within 250 hours time-in-service after the effective date of this AD, whichever occurs later, perform a detailed visual inspection for damage of the center tank fuel pumps and fuel pump canisters, in accordance with Airbus All Operators Telex (AOT) 28–09, dated November 28, 1998. Repeat the inspection prior to the accumulation of 12,000 total hours time-in-service, or within 250 hours time-in-service after accomplishment of the initial inspection, whichever occurs later. Thereafter, repeat the inspection at intervals not to exceed 250 hours time-in-service, until accomplishment of the initial inspection required by paragraph (b) of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) At the applicable time specified in paragraph (b)(1), (b)(2), or (b)(3) of this AD: Perform a detailed visual inspection to detect damage of the center tank fuel pumps and perform an eddy current inspection to detect damage of the fuel pump canisters, in accordance with Airbus Alert Service Bulletin A300–28A6061, dated February 19, 1999. Repeat the inspections thereafter at intervals not to exceed 1,500 flight cycles. Accomplishment of the initial inspections required by this paragraph constitutes terminating action for the requirements of paragraph (a) of this AD.

(1) For airplanes that have accumulated 11,000 or more total flight cycles as of the effective date of this AD: Inspect within 300 flight cycles after the effective date of this AD.

(2) For airplanes that have accumulated 8,500 or more total flight cycles, but fewer than 11,000 total flight cycles, as of the effective date of this AD: Inspect within 750 flight cycles after the effective date of this AD.

(3) For airplanes that have accumulated fewer than 8,500 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 7,000 flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(c) If any damage is detected during any inspection required by this AD, prior to further flight, replace the damaged fuel pump or fuel pump canister with a new or serviceable part in accordance with Airbus Alert Service Bulletin A300–28A6061, dated February 19, 1999.

Alternative Methods of Compliance

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

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

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–149–280(B), dated April 7, 1999.

Issued in Renton, Washington, on October 21, 1999.

N. B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28083 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–64–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes equipped with General Electric Model CF6–45 or –50 series engines. This proposal would require repetitive inspections and tests of the thrust reverser control and indication system, and corrective actions, if necessary. This proposal would also require installation of a thrust reverser actuation system (TRAS) lock, repetitive functional tests of that installation, and repair, if necessary. Installation of the TRAS lock would terminate the repetitive inspections and certain tests. This proposal is prompted by the results of a safety review, which revealed that in-flight deployment of a thrust reverser could result in a significant reduction in airplane controllability. The actions specified by the proposed AD are intended to ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes, which could result in inadvertent deployment of a thrust reverser during flight, and consequent reduced controllability of the airplane.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–64–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Larry Reising, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2683; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–64–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–64–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 26, 1991, a Boeing Model 767–300ER series airplane was involved in an accident as a result of an uncommanded in-flight deployment of a thrust reverser. Following that accident, a study was conducted to evaluate the potential effects of an uncommanded thrust reverser deployment throughout the flight regime of other Boeing airplane models, including the Boeing Model 747 series airplane equipped with General Electric Model CF6–45 or –50 series engines. The study included a re-evaluation of the thrust reverser control system fault analysis and airplane controllability. The results of the evaluation revealed that, if not prevented, possible combinations of failures within the thrust reverser control system may result in an in-flight deployment of a thrust reverser and that, in the event of thrust reverser deployment during high-speed climb using high engine power, or during cruise, these airplanes may not be controllable.

The FAA has prioritized the issuance of AD's for corrective actions for the thrust reverser system on Boeing airplane models following the 1991 accident. Based on service experience, analyses, and flight simulator studies, it was determined that an in-flight deployment of a thrust reverser has more effect on controllability of twin-engine airplane models than of Model 747 series airplanes, which have four engines. For this reason, the highest priority was given to rulemaking that required corrective actions for the twin-engine airplane models. AD's that correct the same type of unsafe condition as that addressed by this AD have been previously issued for specific airplanes within the Boeing Model 737, 757, and 767 series.

Service experience has shown that in-flight thrust reverser deployments have occurred on Model 747 airplanes in certain flight conditions with no significant airplane controllability problems being reported. However, the manufacturer has been unable to establish that acceptable airplane controllability would be achieved throughout the operating envelope of the airplane following such a deployment. Additionally, safety analyses performed by the manufacturer and reviewed by the FAA, have been unable to establish that the risks for uncommanded thrust reverser deployment at critical flight conditions are acceptably low.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following service bulletins:

- Boeing Alert Service Bulletin 747–78A2160, dated May 4, 1995, including Notice of Status Change 747–78A2160 NSC 1, dated June 8, 1995, describes procedures for repetitive inspections and tests to verify proper operation of the thrust reverser stow/deploy switches, the bullnose seals, the airmotor brake, the overpressure shutoff valve electrical connectors, the flexible shafts, the directional pilot valve, and the microswitch pack on each engine; and repair, if necessary.
- Boeing Service Bulletin 747–78–2150, Revision 1, dated July 2, 1998, describes procedures for installation of a thrust reverser actuation system (TRAS) lock on each thrust reverser half of each engine. This service bulletin specifies that prior or concurrent incorporation of Boeing Service Bulletin 747–78–2067, Boeing Service Bulletin 747–78–2069, Boeing Service Bulletin 747–78–2133, Middle River Aircraft Systems CF6–50 Service Bulletin 78–3011, and Middle River Aircraft Systems CF6–50 Service Bulletin 78–3013, is necessary. Such installation eliminates the need for the repetitive inspections and tests described in Boeing Alert Service Bulletin 747–78A2160.

The FAA has also reviewed Chapter 78–34–00 of the Boeing 747 Maintenance Manual, dated April 25, 1998, which describes procedures for repetitive functional tests of the TRAS lock.

Accomplishment of the modification specified in Boeing Service Bulletin 747–78–2150, Revision 1, and the repetitive functional tests specified in the maintenance manual are intended to adequately address the identified unsafe condition.

The modification procedures described by Boeing Service Bulletin 747–78–2150, dated March 20, 1997, have been validated previously, and the necessary changes have been incorporated into Revision 1 of the service bulletin. The FAA has determined that the procedures described by Boeing Service Bulletin 747–78–2150, Revision 1, and the numerous referenced service bulletins, have been sufficiently validated to now propose that this modification be required. Several airplanes have been successfully modified in accordance with the service bulletin, and this past experience should minimize the likelihood for subsequent service bulletin revisions, requests for alternative methods of compliance, and superseding AD's.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive inspections and tests of the thrust reverser control and indication system, and corrective actions, if necessary. The proposed AD would also require installation of a TRAS lock, repetitive functional tests of that installation, and repair, if necessary. Installation of the TRAS lock would terminate the repetitive inspections and certain tests.

This proposed AD would also include a provision for deactivation of one thrust reverser in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 22, dated January 30, 1998. No more than one thrust reverser on any airplane may be deactivated under the provisions of this document.

Differences Between Proposed Rule and Service Bulletins

The effectivity of Boeing Alert Service Bulletin 747–78A2160 identifies all Model 747–100 and –200 series airplanes powered by General Electric Model CF6–45 or –50 series engines, line numbers 232 through 886 inclusive; however, this proposed AD would apply to all Model 747 series airplanes powered by General Electric Model CF6–45 or –50 series engines. The FAA has been notified by the airplane

manufacturer that there are Model 747–300 and 747SR series airplanes, and airplanes having line numbers lower than 232, that are powered by Model CF6–45 or –50 series engines.

Operators should note that, although Boeing Alert Service Bulletin 747–78A2160 recommends accomplishing the inspections and tests within 1,500 flight hours or 4 months (after the release of the service bulletin), the FAA has determined that the recommended interval would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, the FAA finds a 90-day compliance time for initiating the inspections and tests of the thrust reverser stow/deploy switches, the bullnose seals, and the airmotor brakes; and a 6-month compliance time for initiating the inspections and tests of the overpressure shutoff valve electrical connectors, the flexible shafts, the directional pilot valves, and the microswitch packs; to be warranted, in that those times represent appropriate intervals of time allowable for affected airplanes to continue to operate without compromising safety.

Operators should also note that, although Boeing Service Bulletin 747–78–2150, Revision 1, does not specify a compliance time for accomplishment of installation of the TRAS locks, this proposal would require that action to be accomplished within 36 months after the effective date of this AD. In developing an appropriate compliance time for this proposed AD, the FAA considered the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to accomplish the proposed actions (approximately 791 work hours).

In light of these factors, the FAA finds a compliance time of 36 months for accomplishing the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although not described in either service bulletin, this proposed AD would allow the option to dispatch an airplane with one thrust reverser deactivated and operate the airplane for up to 10 days with one thrust reverser deactivated. This option would be allowed in the event of unsuccessful accomplishment of the repetitive inspections and tests specified in paragraphs (a) and (b) of this AD or installation of a spare thrust reverser assembly with a different configuration than that installed on the other engines of the airplane.

Cost Impact

There are approximately 138 airplanes of the affected design in the worldwide fleet. The FAA estimates that 27 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 12 work hours per airplane to accomplish the proposed inspections and tests of the thrust reverser stow/deploy switches, the bullnose seals, and the airmotor brakes, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed repetitive inspections and tests on U.S. operators is estimated to be $19,440, or $720 per airplane, per inspection and test cycle.

It would take approximately 11 work hours per airplane to accomplish the proposed inspections and tests of the overpressure shutoff valve electrical connectors, the flexible shafts, the directional pilot valves, and the microswitch packs, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed repetitive inspections and tests on U.S. operators is estimated to be $17,820, or $660 per airplane, per inspection and test cycle.

It would take approximately 791 work hours per airplane to accomplish the proposed installation of TRAS locks, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $1,281,420, or $47,460 per airplane.

This cost impact figure does not reflect the cost of the modifications described in the service bulletins listed in paragraph I.K.1.h. of Boeing Service Bulletin 747–78–2150, Revision 1, that are proposed to be accomplished prior to, or concurrently with, the installation of the TRAS lock. (The cost impact figure does reflect the cost of the modifications described in the service bulletins listed in paragraph I.K.1.j. of the service bulletin that are also proposed to be accomplished prior to, or concurrently with, the installation of the TRAS lock.) Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in paragraph I.K.1.h. of Boeing Service Bulletin 747–78–2150. As indicated earlier in this preamble, the FAA invites comments specifically on the overall economic aspects of this proposed rule. Any data received via public comments to this proposed AD will aid the FAA in developing an accurate accounting of the cost impact of the rule.

It would take approximately 4 work hours per airplane to accomplish the proposed functional test of the TRAS lock, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed repetitive functional tests on U.S. operators is estimated to be $6,480, or $240 per airplane, per test cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–64–AD.

Applicability: Model 747 series airplanes; certificated in any category; equipped with General Electric Model CF6–45 or –50 series engines.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes, which could result in inadvertent deployment of a thrust reverser during flight, and consequent reduced controllability of the airplane, accomplish the following:

Repetitive Inspections and Tests

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(a) Within 90 days after the effective date of this AD, perform the applicable detailed visual inspections and tests to verify proper operation of the thrust reverser stow/deploy switches, the bullnose seals, and the airmotor brake on each engine, in accordance with Work Package I of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–78A2160, dated May 4, 1995, including Notice of Status Change 747–78A2160 NSC 1, dated June 8, 1995. Repeat the applicable inspections and tests thereafter at intervals not to exceed 1,300 flight hours, until accomplishment of paragraph (d) of this AD.

(b) Within 6 months after the effective date of this AD, perform the applicable detailed visual inspections and tests to verify proper operation of the overpressure shutoff valve electrical connectors, the flexible shafts, the directional pilot valve, and the microswitch pack on each engine, in accordance with Work Package II of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–78A2160, dated May 4, 1995, including Notice of Status Change 747–78A2160 NSC 1, dated June 8, 1995. Repeat the applicable inspections and tests thereafter at intervals not to exceed 18 months, until accomplishment of paragraph (d) of this AD.

Corrective Actions

(c) If any of the inspections and tests required by paragraphs (a) and (b) of this AD cannot be successfully performed, or if any discrepancy is detected during the inspections and tests, accomplish paragraphs (c)(1) or (c)(2) of this AD, as applicable.

(1) Prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–78A2160, dated May 4, 1995. Additionally, prior to further flight, any failed inspection or test required by paragraph (a) or (b) of this AD must be repeated and successfully accomplished.

(2) Accomplish both paragraphs (c)(2)(i) and (c)(2)(ii) of this AD.

(i) Prior to further flight, deactivate the associated thrust reverser in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 22, dated January 30, 1998. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph.

Note 3: The airplane may be operated in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that no more than one thrust reverser on the airplane is inoperative.

(ii) Within 10 days after deactivation of any thrust reverser in accordance with paragraph (c)(2)(i) of this AD, the affected thrust reverser must be repaired in accordance with Boeing Alert Service Bulletin 747–78A2160, dated May 4, 1995. Additionally, prior to further flight, any failed inspection or test required by paragraph (a) or (b) of this AD must be repeated and successfully accomplished; once such inspections and tests have been successfully accomplished, the thrust reverser may then be reactivated.

Modification

(d) Within 36 months after the effective date of this AD, install a thrust reverser actuation system (TRAS) lock on each thrust reverser half of each engine, in accordance with Boeing Service Bulletin 747–78–2150, Revision 1, dated July 2, 1998. All of the modifications described in the service bulletins listed in paragraphs I.K.1.h. and I.K.1.j. of Boeing Service Bulletin 747–78–2150, Revision 1, must be accomplished, as applicable, in accordance with those service bulletins, prior to, or concurrently with, the accomplishment of the installation of the TRAS lock. Accomplishment of these actions constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.

Note 4: Accomplishment of the installation specified in Boeing Service Bulletin 747–78–2150, dated March 20, 1997, is acceptable for compliance with the installation required by paragraph (d) of this AD.

Functional Tests

(e) Within 3,000 flight hours after accomplishing the modification required by paragraph (d) of this AD, or within 1,000 flight hours after the effective date of this AD, whichever occurs later, perform a functional test of the TRAS lock on each reverser half, in accordance with Chapter 78–34–00 of the Boeing 747 Maintenance Manual, dated April 25, 1998.

Correction Actions

(1) If no discrepancy is detected, repeat the functional test thereafter at intervals not to exceed 3,000 flight hours.

(2) If any discrepancy is detected, prior to further flight, repair in accordance with the procedures specified in the Boeing 747 Maintenance Manual. Additionally, prior to further flight, the functional test must be successfully accomplished. Repeat the functional test thereafter at intervals not to exceed 3,000 flight hours.

Spares

(f) If, after incorporation of the modification required by paragraph (d) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that does not have the TRAS locks installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that does not have the TRAS locks installed is deactivated in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 22, dated January 30, 1998. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that has the TRAS locks installed and reactivate the thrust reverser.

(g) If, prior to incorporation of the modification required by paragraph (d) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that has the TRAS locks installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that has the TRAS locks installed is deactivated in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 22, dated January 30, 1998. No more than one thrust reverser on any airplane may

be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that does not have the TRAS locks installed and reactivate the thrust reverser.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28084 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–309–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 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 McDonnell Douglas Model DC–8 series airplanes. This proposal would require detailed visual and eddy current inspections of the lower wing skin at the 3 outboard fasteners of the stringer 64 end fitting to detect cracks; and corrective actions, if necessary. This proposal is prompted by reports of fatigue cracks found in the lower wing skin initiating from the outboard fasteners of the stringer 64 end fitting. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could reduce structural integrity and loss of fail-safe capability of the airplane.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–309–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of fatigue cracks in the lower wing skin at the 3 outboard fasteners of the stringer 64 end fitting. These cracks were discovered during inspections conducted as part of the Supplemental Inspection Document (SID) program, required by AD 93–01–15, amendment 39–8469 (58 FR 5576, January 22, 1993). Investigation revealed that such cracking was caused by fatigue-related stress. Fatigue cracking of the wing skin at the 3 outboard fasteners of the stringer 64 end fitting, if not detected in a timely manner, could result in reduced structural integrity and loss of fail-safe capability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998. The service bulletin describes procedures for detailed visual and eddy current inspections to detect cracks of the lower wing skin at the 3 outboard fasteners of the stringer 64 end fitting; and corrective actions, if necessary. The corrective actions involve accomplishing a preventative modification (including stress or split sleeve coining of holes, and installing new pins), replacing pins with new pins, and repairing, as applicable. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Operators should also note that the repair procedures for Condition 2 of the Work Instructions of the service bulletin do not provide for a follow-on inspection of the repaired area. The FAA has determined that a follow-on inspection of the repaired area is necessary to provide an appropriate level of safety.

Cost Impact

There are approximately 294 airplanes of the affected design in the worldwide fleet. The FAA estimates that 251 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $60,240, or $240 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 98–NM–309–AD.

Applicability: Model DC–8 series airplanes, as listed in McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the lower wing skin, which could reduce structural integrity and loss of fail-safe capability of the airplane, accomplish the following:

Note 2: This AD will affect Principal Structural Elements (PSE) 57.08.037, 57.08.038, 57.08.021, and 57.08.022 of the DC–8 Supplemental Inspection Document (SID).

Inspection, Repair, and Modification

(a) Within 24 months after the effective date of this AD, perform detailed visual and eddy current inspections to detect cracks in the lower wing skin fastener holes in the area surrounding 3 outboard fasteners of the stringer 64 end fitting, in accordance with McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If any crack is detected in the skin fastener holes and it is less than 3.1 inches long, prior to further flight, repair in accordance with the service bulletin. Within 14,100 landings after accomplishment of the repair, inspect the lower wing skin to detect cracks, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If any crack is detected in the skin fastener holes and it is greater than or equal to 3.1 inches long, prior to further flight, repair in accordance with a method approved by the Manager Los Angeles ACO.

(3) If no crack is found, within 24 months after the effective date of this AD, accomplish the preventative modification (including stress or split sleeve coining the three fastener holes in the skin, and installing new pins), in accordance with the service bulletin. Accomplishment of this action constitutes terminating action for the requirements of this AD.

Note 4: This AD does not terminate the inspection requirements for PSE's 57.08.037, 57.08.038, 57.08.021, and 57.08.022 of the DC–8 SID in accordance with AD 93–01–15, amendment 39–6330.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28085 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–298–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737, 757, and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737, 757, and 767 series airplanes. This proposal would require repetitive inspections of certain motor operated hydraulic shutoff valves to detect malfunctioning; and replacement with new valves, if necessary. This proposal also would require eventual replacement of certain existing valves with new valves, which would constitute terminating action for the repetitive inspections. This proposal is prompted by reports that the motor switch contacts on certain hydraulic shutoff valves were misaligned, causing subsequent malfunction of those valves. The actions specified by the proposed AD are intended to prevent failure of the motor operated hydraulic shutoff valves, which could result in leakage of hydraulic fluid to the engine fire zone, reduced ability to retract the landing gear, loss of backup electrical power or other combinations of failures; and consequent reduced controllability of the airplane.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–298–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2673; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–298–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–298–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received reports indicating that functional testing of the motors of certain hydraulic shutoff valves of Boeing Model 737, 757, and 767 series airplanes revealed that the motor switch contacts on the valves were misaligned. This misalignment could prevent the valve motor from turning off after it reaches the commanded stop position at the end of switch travel; such misalignment has been attributed to a design flaw. If the motor ceases operation and cannot be recommanded to operate, the related valve cannot open and close for the affected hydraulic system. Such malfunction could result in failure of the valve, leakage of hydraulic fluid to the engine fire zone, reduced ability to retract the landing gear, loss of backup electrical power, or other combinations of failures; and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletins 737–29A1073, Revision 2, (for Model 737 series airplanes); 757–29A0048, Revision 2, (for Model 757 series airplanes), both dated July 1, 1999; and 767–29A0083, Revision 2, dated July 15, 1999 (for Model 767 series airplanes). These service bulletins describe procedures for repetitive inspections of the motor operated hydraulic shutoff valves to verify proper functioning. The service bulletins also describe procedures for replacement of any malfunctioning valves with new valves. Accomplishment of the actions specified in the alert service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletins described previously, except as discussed below.

Differences Between the Alert Service Bulletins and the Proposed AD

Operators should note that this AD proposes to mandate, within 2 years, the replacement of the motor operated hydraulic shutoff valves described in the alert service bulletins as terminating action for the repetitive inspections. The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed replacement requirement is in consonance with these conditions.

Operators should further note that the Circle Seal motor operated hydraulic shutoff valves having the replacement

part numbers (P/N) specified in the alert service bulletins are not adequate for installation as replacement parts due to intermittent failures in the valves. The failures prevent the valves from being moved to the commanded position when commanded to open or close. However, Circle Seal valves having P/N S270T010–10, S270T010–11, and S270T010–12 are adequate for installation as replacement parts.

The FAA has approved design changes incorporated into these valves, and the valves are being installed on airplanes in production.

Cost Impact

There are approximately 3,029 Boeing Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,234 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $148,080, or $120 per airplane, per inspection cycle.

There are approximately 802 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 558 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $100,440, or $180 per airplane, per inspection cycle.

There are approximately 701 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 280 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $67,200, or $240 per airplane, per inspection cycle.

For all airplanes, it would take approximately 5 work hours per valve to accomplish the proposed replacement, at an average labor rate of $60 per work hour.

Required parts and hydraulic fluid would cost approximately $4,316 per airplane. Based on these figures, the cost impact of the valve replacements proposed by this AD on U.S. operators is estimated to be $4,616 per airplane, per valve replacement. This proposed AD would require eventual replacement of approximately 5,000 valves.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 98–NM–298-AD.

Applicability: Model 737, 757, and 767 series airplanes, certificated in any category, as listed in the following Boeing Alert Service Bulletins:

- 737–29A1073, Revision 2, dated July 1, 1999 (for Model 737 series airplanes);
- 757–29A0048, Revision 2, dated July 1, 1999 (for Model 757 series airplanes);
- 767–29A0083, Revision 2, dated July 15, 1999 (for Model 767 series airplanes).

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the motor operated hydraulic shutoff valves, which could result in leakage of hydraulic fluid to the engine fire zone, reduced ability to retract the landing gear, loss of backup electrical power or other combinations of failures, and consequent reduced controllability of the airplane, accomplish the following:

Repetitive Inspections/Corrective Action

(a) Within 6 months after the effective date of this AD: Perform a general visual inspection to detect malfunctioning of any Circle Seal motor operated hydraulic shutoff valve having a part number specified in the ''Existing Part Number'' column (including parts marked with the suffix ''R'' after the serial number), of Paragraph 2.E. of Boeing Alert Service Bulletin 737–29A1073, Revision 2 (for Model 737 series airplanes), or 757–29A0048, Revision 2 (for Model 757 series airplanes), both dated July 1, 1999; or 767–29A0083, Revision 2, dated July 15, 1999 (for Model 767 series airplanes); as applicable; in accordance with the applicable alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If any malfunction of any valve is detected, prior to further flight, replace the valve with a new Whittaker valve in accordance with the applicable service bulletin; or replace any valve having P/N S270T010–1, –4, or –7, with a new Circle Seal valve having P/N S270T010–10; replace any valve having P/N S270T010–2, –5, or –8,

with a new Circle Seal valve having P/N S270T010–11; and replace any valve having P/N S270T010–3, –6, or –9, with a new Circle Seal valve having P/N S270T010–12; as applicable. Repeat the inspection thereafter at intervals not to exceed 6 months until accomplishment of the terminating action required by paragraph (b) of this AD.

(2) If no malfunction of any valve is detected, repeat the inspection thereafter at intervals not to exceed 6 months until accomplishment of the terminating action required by paragraph (b) of this AD.

Terminating Action

(b) Within 2 years after the effective date of this AD, accomplish the replacement of any Circle Seal valve having a P/N specified in the ''Existing Part Number'' column (including parts marked with the suffix ''R'' after the serial number), of Paragraph 2.E. of Boeing Alert Service Bulletin 737–29A1073, Revision 2 (for Model 737 series airplanes); 757–29A0048, Revision 2 (for Model 757 series airplanes), both dated July 1, 1999; or 767–29A0083, Revision 2, dated July 15, 1999 (for Model 767 series airplanes); as required by either paragraph (b)(1) or (b)(2) of this AD; in accordance with the applicable service bulletin. Accomplishment of this replacement constitutes terminating action for the repetitive inspections required by this AD.

(1) Replace with a new Whittaker valve in accordance with the applicable service bulletin.

(2) Replace any valve having P/N S270T010–1, –4, or –7, with a new Circle Seal valve having P/N S270T010–10; replace any valve having P/N S270T010–2, –5, or –8, with a new Circle Seal valve having P/N S270T010–11; and replace any valve having P/N S270T010–3, –6, or –9, with a new Circle Seal valve having P/N S270T010–12.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane, any part identified in the ''Existing Part Number'' column (including parts marked with the suffix ''R'' after the serial number), of Paragraph 2.E. of Boeing Alert Service Bulletin 737–29A1073, Revision 2 (for Model 737 series airplanes); 757–29A0048, Revision 2 (for Model 757 series airplanes), both dated July 1, 1999; or 767–29A0083, Revision 2, dated July 15, 1999 (for Model 767 series airplanes); as applicable.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on October 21, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28086 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–04–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

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 Pratt & Whitney (PW) JT8D series turbofan engines. This proposal would require recalculation of cyclic life limits for certain compressor and turbine disks installed on engines with hush kits (Stage III noise reduction systems) installed in accordance with PW Service Bulletin No. 5947, removal from service of disks that exceed the new, lower cyclic life limits, and replacement with serviceable parts. This proposal is prompted by reports that compressor and turbine disks have higher rotor speeds on engines with hush kits that result in lower cyclic lives. The actions specified by the proposed AD are intended to prevent compressor and turbine disk failure due to reduced cyclic lives, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–04–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report 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–NE–04–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–04–AD, 12 New

England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of higher than normal rotor speeds on certain compressor and turbine disks installed on Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, and –7A series turbofan engines with hush kits (Stage III noise reduction systems) installed in accordance with PW Service Bulletin (SB) No. 5947. Analysis indicates that higher rotor speeds result in reduced cyclic lives for affected disks. This condition, if not corrected, could result in compressor and turbine disk failure due to reduced cyclic lives, which could result in an uncontained engine failure and damage to the airplane.

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) No. A6340, dated June 25, 1998, that identifies affected compressor and rotor disks by part number (P/N), and describes formulae for recalculating cyclic disk lives.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require recalculation of cyclic life limits for certain compressor and turbine disks installed on engines with hush kits installed in accordance with PW SB No. 5947, removal from service of disks that exceed the new, lower cyclic life limits, and replacement with serviceable parts. The actions would be required to be accomplished in accordance with the ASB described previously.

There are approximately 2,872 engines of the affected design in the worldwide fleet. The FAA estimates that 2,585 engines installed on aircraft of U.S. registry would be affected by this proposed AD, and that the prorated life reduction would cost approximately $5,700 per engine over the life of the engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,734,500.

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:

Pratt & Whitney: Docket No. 99–NE–04–AD.

Applicability: Pratt & Whitney (PW) JT8D–1, −1A, −1B, −7, −7A, −7B, −9, −9A, −11, −15, −15A, −17, and −17A series turbofan engines with hush kits (Stage III noise reduction systems) installed in accordance with PW Service Bulletin (SB) No. 5947. These engines are installed on but not limited to Boeing 727 and 737 series aircraft, and McDonnell Douglas DC–9 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent compressor and turbine disk failure due to reduced cyclic lives, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

(a) Within twenty five (25) cycles-in-service after the effective date of this AD, recalculate the cyclic life limits of affected compressor and turbine disks listed by part number (P/N) in PW Alert Service Bulletin (ASB) No. A6340 dated June 25, 1998, in accordance with the formulae described in the Accomplishment Instructions of the ASB.

(b) After recalculating the new cyclic life limits in accordance with paragraph (a) of this AD, but prior to further flight, remove from service affected compressor and turbine disks that exceed the new, lower cyclic life limits calculated in accordance with paragraph (a) of this AD, and replace with serviceable parts.

(c) Except as provided in paragraph (d) of this AD, this AD established new, lower cyclic life limits for affected compressor and turbine disks installed on engines with hush kits.

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

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

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

Issued in Burlington, Massachusetts, on October 21, 1999.

David A. Downey,

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

[FR Doc. 99–28087 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–168–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness

directive (AD), applicable to all McDonnell Douglas Model MD–11 series airplanes, that currently requires a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors, and repair, if necessary. That AD was prompted by a report indicating that damaged electrical wires were found above the forward passenger doors due to flapper panels moving inboard and chafing the electrical wire assemblies of this area. For certain airplanes, this action would require the installation or modification of a flapper door ramp deflector on the forward entry drop ceiling structure. For certain other airplanes, this action would require inspection of the wire assembly support installation for evidence of chafing, and corrective actions, if necessary; and modification of the subject area. The actions specified by the proposed AD are intended to prevent such chafing, which could result in an electrical fire in the passenger compartment.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–168–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–168–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–168–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 31, 1998, the FAA issued AD 98–25–11 R1, amendment 39–10988 (64 FR 1502, January 11, 1999), applicable to all McDonnell Douglas Model MD–11 series airplanes, to require a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors, and repair, if necessary. That action was prompted by a report indicating that damaged electrical wires were found above the forward passenger doors due to flapper panels moving inboard and chafing the electrical wire assemblies of this area. The actions required by that AD are intended to prevent chafing of certain wires above the forward passenger doors, which could result in an electrical fire in the passenger compartment. [AD 98–25–11 R1 was issued as a correction to AD 98–25–11, amendment 39–10937 (63 FR 68172, December 10, 1998).]

Actions Since Issuance of Previous Rule

In the preamble to AD 98–25–11, the FAA specified that the actions required by that AD were considered ''interim action'' until final action is identified at which time the FAA may consider further rulemaking. The manufacturer has since developed a modification, and the FAA has determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999, which describes procedures for the installation or modification of the flapper door ramp deflector on the forward entry drop ceiling structure. The modification involves reworking the current middle angle support, part number 4223570–5, of the ramp deflector and reidentifying it as part number 4223570–9.

The FAA also has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A068, Revision 01, dated March 8, 1999. The service bulletin describes procedures for a visual inspection of the wire assembly support installation for evidence of chafing, and corrective actions, if necessary; and modification of the wire assembly support installation above the entry door (L1) sliding panel. The corrective actions involve either repairing any chafed part or replacing any discrepant part with a new part.

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same

type design, the proposed AD would supersede AD 98–25–11 R1 to continue to require a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors, and repair, if necessary. The proposed AD also would require accomplishment of the actions specified in the service bulletins described previously.

Explanation of Change Made to Applicability

Since the issuance of AD 98–25–11 R1, the FAA has determined that the unsafe condition is not likely to exist or develop on McDonnell Douglas Model MD–11 series airplanes delivered new as freighter aircraft since the flapper door ramp deflector on the forward entry drop ceiling was not installed. Therefore, the applicability of the proposed AD does not include those airplanes.

Explanation of Changes to Requirements of AD 98–25–11 R1

The FAA has clarified the inspection requirement contained in AD 98–25–11 R1. Whereas that AD specified a visual inspection, the FAA has revised this proposed AD to clarify that its intent is to require a detailed visual inspection. Additionally, a note has been added to the proposed AD to define that inspection.

Operators should note that although AD 98–25–11 R1 requires operators to submit a report of the inspection results to the FAA, this proposed AD does not require such reporting. As a result of the reporting requirements in that AD, the FAA has received an adequate amount of inspection reports from operators to determine the proper corrective actions.

Cost Impact

There are approximately 152 airplanes of the affected design in the worldwide fleet on which the proposed installation or modification of the flapper door ramp deflector on the forward entry drop ceiling structure would be required. The FAA estimates that this installation or modification would be required on 29 airplanes of U.S. registry.

There are approximately 152 airplanes of the affected design in the worldwide fleet on which the proposed inspection and modification of the wire assembly support installation above the entry door (L1) sliding panel would be required. The FAA estimates that this inspection and modification would be required on 41 airplanes of U.S. registry.

The actions that are currently required by AD 98–25–11 R1 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour.

Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $7,800, or $120 per airplane.

The new installation or modification of the flapper door ramp deflector on the forward entry drop ceiling structure that is proposed in this AD action would be required on three airplane groups.

- Group 1 (installation of a ramp deflector) affects approximately 23 airplanes of U.S. registry and would take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $480 per airplane. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $22,080, or $960 per airplane.
- Group 2 (installation of a ramp deflector) affects approximately 4 airplanes of U.S. registry and would take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $890 per airplane. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $5,480, or $1,370 per airplane.
- Group 3 (modification of a previously installed ramp deflector) affects approximately 2 airplanes of U.S. registry and would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be nominal. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $240, or $120 per airplane.

The inspection of the wire assembly support installation above entry door (L1) sliding panel affects approximately 41 airplanes and would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $2,460, or $60 per airplane.

The modification of the wire assembly support installation above entry door (L1) sliding panel affects approximately 41 airplanes and would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be nominal. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $2,460, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for some labor associated with accomplishing the proposed actions. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figures indicated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10988 (64 FR 1502, January 11, 1999), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 99–NM–168–AD. Supersedes AD 98–25–11 R1, amendment 39–10988.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletins MD11–25A194, Revision 05, dated June 21, 1999, and MD11–24A068, Revision 01, dated March 8, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of certain electrical wires above the forward passenger doors, which could result in an electrical fire in the passenger compartment, accomplish the following:

Restatement of The Requirements of AD 98–25–11 R1

Detailed Visual Inspection

(a) Within 10 days after December 28, 1998 (the effective date of AD 98–25–11 R1, amendment 39–10988), perform a detailed visual inspection of the aircraft wiring to detect discrepancies that include but are not limited to frayed, chafed, or nicked wires and wire insulation in the areas specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) At the area of the forward drop ceiling just outboard of mod block S3–735, and forward and inboard of the light ballast for the entry light on the sliding ceiling panel above the forward left passenger door (1L) at station location $\times = 24.75$, $y = 435$, and $z = 64.5$.

(2) At the area above the forward right passenger door (1R) at station location $\times = -30$, $y = 430$, and $z = 70$ in the ramp deflector assembly part number 4223570–501.

Corrective Action

(b) If any discrepancy is detected during the visual inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Chapter 20, Standard Wiring Practices of the MD–11 Wiring Diagram Manual, dated January 1, 1998, or April 1, 1998.

New Requirements of this AD

Inspection, Installation, and Modification

(c) Within 6 months after the effective date of this AD, accomplish the actions specified in paragraphs (c)(1), (c)(2), (c)(3) and (c)(4) of this AD, as applicable.

(1) For Group 1 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Install a ramp deflector assembly on the right side forward entry drop ceiling structure in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999.

(2) For Group 2 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Install a ramp deflector assembly on the right side forward entry drop ceiling structure in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999.

Note 3: Installation of a ramp deflector assembly in accordance with McDonnell Douglas Service Bulletin MD11–25–194, dated March 15, 1996; Revision 01, dated May 1, 1996; Revision 02, dated July 12, 1996; Revision 03, dated December 12, 1996; or Revision 04, dated March 8, 1999, is acceptable for compliance with the requirements of paragraph (c)(2) of this AD.

(3) For Group 3 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Modify the previously installed ramp deflector assembly bracket in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999.

(4) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A068, Revision 01, dated March 8, 1999: Accomplish the actions specified in paragraphs (c)(4)(i) and (c)(4)(ii) of this AD in accordance with the service bulletin.

(i) Perform a general visual inspection of the wire assembly support installation for evidence of chafing. If any chafing is detected, prior to further flight, repair or replace any discrepant part with a new part in accordance with the service bulletin.

Note 4: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(ii) Modify the wire assembly support installation above the entry door (L1) sliding panel in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27941 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–171–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 McDonnell Douglas Model MD–11 series airplanes. This proposal would require a one-time detailed visual inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires; and corrective action, if necessary. This proposal is prompted by a report indicating that the wire bundle contained in the feedthrough behind the first observer's station was contacting the bottom portion of the feedthrough. The actions specified by the proposed AD are intended to prevent such contact, which could cause cable

chafing, electrical arcing, smoke, or fire in the cockpit.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–171–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Technical Specialist, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–171–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–171–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware that the wire bundle contained in the feedthrough behind the first observer's station was contacting with the bottom portion of the feedthrough. This incident was found on a Model MD–11 series airplane during a McDonnell Douglas production line check. The contact has been attributed to a design deficiency of the wire bundle support clamp installation at the first observer's station. The design deficiency led to excessive preloading of the support clamp and bracket during manufacturing, which caused the clamp to rotate. This condition, if not corrected, could allow the wire bundle contained in the feedthrough to contact the bottom of the feedthrough, which could cause cable chafing, electrical arcing, smoke, or fire in the cockpit.

This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A041, Revision 01, dated April 26, 1999, which describes procedures for a one-time detailed visual inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires; and repair of the wires and revision of the wire bundle support clamp installation at the observer's station, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 63 airplanes of the affected design in the worldwide fleet. The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AD, 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 $720, or $60 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–171–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A041, Revision 01, dated April 26, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the wire bundle contained in the feedthrough from contacting the bottom of the feedthrough which could cause cable chafing, electrical arcing, and smoke or fire in the cockpit, accomplish the following:

Inspection and Modification

(a) Within 1 year after the effective date of this AD, perform a one-time detailed visual inspection of the wire bundle installation behind the first observer's station to detect damaged or chafed wires, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A041, Revision 01, dated April 26, 1999.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For airplanes identified as Group 1 in the service bulletin: Accomplish paragraph (a)(1)(i) or (a)(1)(ii) of this AD, as applicable.

(i) If no damaged or chafed wire is found, no further action is required by this AD.

(ii) If any damaged or chafed wire is found, prior to further flight, repair in accordance with the service bulletin;

(2) For airplanes identified as Group 2 in the service bulletin: Accomplish paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) If no damaged or chafed wire is found, within 1 year after the effective date of this AD, revise the wire bundle support clamp installation at the observer's station in accordance with the service bulletin.

(ii) If any damaged or chafed wire is found, prior to further flight, repair the wiring, and revise the wire bundle support clamp installation at the observer's station in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27942 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–174–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 McDonnell Douglas Model MD–11 series airplanes. This proposal would require a one-time visual inspection of the 90 percent brake pedal position switch to determine if certain date codes are present; and corrective action, if necessary. This proposal is prompted by reports indicating that the threaded insert connectors pulled free from the casing of the 90 percent brake pedal position switch, which allowed the insert connector contact to burn through the nose wheel steering cable. The actions specified by the proposed AD are intended to prevent the threaded insert connector from pulling free from the casing of the 90 percent brake pedal position switch and burning through the nose wheel steering cable, which could result in reduced aircraft directional control while on the ground.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–174–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft

Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–174–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–174–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA discovered instances of threaded insert connectors pulling free from the casing of the 90 percent brake pedal position switch and allowing the insert connector contact to burn through the nose wheel steering cable. These incidents occurred on McDonnell Douglas Model MD–11 series airplanes. This condition was caused by the switch manufacturer casting oversize holes in the casing. Casing holes that are too large can allow threaded insert connectors to pull free from the casing of the 90 percent brake pedal position switch and burn through the nose wheel steering cable. This condition, if not corrected, could result in reduced aircraft directional control while on the ground.

These incidents are not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A071, Revision 01, dated May 20, 1999, which describes procedures for a one-time visual inspection of the 90 percent brake pedal position switch to determine if certain manufacturer's date codes are present, and corrective action, if necessary. The corrective action involves replacement of the 90 percent brake pedal switch with a new switch. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 91 airplanes of the affected design in the worldwide fleet. The FAA estimates that 33 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,980, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for some labor costs associated with accomplishing the proposed actions. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figures indicated above.

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:

McDonnel Douglas: Docket 99–NM–174–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A071, Revision 01, dated May 20, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 the threaded insert connector from pulling free from the casing of the 90 percent brake pedal position switch and burning through the nose wheel steering cable, which could result in reduced aircraft directional control while on the ground, accomplish the following:

(a) For airplanes on which McDonnell Douglas Service Bulletin MD11–24–71, dated June 29, 1994, has not been accomplished: Within 12 months after the effective date of this AD, perform a one-time visual inspection of the 90 percent brake pedal position switch to determine the manufacturer's date code, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A071, Revision 01, dated May 20, 1999.

(1) If no manufacturer's date code 8944 through 9033 inclusive is not found on the 90 percent brake pedal position switch, no further action is required by this AD.

(2) If any manufacturer's date code 8944 through 9033 inclusive is found on the 90 percent brake pedal position switch, prior to further flight, replace the 90 percent brake pedal position switch with a new switch, in accordance with the service bulletin.

(b) As of the effective date of this AD, no person shall install a 90 percent brake pedal switch that has a manufacturer's date code of 8944 through 9033 inclusive, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27943 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–169–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 McDonnell Douglas Model MD–11 series airplanes. This proposal would require replacement of 10 amp circuit breakers with 5 amp circuit breakers in the left and right windshield anti-ice power controllers; and replacement of the anti-ice control panel with a new or modified panel, or modification and reidentification of the anti-ice control panel. This proposal is prompted by reports of smoke and sparks emanating from the anti-ice control panel in the cockpit. The actions specified by the proposed AD are intended to prevent burnt internal circuit boards caused by a short in either the engine or airfoil anti-ice valve, or the windshield anti-ice controller, which could result in smoke in the cockpit.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Technical Specialist, Systems Safety and Integration, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Docket Number 99–NM–169–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–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of several incidents of smoke and sparks emanating from the anti-ice control panel in the cockpit. These incidents occurred on McDonnell Douglas Model MD–11 series airplanes.

Investigation revealed that a short occurred in either the engine or airfoil anti-ice valve, or windshield anti-ice controller. This short caused certain internal circuit boards to burn. This condition, if not corrected, could burn the internal circuit boards, which could result in smoke and sparks emanating from the anti-ice control panel and consequent smoke in the cockpit.

These incidents are not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–30A020, Revision 03 dated, May 5, 1999, which describes procedures for replacement of 10 amp circuit breakers with 5 amp circuit breakers in the left and right windshield anti-ice power controllers; and replacement of the anti-ice control panel with a new or modified panel, or modification and reidentification of the anti-ice control panel. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 130 airplanes of the affected design in the worldwide fleet. The FAA estimates that 41 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane (if the anti-ice control panel is replaced) or 10 work hours per airplane (if the anti-ice control panel is modified and reidentified) to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Honeywell has committed previously to its customers that it will bear the cost of replacement parts. As a result, the cost of those parts are not attributable to this proposed AD. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $7,380 and $24,600; or between $180 and $600 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised by Honeywell that warranty remedies are available for some of the labor costs associated with accomplishing the modification of the anti-ice control panel required by the proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figures indicated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–169–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–30A020, Revision 03, dated May 5, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 burnt internal circuit boards caused by a short in either the engine or airfoil anti-ice valve, or windshield anti-ice controller, which could result in smoke in the cockpit, accomplish the following:

Replacement and Modification

(a) Within 1 year after the effective date of this AD, replace the 10 amp circuit breakers with 5 amp circuit breakers in the left and right windshield anti-ice power controllers, and accomplish either paragraph (a)(1) or (a)(2) of this AD, in accordance with McDonnell Douglas Alert Service Bulletin MD11–30A020 Revision 03, dated May 5, 1999.

(1) Option 1. Replace the anti-ice control panel and return the panel to Honeywell Inc. for modification and reidentification in accordance with Option 1 of the service bulletin.

(2) Option 2. Modify and reidentify the anti-ice control panel in accordance with Option 2 of the service bulletin.

Note 2: Replacements, modifications, and reidentifications accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD11–30–020, dated March 6, 1995; Revision 01, dated February 20, 1996; or Revision 02, dated August 25, 1997; are considered acceptable for compliance with the requirements of paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install an anti-ice control panel, part number 4059030–901 or –902, on any airplane, unless it has been modified and reidentified as part number 4059030–911 or –912, in accordance with paragraph (a)(1) or (a)(2) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27944 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–172–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 McDonnell Douglas Model MD–11 series airplanes. This proposal would require modification of the battery ground cable installation in the center accessory compartment. This proposal is prompted by reports of battery ground studs that had arced due to loose ground stud attachments. The actions specified by the proposed AD are intended to prevent such arcing, which could cause smoke and/or fire in the center accessory compartment.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–172–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Technical Specialist, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–172–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–172–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of battery ground studs that had arced on McDonnell Douglas Model MD–11 series airplanes. The cause of arcing of the battery ground studs has been attributed to loose ground stud attachments. This condition, if not corrected, could cause smoke and/or fire in the center accessory compartment.

These incidents are not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A141, dated May 17, 1999, and Revision 01, dated August 23, 1999, which describes procedures for modifying the battery ground cable installation in the center accessory compartment. This modification includes: modifying, reidentifying, and installing a bracket assembly; trimming of a name plate; plugging open holes; installing a support assembly and clamp; and connecting the battery ground cable with improved attachments. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 142 airplanes of the affected design in the worldwide fleet. The FAA estimates that 30 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane (for Option 1; bracket assembly modification) or 2 work hours per airplane (for Option 2; bracket assembly replacement) to accomplish the proposed AD, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,204 per airplane for Option 1, or $2,115 per airplane for Option 2. Based on these figures, the cost impact of the proposed AD on U.S. operators for Option 1 is estimated to be $41,520, or $1,384 per airplane. The cost impact of the proposed AD on U.S. operators for Option 2 is estimated to be $67,050, or $2,235 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for some labor costs associated with accomplishing the proposed actions. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figures indicated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–172–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A141, Revision 01, dated August 23, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing of the battery ground studs, which could cause smoke and/or fire in the center accessory compartment, accomplish the following:

(a) For airplanes on which McDonnell Douglas Service Bulletin MD11–24–090, dated August, 28, 1997; Revision 1, dated June 10, 1998; or Revision 2, dated May 17, 1999; has not been accomplished: Within 1 year after the effective date of this AD, accomplish the modification of the battery ground cable installation in the center accessory compartment specified in paragraph (a)(1) or (a)(2) of this AD, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A141, dated May 17, 1999, or Revision 01, dated August 23, 1999.

(1) Option 1 (Bracket Assembly Modification). Modify, reidentify, and install a modified bracket assembly; trim the nameplate; plug open holes; install the support assembly and clamp; and connect the battery ground cable with improved attachments.

(2) Option 2 (Bracket Assembly Replacement). Install a new bracket assembly; plug open holes; install the support assembly and clamp; and connect the battery ground cable with improved attachments.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

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

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27945 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–170–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 McDonnell Douglas Model MD–11 series airplanes. This proposal would require replacement of the air driven generator (ADG) wire assembly with a new, increased length wire assembly. This proposal is prompted by a report of loose terminal attachment hardware on the ADG power monitor relay due to a stress condition on the terminal attachment points. The actions specified by the proposed AD are intended to prevent loss of the charging capability of the aircraft battery. Loss of the charging capability of the aircraft battery, coupled with a loss of all normal electrical power, could prevent continued safe flight and landing of the airplane.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–170–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–170–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–170–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of loose terminal attachment hardware on the air driven generator (ADG) power monitor relay. This incident occurred on a Model MD–11 series airplane during a heavy maintenance check.

A subsequent inspection found other airplanes with similar loose terminal attachment hardware with internally broken lugs, including one airplane with a broken wire. During a Boeing investigation of production airplanes, it was revealed that the wire assembly connected to the ADG was installed with no slack, which caused a stress condition on the terminal attachment points, and resultant loose terminals and loss of the charging capability of the ADG. This condition, coupled with a loss of all normal electrical power, if not corrected, could prevent continued safe flight and landing of the airplane.

This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposal is one of a series of proposed actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletins MD11–24–128, dated September 17, 1998, and Revision 1, dated July 30, 1999, which describes procedures for replacement of the ADG wire assembly with a new, increased length wire assembly. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or

develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 180 airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $786 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $50,760, or $846 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–170–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Service Bulletin MD11–24–128, Revision 1, dated July 30, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the charging capability of the air driven generator (ADG), that when coupled with a loss of all normal electrical power, could prevent continued safe flight and landing of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD, replace the ADG wire assembly, part number (P/N) ACS9006–501, with a new, increased length wire assembly, P/N ACS9006–502, in accordance with McDonnell Douglas Service Bulletin MD–11–24–128, dated September 17, 1998, or Revision 1, dated July 30, 1999.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27946 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–173–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F 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 McDonnell Douglas Model MD–11 and MD–11F series airplanes. This proposal would require replacement of the existing terminal strips and supports above the main cabin area; and installation of spacers between terminal strips and mounting brackets in the avionics compartment; as applicable. This proposal is prompted by a report indicating that, during flight, an incident of electrical arcing occurred at a terminal strip located overhead in the main cabin. The actions specified by the proposed AD are intended to prevent electrical arcing caused by power feeder cable terminal lugs grounding against terminal strip support brackets, which could result in smoke and fire in the main cabin or avionics compartment.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–173–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–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident where arcing occurred during flight at a terminal strip located overhead in the main cabin of a McDonnell Douglas Model MD–11F series airplane. The arcing resulted in sparks landing on a cargo cover, which consequently caught fire. Investigation revealed that the design and installation did not provide adequate clearance between the terminal strips and mounting brackets, which allowed a power feeder cable terminal lug to ground against a terminal strip support bracket. Investigations conducted of other similar installations have revealed the potential for the same type of incident to occur at other specific aircraft locations. This condition, if not corrected, could result in smoke and fire in the main cabin or avionics compartment.

The subject area on certain McDonnell Douglas Model MD–11 series airplanes is identical to that on the affected Model MD–11F series airplanes. Therefore, both of these models may be subject to the same unsafe condition.

The incident described previously is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, which describes procedures for replacement of the existing terminal strips and supports above the main cabin at station Y=5–32.000 with new terminal strips and supports. The FAA also has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A147, dated March 24, 1999, which describes procedures for installation of spacers between terminal strips and mounting brackets in the avionics compartment. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 136 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A147, dated March 24, 1999, in the worldwide fleet. The FAA estimates that 40 airplanes of U.S. registry would be affected by this proposed action, that would take approximately 3 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would cost approximately $445 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be $25,000, or $625 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. However, the FAA has been advised that manufacturer warranty remedies are available for some labor with accomplishing the proposed actions. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figures indicated above.

There are approximately 14 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, in the worldwide fleet. Currently, none of these airplanes are on the US Register. However, should an affected airplane be imported and placed on the US Register in the future, it would require approximately 1 work hour to accomplish the proposed modification, at an average labor rate of $60 per work hour. The cost of required parts would be $885 per airplane. Based

on these figures, the cost impact of this modification proposed by this AD would be $945 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–173–AD.

Applicability: Model MD–11 and MD–11F series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, and McDonnell Douglas Alert Service Bulletin MD11–24A147, dated March 24, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 electrical arcing caused by power feeder cable terminal lugs grounding against terminal strip support brackets, which could result in smoke and fire in the main cabin or avionics compartment, accomplish the following:

Replacement of Terminal Strips and Supports

(a) For airplanes listed in the effectivity of McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, on which the modification specified in McDonnell Douglas Service Bulletin MD11–24–085, dated August 1, 1995, has not been accomplished: Within 1 year after the effective date of this AD, replace the existing terminal strips and supports above the main cabin at station Y=5–32.000 with new terminal strips and supports in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999.

Installation of Spacers

(b) For airplanes listed in the effectivity of McDonnell Douglas Alert Service Bulletin MD11–24A147, dated March 24, 1999: Within 6 months after the effective date of this AD, install spacers between terminal strips and mounting brackets in the avionics compartment in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–27947 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 4

Privacy Act of 1974; Implementation

AGENCY: Federal Trade Commission (FTC).

ACTION: Proposed rule amendment and request for comment.

SUMMARY: The FTC proposes to amend its Privacy Act rules to add a new system of records that will be used to compile and maintain identity theft complaint data. This new exempt system of records is necessary to implement the requirements of the Identity Theft and Assumption Deterrence Act of 1998. The exemption will help prevent individuals suspected of engaging in identity theft from obtaining access to complaint data.

DATES: Comments must be received by November 26, 1999.

ADDRESSES: Submit comments in writing to the Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, ''FTC File No. P994320, Identity Theft Program—Comment.''

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2447. For more information about the Commission's identity theft program, contact Beth Grossman, (202) 326–3019, or Joanna Crane, (202) 326–3258, Attorneys, Division of Planning & Information, Bureau of Consumer Protection, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, the FTC, in accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, is publishing a notice of a new agency system of records, to be designated as FTC–IV–2, ''Identity Theft Complaint Management System—FTC.'' This system will enable the FTC to fulfill its statutory responsibilities under section 5 of the Identity Theft and Assumption Deterrence Act of 1998, Public Law 105–318, 112 Stat. 3007, 3010, 18 U.S.C. 1028 note (''ITADA''), which designates the FTC as a clearinghouse for the receipt and referral of identity theft

complaints and requires that the FTC establish procedures: (1) To log and acknowledge receipt of complaints from individuals who certify that they have a reasonable belief that one or more of their means of identification have been assumed, stolen, or otherwise unlawfully acquired in violation of the statute; (2) to provide informational materials to such individuals; and (3) to refer such complaints to ''appropriate entities.'' Under the statute, these entities include, but are not limited to, the three major national consumer reporting agencies (currently Equifax, Experian and Trans Union), and appropriate law enforcement agencies for potential law enforcement action.

The Commission believes that the identity theft complaint data contained in this system must be exempted under the Privacy Act to prevent certain categories of individuals who will be covered by the system (i.e., targets of complaints) from invoking the Act to obtain access to complaint files that may pertain to their activities. A principal purpose for compiling these complaint files is for law enforcement, since these complaints focus on specific instances of suspected illegal identity theft. In many cases, these complaints will be referred to other law enforcement authorities, as required by the ITADA, and in certain cases, may also be relevant to Commission investigations. Under these circumstances, disclosure of the complaint file to a target would harm or otherwise interfere with law enforcement efforts. For example, if the complaint data were not exempted from access, a target could anticipate and evade prosecution by learning about actual or potential law enforcement referrals, investigations, or other actions from information maintained in the complaint file. Such access to the file could also inadvertently facilitate further identity theft or retaliation by enabling the target to ascertain or confirm sensitive personal information submitted by and being maintained about the identity theft victim or about other informants. Thus, the Commission proposes to exempt this system of records under 5 U.S.C. 552a(k)(2), and to amend Commission Rule 4.13(m), 16 CFR 4.13(m), to include this system in its inventory of exempt systems. The Commission, however, reserves the sole discretion to permit access to categories of individuals covered by the system other than targets (e.g., complainants or other individual informants) with respect to information that was provided by such individuals in order to correct, update or verify the accuracy of the information or for other related purposes.

Pursuant to 5 U.S.C. 552a(r), the Commission is providing notice of this proposal to the appropriate committees of the House of Representatives and the Senate, and to the Office of Management and Budget.

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy, Records, Sunshine Act.

PART 4—MISCELLANEOUS RULES

1. The authority for part 4 continues to read:

Authority: 15 U.S.C. 46, unless otherwise noted.

2. Amend § 4.13 by revising paragraph (m)(2) to read as follows:

§ 4.13 Privacy Act rules.

* * * * *

(m) * * *

(2) Pursuant to 5 U.S.C. 552a(k)(2), investigatory materials compiled for law enforcement purposes in the following systems of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a, and from the provisions of this section, except as otherwise provided in 5 U.S.C. 552a(k)(2):

Investigational, Legal, and Public Records—FTC
Disciplinary Action Investigatory Files—FTC
Clearance to Participate Applications and the Commission's Responses Thereto, and Related Documents—FTC
Management Information System—FTC
Office of the Secretary Control and Reporting System—FTC
Office of Inspector General Investigative Files—FTC
Stenographic Reporting Service Requests—FTC
Identity Theft Complaint Management System—FTC
Freedom of Information Act Requests and Appeals—FTC
Privacy Act Requests and Appeals—FTC
Information Retrieval and Indexing System—FTC

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc 99–28006 Filed 10–25–99; 10:38 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC–2012b; FRL–6456–9]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Stage II Gasoline Vapor Recovery RACT Requirements for Major Sources of VOC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve State Implementation Plan (SIP) revisions submitted by the District of Columbia consisting of amendments for reasonably available control technology (RACT) requirements for major sources of volatile organic compounds (VOC) and Stage II gasoline vapor recovery requirements. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the District's SIP submittals as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A rationale for the approval is set forth in the direct final rule. A more detailed description of the District's submittals and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 26, 1999.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and

the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, at the EPA Region III address above, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: October 5, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–26850 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA022–4089; FRL–6456–5]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Pennsylvania; Control of Total Reduced Sulfur Emissions from Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPS proposes to approve Pennsylvania's Section 111(d) plan for the purpose of controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills. In the final rules section of the **Federal Register**, EPA is approving this plan. A detailed rationale for the approval is set forth in the direct final rule. if no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by November 26, 1999.

ADDRESSES: Comments may be mailed to Harold A. Frankford, Office of Air Programs, Mail Code 3AP20, Environmental Protection Agency, Regional III, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (215) 814–2108, or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule, with the same title, which is located in the Rules and Regulations section of the **Federal Register.**

Dated: September 30, 1999.

Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

[FR Doc. 99–26854 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80, 85 and 86

[AMS–FRL–6463–7]

RIN 2060–AI23

Control of Air Pollution from New Motor Vehicles: Proposed Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Provision of Supplemental Information and Request for Comment.

SUMMARY: EPA published a Notice of Proposed Rulemaking (NPRM) on May 13, 1999, proposing a major program designed to significantly reduce the emissions from new passenger cars and light trucks, including pickup trucks, minivans, and sport-utility vehicles (the ''Tier 2 program''). The proposed program combines requirements for cleaner vehicles and requirements for lower levels of sulfur in gasoline. A supplemental notice was published on June 30, 1999, clarifying the May 13, 1999, proposal in light of a May 14, 1999, ruling by a panel of the Court of Appeals for the District of Columbia regarding the recently promulgated national ambient air quality standards (NAAQS) for ozone and PM. Our supplemental notice also provided additional modeling information not included in the May 13, 1999, proposal regarding 1-hour ozone levels for areas where the 1-hour ozone standard currently applies.

In light of the uncertain status of the 8-hour ozone standard resulting from the Court of Appeals' ruling, EPA recently issued a Notice of Proposed Rulemaking on October 20, 1999, proposing to rescind our earlier findings that the 1-hour ozone standard is no longer applicable in certain areas that have attained the standard. Today's document explains how the October 20, 1999, reinstatement proposal relates to the May 13 proposal on vehicle and gasoline standards. Today's document also provides additional 1-hour ozone modeling and monitoring information for areas that would be affected by the proposed action.

DATES: *Comments:* We must receive your comments on this document by December 1, 1999.

ADDRESSES: *Comments:* You may send written comments in paper form or by E-mail. Send paper copies of written comments (in duplicate if possible) on the information in this document to Public Docket No. A–97–10 at the following address: US Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, SW, Washington, DC 20460. If possible, we also encourage you to send an electronic copy of your comments (in ASCII format) to the docket by e-mail to A-and-R-Docket@epa.gov or on a 3.5 inch diskette accompanying your paper copy. If you wish, you may send your comments by E-mail to the docket at the address listed above without the submission of a paper copy, but a paper copy will ensure the clarity of your comments.

Please also send a separate paper copy to the contact person listed below. If you send comments by E-mail alone, we ask that you send a copy of the E-mail message that contains the comments to the contact person listed below.

EPA's Air Docket is open from 8 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR Part 2.

FOR FURTHER INFORMATION CONTACT: Carol Connell, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor MI 48105; Telephone (734) 214–4349, FAX (734) 214–4816, E-mail *connell.carol@epa.gov*.

For information on ozone modeling for Beaumont-Port Arthur, Texas, contact Mick Cote, U.S. EPA, Fountain Place 12th Floor Suite 1200, 1445 Ross

Avenue, Dallas TX 75202–2733; Telephone (214) 665–7219, E-mail *cote.mick@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction and Review of Events Related To This Rulemaking

A. Tier 2 Proposal

On May 13, 1999, EPA published in the **Federal Register** our proposal to reduce emissions from light-duty vehicles (LDVs) and light-duty trucks (LDTs). 64 FR 26004. The proposal would also significantly reduce sulfur content in gasoline. The proposed program would phase in beginning in 2004. The program is projected to result in reductions of approximately 800,000 tons of nitrogen oxides (NO_X) per year by 2007 and 1,200,000 tons by 2010. It would result in reductions of about 70 percent in emissions of NO_X from LDVs and LDTs nationwide by 2020, compared to emissions in that year without the proposed program. In addition, the proposed program would reduce the contribution of vehicles to other serious health and environmental problems, including particulate matter, visibility problems, toxic air pollutants, acid rain, and nitrogen loading of estuaries.

We proposed the standards for LDVs and LDTs pursuant to our authority under section 202 of the Clean Air Act (CAA or the Act). In particular, section 202(i) of the Act provides specific procedures that we must follow to determine whether Tier 2 standards for LDVs and certain LDTs [1] are appropriate beginning in the 2004 model year. Specifically, we are required to first issue a study regarding ''whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required'' (the ''Tier 2 study''). This study ''shall examine the need for further reductions in emissions in order to attain or maintain the national ambient air quality standards.'' It is also to consider (1) The availability of technology to meet more stringent vehicle emission standards, taking cost, lead time, safety, and energy impacts into consideration, and, (2) The need for, and cost effectiveness of, such standards, including consideration of alternative methods of attaining or maintaining the national ambient air quality standards. We must then submit the study as a Report to Congress. We submitted our Report to Congress on July 31, 1998.

Following the Report to Congress, we are required to determine by rulemaking whether (1) There is a need for further reductions in emissions in order to attain or maintain the national air quality standards (NAAQS), taking into consideration the waiver provisions of section 209(b); (2) The technology for more stringent emission standards from LDVs and LDTs with a loaded vehicle weight less than or equal to 3750 pounds will be available; and (3) Such standards are needed and cost-effective, taking into account alternatives. If we make affirmative determinations, then we are to promulgate new, more stringent motor vehicle standards (''Tier 2 standards''). We proposed affirmative responses to the three questions above and proposed new standards. We also proposed standards for larger light-duty trucks (up to 8500 pounds GVWR) under the general authority of Section 202(a)(1) and under Section 202(a)(3) of the Act, which requires that standards applicable to emissions of hydrocarbons, NO_X, CO and PM from heavy-duty vehicles [2] reflect the greatest degree of emission reduction available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety.

We proposed our gasoline sulfur controls pursuant to our authority under Section 211(c)(1) of the CAA. Under Section 211(c)(1), we may adopt a fuel control if at least one of the following two criteria is met: (1) The emission products of the fuel cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or (2) The emission products of the fuel will significantly impair emissions control systems in general use or which would be in general use in a reasonable time were the fuel control to be adopted.

We proposed to control sulfur levels in gasoline based on both of these criteria. Under the first criterion, we believe that existing sulfur content in gasoline used in Tier 1 and LEV technology vehicles contributes to ozone pollution, air toxics, and PM at levels which can be reasonably expected to endanger public health or welfare. Under the second criterion, we believe that in the absence of gasoline sulfur control, sulfur in fuel that would be used in Tier 2 technology vehicles would significantly impair the emissions control systems expected to be used in such vehicles.

B. New Ozone and PM NAAQS

EPA promulgated new NAAQS for ozone and PM in 1997. 62 FR 38652 (July 18, 1997); 62 FR 38856 (July 18, 1997). We replaced the 1-hour 0.12 parts per million (ppm) ozone standard with an 8-hour standard at a level of 0.08 ppm. We also promulgated a regulation providing that the 1-hour ozone NAAQS would continue to apply until we determined that an area had attained the 1-hour standard. This provision was premised upon the existence of the 8-hour standard and the implementation scheme developed for that standard. On June 5, 1998, July 22, 1998, and June 9, 1999, we issued final rules for many areas finding that the 1-hour standard no longer applied in these areas because they had attained the 1-hour standard. In proposing the Tier 2 standards on May 13, 1999, we proposed our determination on the need for additional emission reductions under section 202(i) after considering monitoring data and air quality model predictions related to the new NAAQS for ozone (the ''8-hour ozone NAAQS''), the pre-existing ozone NAAQS (the ''1-hour ozone NAAQS''), the pre-existing PM_{10} NAAQS, the revised PM10 NAAQS, and the new $PM_{2.5}$ NAAQS.

C. Court Panel Opinion on the NAAQS, Our Supplemental Notice Regarding Its Effect on the Tier 2/Sulfur Rule, and Our Proposal To Rescind Previous Findings on Applicability of the 1-Hour Ozone NAAQS

On May 14, 1999, a panel of the U.S. Court of Appeals for the District of Columbia Circuit found, by a 2–1 vote, that sections 108 and 109 of the Clean Air Act, as interpreted by EPA, represent unconstitutional delegations of Congressional power. *American Trucking Ass'ns, Inc., et al.,* v. *Environmental Protection Agency,* Nos. 97–1440, 1441 (D.C. Cir. May 14, 1999). The Court remanded the record to EPA. The June 30, 1999 supplemental notice contained a summary of the Court's opinion. On June 28, 1999 we filed a petition for rehearing and a petition for rehearing *en banc* seeking review of the panel's decision.

In the May 13, 1999, NPRM and related documents we provided a significant amount of information and analysis regarding our proposed determinations that further emission reductions were needed to attain and maintain the NAAQS, that the technology for more stringent emission standards will be available, and that such standards are needed and cost

[1] LDTs with a loaded vehicle weight less than or equal to 3750 pounds.

[2] Vehicle classifications are discussed in the May 13, 1999 proposal on page 26031. LDTs that have gross vehicle weight ratings above 6000 pounds are considered heavy-duty vehicles under the Act. See section 202(b)(3). For regulatory purposes, we refer to these LDTs as ''heavy light-duty trucks,'' made up of LDT3s and LDT4s. For reference, LDTs that have gross vehicle weight ratings below 6000 pounds are referred to as ''light light-duty trucks,'' made up of LDT1s and LDT2s.

effective, taking into account the alternatives. In the June 30, 1999, supplemental notice, we explained that, regardless of the eventual outcome of the Court case, the proposed Tier 2 Rule is justified as a necessary and important measure for reducing air pollutants and protecting public health. We stated that the proposed regulations continue to conform to the statutory requirements of the Act for the 1-hour ozone standard and the pre-existing PM_{10} NAAQS. The June 30, 1999, supplemental notice explained that the statutory requirements for the proposal remain satisfied, for each of the elements of the proposed rule that are covered by different statutory requirements (the ''Tier 2'' standards for LDVs and LDTs weighing 3750 lbs. or less, the standards for vehicles above this weight, and the gasoline sulfur limits). In particular, the supplemental notice summarized information on 1-hour ozone and PM air quality that had been presented in the May 13, 1999 notice. The supplemental notice also presented and discussed additional information on our ozone and PM air quality modeling analyses, focusing on the 1-hour ozone and the pre-existing PM_{10} NAAQS.

The additional information on 1-hour ozone presented in the supplemental notice included a table (numbered as Table 2 in the supplemental notice) of metropolitan areas for which ozone modeling has indicated a need for additional emission reductions for 1-hour ozone attainment. This table showed the results of the ''exceedance method'' [3] for comparing ozone model predictions to the 1-hour standard. It listed 17 metropolitan areas which remained subject to the 1-hour standard as of June 30, 1999, and which based on ozone modeling we predicted would have 1-hour ozone levels in 2007 above the level of the 1-hour standard, even after implementation of the Regional Ozone Transport Rule (ROTR), the National Low Emission Vehicle Program, the 2004 highway diesel engine standards, the Phase II nonroad diesel engine standards, and other federal and SIP emission control measures required under the CAA.[4] We stated in the supplemental notice our belief that these results indicate that there are many geographically dispersed areas which need further ozone precursor emission reductions to meet the 1-hour ozone NAAQS. The 1990 population of these 17 metropolitan areas exceeded 70 million.[5]

On October 20, 1999, EPA issued a proposal to rescind our previous findings that the 1-hour standard is no longer applicable in certain areas that had attained the 1-hour standard. This proposal is in response to the Court's ruling concerning the 8-hour ozone standard, since the existence of the 8-hour standard was one of the key factors underlying our finding that the 1-hour standard no longer applied in such areas. We further proposed to reinstate the former designations and classifications for such areas when the final notice is effective. The October 20, 1999 proposal contains a detailed list of the areas that would be affected, and a discussion of the effects of restoring the applicability of the 1-hour standard. The comment period for this proposal ends on December 1, 1999. We plan to take final action on the reinstatement prior to the final action on the Tier 2/Sulfur standards.

EPA believes that the information in the May 13 and June 30, 1999, documents, including the information in today's notice on areas already addressed in the June 30 notice, fully support the standards and determinations proposed in the May 13th NPRM. This applies whether one considers the information in the May 13, 1999, notice and the June 30, 1999, notice separately or taken together. The purpose of today's document is to provide additional information focusing on those areas where we recently proposed to rescind our previous findings on the applicability of the 1-hour ozone standard. The information provided in this document on these areas lends additional support to the information and analyses previously provided by EPA in the two prior documents, for any area where EPA finalizes such proposed reinstatement. For such areas, it will be appropriate and necessary for us to consider the prospects for attainment and maintenance with the 1-hour standard when we make our final finding under section 202(i) regarding the need for further reductions in emissions in order to attain or maintain the NAAQS. While the determinations and standards proposed by EPA in May of 1999 would be appropriate even without this additional information, it provides even further evidence that the proposal is appropriate.

The additional information presented today consists of (1) Additional information on areas already addressed in the June 30, 1999 supplemental notice, and (2) Ozone model predictions for areas that were not covered by that document. The 1-hour ozone modeling information in the June 30, 1999, supplemental notice was restricted to only those areas in which the standard still applied. The ozone modeling that was summarized in the table in fact resulted in predictions of exceedances in 2007 in other areas as well, as presented in the next section of this document. Today's notice does not present any additional information regarding attainment or maintenance of the PM NAAQS.

[3] The exceedance method is described in the June 30, 1999, supplemental notice and associated documents in the docket for this rulemaking. It is the method we have used in developing the ROTR, to assess prospects for future 1-hour ozone problems in specific areas based on regional ozone modeling. The ROTR was published on October 21, 1998 (63 FR 56292).

[4] The deadline for submission of state implementation plans under the ROTR was recently stayed by a panel of the Court of Appeals for the D.C. Circuit pending further review. EPA believes that the ROTR is fully consistent with the Clean Air Act and should be upheld. However, it should be noted that in the absence of the reductions mandated in the ROTR, the emission reductions from the Tier 2 program would be even more necessary for compliance with the NAAQS.

[5] One of the 17 areas discussed in the June 30, 1999, supplemental notice was the Los Angeles-Riverside-San Bernardino Consolidated Metropolitan Statistical Area (CMSA). Much of this area is within the South Coast Air Basin ozone nonattainment area. The supplemental notice explained that we consider the emission reduction needs of California's worst ozone nonattainment area to be relevant to our determination on the air quality need for emission reductions, even though the standards we proposed would only apply to vehicles and gasoline sold outside California. California has designed and implemented a state vehicle and fuel control program with vehicle standards and gasoline sulfur limits similar to those we proposed, and therefore the proposed Tier 2/gasoline sulfur program would likely not apply in California. However, in our proposal we noted in qualitative terms the importance of the Tier 2 and sulfur control reductions to California's efforts to reach attainment with the 1-hour ozone standard particularly in the South Coast Air Basin. Ozone levels in California would be reduced through reductions in emissions from vehicles sold outside California that subsequently enter California temporarily or permanently. According to California, about 7 to 10 percent of all car and light truck travel in California takes place in vehicles originally sold outside of California. Our vehicle standards will result in these vehicles being built with more effective emission controls. In addition, our gasoline sulfur standard will help ensure that cars which operate for a time outside of California and then within California will have fully functioning catalysts. With current gasoline sulfur levels, California vehicles which visit other states and non-California vehicles which visit or migrate to California would suffer catalyst poisoning that would persist even when operating on California's own low sulfur fuel. In fact, the state of California has recently filed an update to its State Implementation Plan for the South Coast Air Basin that expressly claims that the Tier 2 program will lead to four tons per day of reduced NO_X. The four tons per day NO_X reductions cited represents only a small fraction of the emission reductions needed in the South Coast to attain the NAAQS. Because of the information from California that these additional emission reductions from our proposed rule are needed for attainment in the South Coast Air Basin of California, the Los Angeles-Riverside-San Bernardino metro area was included in our list of areas with predicted exceedances in the absence of our proposed Tier 2/Sulfur standards, even though we have not modeled this area as we have the other areas listed in the table.

II. Supplemental Information

A. Update of Information Presented in the June 30, 1999, Supplemental Notice

We have several items of information which update and further explain the ozone situation in the metropolitan areas that were listed in the June 30, 1999, supplemental notice.

First, the population figure given in the supplemental notice for the Los Angeles-Riverside-San Bernardino metropolitan area was in error. The correct figure for the 1990 population of this area is 14,531,529. Also, the Dover, DE Metropolitan Statistical Area (MSA) should have been listed separately from the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area. These are in the same nonattainment area, but the Dover MSA is a separate metropolitan area. The two metropolitan areas each meet the criteria for inclusion in our list.

Also, we need to clarify the ozone model predictions and give additional information for three of the areas listed in the June 30, 1999 supplemental notice. In that document, we stated that for all the listed metropolitan areas our regional ozone model has predicted an exceedance of the 1-hour standard (with the exception of the Los Angeles area which was not within our regional ozone modeling domain). There was an error in reporting the modeling results for certain metropolitan areas. In fact, for the four episodes modeled, no 2007 exceedances were observed in the Baton Rouge, Beaumont-Port Arthur, or Milwaukee-Racine metropolitan areas. However, we still consider it appropriate to include two of these areas in the set of areas which support our proposed determination that additional emission reductions are needed to attain and maintain the 1-hour ozone standard, for reasons given below.

- *Baton Rouge, Louisiana.* On July 2, 1999, we approved Louisiana's demonstration that Baton Rouge will attain the 1-hour standard by its November 15, 1999 deadline. 64 FR 35930–35941. Our regional modeling, presented in the May 13 and June 30, 1999, notices, in fact does not indicate any exceedances in 2007. We have no specific indication that Baton Rouge will be exceeding the 1-hour standard by 2004, the first year of the proposed Tier 2/Sulfur rule emission reductions. Therefore, we are removing Baton Rouge from the list of areas which we consider to support a determination that additional emission reductions are needed in order to attain and maintain the 1-hour ozone standard.
- *Beaumont-Port Arthur, Texas.* Beaumont-Port Arthur is a moderate ozone nonattainment area which failed to attain by its November 15, 1996 deadline. Presently, the state of Texas is seeking our approval for a demonstration that Beaumont-Port Arthur is impacted by ozone transport from the Houston area, in order to support a request that we extend its attainment deadline to 2007 which would be the same as the deadline for Houston. We proposed action on this request on April 16, 1999 (64 FR 18864) and extended the comment period on June 3, 1999 (64 FR 29822). While our own regional ozone modeling performed for the development of the ROTR did not show any 2007 exceedances in Beaumont-Port Arthur, we believe that the ozone episodes we used in our regional modeling are not the most conducive to ozone formation in this particular area. The 2007 attainment analysis prepared and submitted by the state is based on two different episodes that are associated with high measured ozone levels in Beaumont-Port Arthur. We presently consider this analysis by Texas to indicate that additional emission reductions beyond already adopted programs are needed in order to provide for attainment of the 1-hour ozone standard in Beaumont-Port Arthur. Therefore, we are retaining Beaumont-Port Arthur on our list of areas with exceedances in the absence of the Tier 2/Sulfur emission reductions. Information on the modeling submitted by Texas may be examined by contacting Mick Cote in our Regional Office in Dallas, Texas and mentioning File No. TX–81–1–7350. Contact information for Mr. Cote is given in the section titled **FOR FURTHER INFORMATION CONTACT** at the beginning of this notice.
- *Milwaukee-Racine, Wisconsin.* Our regional ozone modeling did not indicate any 1-hour exceedance in any county within the boundaries of the Milwaukee-Racine CMSA itself. However, our modeling predicted days with 1-hour ozone levels above 0.124 ppm in locations within a larger Lake Michigan area modeling domain. Due to imprecision in the modeling of local wind fields over and around Lake Michigan, it is quite possible that the predicted ozone concentrations in these other locations are also representative of actual future concentrations in Milwaukee-Racine itself. Moreover, we consider that emissions in both Chicago and Milwaukee contribute to such violations. This does not affect our discussion of Chicago in the June 30, 1999, supplemental notice. We believe that both areas should be considered to need additional reductions in emissions to reach attainment of the 1-hour ozone standard in the domain affected by emissions from both. We therefore are retaining Milwaukee-Racine on our list of areas with exceedances in 2007 in the absence of the Tier 2/Sulfur emission reductions.

Table 1 below is the same as the list of areas with predicted 1-hour exceedances given in the supplemental notice, except for the addition of Dover, DE, deletion of Baton Rouge and the correction of the population figure for Los Angeles.[6]

TABLE 1

[Metropolitan areas projected to experience exceedances of the 1-hour standard in 2007 or 2010, as applicable, with ROTR controls but without Tier 2/Sulfur Controls. Does not include areas for which the 1-Hour Ozone NAAQs does not presently apply.]

Metropolitan area	1990 population
Atlanta, GA MSA	2,959,500
Beaumont-Port Arthur, TX MSA[a]	361,218
Birmingham, AL MSA	839,942
Chicago-Gary-Kenosha, IL-IN-WI CMSA	8,239,820
Cincinnati-Hamilton, OH-KY-IN CMSA[b]	1,817,569
Dallas-Fort Worth, TX CMSA[a]	4,037,282
Dover, DE MSA	110,993

[6] Areas in Table 1 are grouped and identified by Consolidated Metropolitan Statistical Areas (CMSAs) where they exist, or by Metropolitan Statistical Areas (MSAs) where no CMSA applies. In some cases, we are grouping by MSA and CMSA groups counties or parts of counties differently than we and the states group them for purposes of nonattainment area boundaries, classifications, attainment deadlines, or SIP approval or disapproval actions. This is for simplicity of presentation in this document only.

TABLE 1—Continued

[Metropolitan areas projected to experience exceedances of the 1-hour standard in 2007 or 2010, as applicable, with ROTR controls but without Tier 2/Sulfur Controls. Does not include areas for which the 1-Hour Ozone NAAQs does not presently apply.]

Metropolitan area	1990 population
Hartford, CT MSA	1,157,585
Houston-Galveston-Brazoria, TX CMSA[a]	3,731,029
Los Angeles-Riverside-San Bernardino CA CMSA[a b]	14,531,529
Louisville, KY-IN MSA	949,012
Milwaukee-Racine, WI CMSA	1,607,183
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA	19,549,649
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD CMSA	5,893,019
Springfield, MA MSA	587,884
St. Louis, MO-IL MSA	2,492,348
Washington-Baltimore, DC-MD-VA-WV CMSA[c]	6,726,395
Total Population	75,593,947
Number of Areas	17

[a] = These areas are not subject to the ROTR and were modeled accordingly.

[b] = The attainment date considered for Los Angeles-Riverside-San Bernardino is 2010. For other listed areas, 2007 is the date considered in the local ozone modeling that is the basis of this table. However, some of these areas have required attainment dates prior to 2007.

[c] = Washington, DC and Baltimore, MD are distinct nonattainment areas within one CMSA. They each meet the criteria for inclusion in this table.

Based on this list and the information presented in the first and supplemental notices regarding attainment of the pre-existing 1-hour ozone standard and the pre-existing PM_{10} NAAQS, we reiterate our proposed determination that there is a need for further reductions in emissions in order to attain or maintain the NAAQS, even when consideration is limited to the one-hour ozone and the pre-existing PM_{10} NAAQS. We believe the further information presented in the remainder of this document regarding other areas supports this proposed determination, but that the proposal is appropriate even without the additional information presented on areas subject to our proposed rescission of determinations regarding the applicability of the 1-hour ozone standard.

EPA has received comments on the air quality modeling aspects of the May 13, 1999, proposed rulemaking notice and the June 30, 1999, supplemental notice. All of these comments will be more fully considered and addressed in formulating and explaining the basis for our final action.

As discussed at length in the proposed rule, emissions from LDVs and LDTs will represent a large percentage of all emissions of ozone precursors once the ROTR is implemented. We believe that reductions from LDVs and LDTs in particular will be a needed and cost-effective alternative to achieve the necessary significant additional reductions in precursor emissions needed for the areas discussed above to attain or maintain the 1-hour ozone NAAQS.

B. Additional Ozone Modeling Results for Areas That Would Be Affected by the Proposed Rescission

As stated above, we have proposed to rescind our findings that made the 1-hour standard inapplicable in many areas, and thereby restore its applicability in these areas. In light of our proposal, we are presenting in this document similar ozone modeling information as was presented in the June 30, 1999 supplemental notice for areas subject to the proposed reinstatement. This modeling information shows that if we finalize our proposed rescissions of previous findings, thus restoring the 1-hour standard's applicability nationwide, the air quality basis for the proposed vehicle and fuel standards will be even stronger because there are many additional areas which appear unable to attain or maintain the 1-hour standard without additional emission reductions.

In the ozone modeling used to develop the Regional Ozone Transport Rule (ROTR), EPA calculated hourly ozone levels for the year 2007 in all or parts of 37 eastern states. The ROTR modeling considered the effects of growth and emission control measures. One of the combinations of emission control measures analyzed consisted of the ROTR, the National Low Emission Vehicle Program, the 2004 highway diesel engine standards, the Phase II nonroad diesel engine standards, and other federal and SIP emission control measures required under the CAA. We consider these controls to be the baseline for the required finding regarding the need for additional emission reductions to attain and maintain the NAAQS.[7] We performed ozone modeling for this baseline for each of the OTAG episodes in July 1988, 1991, 1993, and 1995.

Using the ozone predictions from the modeling just described, EPA extracted the predicted daily maximum 1-hour ozone concentrations for 2007 for a large number of counties in which ozone is or has been a concern. This set of counties includes (a) Those counties that are or ever were designated as nonattainment for the 1-hour standard, (b) Any additional counties which had an ozone monitor(s) in operation during the 1995–98 period with enough data to calculate a design value, and (c) Any other counties in the same MSA or CMSA as counties included under the first two criteria. Using the county-specific predicted 2007 daily maximum values, we used the ''exceedance method'' to identify those metropolitan areas where ozone levels are predicted to exceed the 0.12 ppm 1-hour standard in 2007. We then divided these areas into two groups, based on whether recent air quality monitoring has also shown violations. The first group consists of areas with both predicted exceedances in 2007 and recent monitoring data indicating a design value higher than the 1-hour standard. The second group consists of areas with predicted exceedances in 2007 but no

[7] Comments have been received recommending that we investigate whether states have adopted additional local controls not reflected in the ROTR modeling. We will consider and respond to this comment in the final action.

recent monitored violations. Tables 2 and 3 below list these groups.[8]

Table 2—Areas with recent ozone violations—Of the proposed rescission areas that are predicted by regional ozone modeling to have 1-hour exceedances in 2007, monitoring data from 14 areas indicates a violation of the 1-hour standard in either or both of the 1995–97 period or the 1996–98 period (the two most recent periods for which monitoring data have been fully checked for accuracy and validity). These areas also all have one or more predicted exceedances of the 1-hour standard (in the ROTR modeling or in local modeling).[9] Table 2 lists these 14 proposed rescission areas; the 17 areas already listed in Table 1 are repeated in Table 2 to give a complete list of all areas with both predicted 2007 exceedances and recent design values in excess of the 1-hour standard. The combination of these two criteria is consistent with the criteria we used in developing the ROTR, for the purpose of identifying adverse impacts on 1-hour ozone attainment in receptor states due to interstate transport.

Based on their recent monitored design values, all 31 areas clearly need further emission reductions from current emission levels in order to attain the 1-hour standard. Some of the necessary emission reductions will come from already adopted or mandated measures. However, based on the ozone model predictions, in combination with the recent monitored violations, we believe that additional emission reductions, as would be provided by the Tier 2/Sulfur standards, will be needed for attainment of the standard in 2007 (2010 for Los Angeles). It should be noted that some of these areas have attainment dates prior to 2007. For the areas with an earlier attainment date, we expect total emissions will be higher in that earlier year than estimated for 2007 in this modeling. If we had performed regional ozone modeling for these higher emissions in earlier years, we would likely be predicting even higher ozone levels and more frequent and widespread exceedances.

We believe that the prospect of unresolved nonattainment problems in the additional 14 areas that appear in Table 2 provides further support for a finding that additional emission reductions are needed for attainment and maintenance, assuming that we re-apply the 1-hour standard at a minimum to the additional 14 areas. The total 1990 population of the 31 areas in Table 2 is over 90 million, compared to the population of about 75 million in the areas in Table 1. Correspondingly, these areas represent an even larger share of the vehicle and fuel market. Also, the broader geographic spread of these areas further supports the appropriateness of a national vehicle and fuel strategy.

TABLE 2

[Metropolitan areas with recent design values above the 1-hour ozone NAAQS and also projected to experience exceedances of the 1-hour standard in 2007 (2010 for Los Angeles) with ROTR controls but without Tier 2/Sulfur controls.]

Metropolitan area	1990 population
Atlanta, GA MSA	2,959,500
Barnstable-Yarmouth, MA MSA [b]	134,954
Beaumont-Port Arthur, TX MSA [a]	361,218
Birmingham, AL MSA	839,942
Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA [b]	5,455,403
Charlotte-Gastonia-Rock Hill, NC–SC MSA [b]	1,162,140
Chattanooga, TN–GA MSA [b]	424,347
Cincinnati-Hamilton, OH–KY–IN CMSA	1,817,569
Chicago-Gary-Kenosha, IL–IN–WI CMSA	8,239,820
Dallas-Fort Worth, TX CMSA [a]	4,037,282
Dover, DE MSA	110,993
Grand Rapids-Muskegon-Holland, MI MSA [b]	937,891
Hartford, CT MSA	1,157,585
Houma, LA MSA [b]	182,842
Houston-Galveston-Brazoria, TX CMSA [a]	3,731,029
Huntington-Ashland, WV–KY–OH MSA [b]	312,529
Indianapolis, IN MSA [b]	1,380,491
Knoxville, TN MSA [b]	585,960
Los Angeles-Riverside-San Bernardino CA CMSA [a]	14,531,529
Louisville, KY–IN MSA	949,012
Memphis, TN–AR–MS MSA [b]	1,007,356
Milwaukee-Racine, WI CMSA	1,607,183
Nashville, TN MSA [b]	985,026
New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA	19,549,649
Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD CMSA	5,893,019
Portland, ME MSA [b]	221,095
Providence-Fall River-Warwick, RI–MA MSA [b]	1,134,350
Richmond-Petersburg, VA MSA [b]	865,640
Springfield, MA MSA MSA	587,884
St. Louis, MO–IL MSA	2,492,348
Washington-Baltimore, DC–MD–VA–WV CMSA [c]	6,726,395

[8] A predicted ozone level of 0.125 was considered to be an exceedance of the 1-hour NAAQS. Counties in Tables 2 and 3 are grouped and identified by Consolidated Metropolitan Statistical Areas (CMSAs) where they exist, or by Metropolitan Statistical Areas (MSAs) where no CMSA applies. Within a CMSA or MSA, the county of a predicted exceedance in 2007 was not required to match the county which has experienced a recent monitored violation, in order to qualify an area for listing in the first group. In some cases, grouping by MSA and CMSA groups counties or parts of counties differently than we and the states group them for purposes of nonattainment area boundaries, classifications, attainment deadlines, or SIP approval or disapproval actions. This is for simplicity of presentation in this document only.

[9] Of the areas that would have the 1-hour standard restored by our proposed rescission action, one area had a design value above the standard in both 1995–97 and 1996–98. Six areas had monitored design values which exceeded the 1-hour standard in 1995–97 but not in 1996–98, and six areas had the reverse. We placed areas on Table 2 or Table 3 based on the period that gave the higher design value.

TABLE 2—Continued

[Metropolitan areas with recent design values above the 1-hour ozone NAAQS and also projected to experience exceedances of the 1-hour standard in 2007 (2010 for Los Angeles) with ROTR controls but without Tier 2/Sulfur controls.]

Metropolitan area	1990 population
Total Population	90,383,971
Number of Areas	31

[a]=These areas are not subject to the ROTR and were modeled accordingly.
[b]=EPA has proposed to re-apply the 1-hour ozone NAAQS.
[c]=Washington, DC and Baltimore, MD are distinct nonattainment areas within one CMSA. They each meet the criteria for inclusion in this table.

Table 3—Areas without recent ozone violations—Areas that have not recently experienced an ozone violation may nevertheless need further emission reductions in order to maintain their compliance with the 1-hour standard. In order to identify a set of areas that may need additional reductions to maintain the 1-hour standard, we have listed in Table 3 the areas for which our regional ozone modeling predicts at least one ozone exceedance day for 2007 but which had design values below the 1-hour NAAQS in both 1995–97 and 1996–1998. The proposal of October 20, 1999 proposed to restore the applicability of the 1-hour standard to these areas. Table 3 also indicates the closest that each area came to having a monitored design value above the standard in the 1995–98 period, by grouping the areas into bands of 95–100 percent of the NAAQS, 90–94 percent, etc. Preliminary 1999 data indicate that if the 1997–99 period is considered, some of these areas may have 1-hour design values above the NAAQS. Details on the monitored design values and 2007 exceedance predictions from the regional ozone modeling are given in a memo to Air Docket A–97–10, titled ''Recent Design Values for Counties Predicted by Regional Ozone Modeling to Have 1-Hour Ozone Exceedances in 2007 Without Tier 2/Sulfur Control.''

TABLE 3.

[Metropolitan areas with recent design values below the 1-hour ozone NAAQS, but projected to experience exceedances of the 1-hour standard in 2007 with ROTR controls but without Tier 2/Sulfur controls.]

Metropolitan area	1990 population
Recent Design Value Between 95 and 100 Percent of NAAQS [a]	
Augusta-Aiken, GA-SC MSA	415,220
Cleveland-Akron, OH CMSA	2,859,644
Greensboro-Winston Salem-High Point, NC MSA	1,050,304
Greenville-Spartanburg-Anderson, SC MSA	830,539
Montgomery, AL MSA	292,517
New Orleans, LA MSA [b]	1,285,262
Raleigh-Durham-Chapel Hill, NC MSA	858,485
Reading, PA MSA	336,523
Tulsa, OK MSA [b]	708,954
9 Areas Population Subtotal	8,637,448
Recent Design Value Between 90 and 94 Percent of NAAQS [a]	
Allentown-Bethlehem-Easton, PA MSA	595,081
Biloxi-Gulfport-Pascagoula, MS MSA [b]	312,368
Columbia, SC MSA	453,932
Columbus, OH MSA	1,345,450
Detroit-Ann Arbor-Flint, MI CMSA	5,187,171
Harrisburg-Lebanon-Carlisle, PA MSA	587,986
Johnson City-Kingsport-Bristol, TN-VA MSA	436,047
Mobile, AL MSA	476,923
Orlando, FL MSA [b]	1,224,844
Pensacola, FL MSA [b]	344,406
10 Areas Population Subtotal	10,964,208
Recent Design Value Below 85 and 89 Percent of NAAQS [a]	
Charleston, WV MSA	250,545
Columbus, GA-AL MSA	260,862
Fayetteville, NC MSA	274,713
Hickory-Morganton-Lenoir, NC MSA	292,405
Lafayette, LA MSA [b]	345,053
Norfolk-Virginia Beach-Newport News, VA-NC MSA	1,444,710
York, PA MSA	339,574
7 Areas Population Subtotal	3,207,862

TABLE 3.—Continued

[Metropolitan areas with recent design values below the 1-hour ozone NAAQS, but projected to experience exceedances of the 1-hour standard in 2007 with ROTR controls but without Tier 2/Sulfur controls.]

Metropolitan area	1990 population
Recent Design Value Below 85 Percent of NAAQS [a]	
Jackson, MS MSA [b]	395,396
1 Area Population Subtotal	395,396
Total Population	23,204,914
Number of Areas	27

[a] = Each area is assigned to one of these groups based on the higher of its 1995–97 or 1996–98 design value.
[b] = These areas are not subject to the ROTR and were modeled accordingly.

EPA believes that the ozone model's predictions of exceedances in the areas listed in Table 3 are information that is relevant to the determination we will make regarding the need for further emission reductions to attain or maintain the NAAQS, provided that the 1-hour standard is restored for these areas. Therefore we are presenting this information for public comment. In the development of the ROTR, we did not rely on presently clean areas such as these as receptor areas for determining whether emissions in upwind states will contribute to nonattainment in downwind states. However, at the time, the 1-hour standard did not apply to such areas so there was a legal as well as an air quality basis for not considering these areas. We invite comment on whether and how we should consider the areas listed in Table 3 for purposes of our section 202(i) determination on the need for additional emission reductions.

EPA has been updating its regional ozone modeling estimates and methods, in part in response to comments on our NPRM and the first supplemental notice. We are currently in the process of updating the docket to include documents that describe this additional ozone modeling. We intend to consider this modeling in taking final action on our May 13 proposal. Anyone who is interested in this updated modeling should review the docket for further information.

III. Public Comment

We seek comments on all aspects of this Supplemental Notice, including the continuing need for Tier 2 emission standards for vehicles and reducing sulfur in gasoline to attain and maintain the NAAQS. Please see the Addresses section in this document for how and where to send any comments you may have on the supplemental information provided in today's document.

Dated: October 20, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–27933 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124, 130, and 131

[FRL–6464–3]

Proposed Revisions to the Water Quality Planning and Management Regulation, and Revisions to the National Pollutant Discharge Elimination System Program and Federal Antidegradation Policy in Support of Proposed Revisions to the Water Quality Planning and Management Regulation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 23, 1999, EPA issued two proposed rules to revise, clarify and strengthen the current regulatory requirements for identifying impaired waters and establishing Total Maximum Daily Loads (TMDLs) under the Clean Water Act: revisions to the Water Quality Planning and Management Regulation (64 FR 46012); and revisions to the National Pollutant Discharge Elimination System (NPDES) Program and Federal Antidegradation Policy (64 FR 46058) in support of the revisions at 64 FR 46012. These proposed regulatory revisions address issues of fundamental importance to cleaning up our Nation's polluted waters. Listing impaired and threatened waters and establishing TMDLs are fundamental tools for identifying remaining sources of water pollution and achieving water quality goals. Clean-up plans developed consistent with these regulatory proposals will help to restore the health of thousands of miles of river and shoreline and make millions of lake acres safe for their designated uses.

EPA sought comment on both sets of proposed rules by October 22, 1999. In response to comments from the public requesting additional time to fully analyze the issues and prepare comprehensive comments, EPA extended the original comment period to December 22, 1999 (64 FR 53304, October 1, 1999). Today, in response to Congressional direction in EPA's appropriations bill, EPA is extending the comment period to January 20, 2000.

DATES: Comments on these proposals must be submitted on or before January 20, 2000. Comments provided electronically will be considered timely if they are submitted by 11:59 P.M. (Eastern time) January 20, 2000.

ADDRESSES: Send written comments on the Proposed Revisions to the Water Quality Planning and Management Regulation to the Comment Clerk for the TMDL Program Rule, Water Docket (W–98–31), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

Send written comments on the Revisions to the NPDES Program and Federal Antidegradation Policy in Support of Proposed Revisions to the Water Quality Planning and Management Regulation to the Comment Clerk, Water Docket (W–99–04), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

EPA requests that commenters submit any references cited in their comments. EPA also requests that commenters submit an original and 3 copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All comments must be

postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epa.gov. Electronic comments must be submitted as an ASCII or WordPerfect file avoiding the use of special characters and any form on encryption. Electronic comments must be identified by the appropriate docket number (W–98–31 for the TMDL rule and W–99–04 for the NPDES Program/Federal Antidegradation Policy rule), and may be filed online at many Federal depository Libraries. No confidential business information (CBI) should be sent via e-mail.

A copy of the supporting documents cited in the proposals are available for review at EPA's Water Docket; Room EB–57 (East Tower Basement), 401 M Street, SW, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment. An electronic version of the TMDL proposal is available via the Internet at: <http://www.epa.gov/OWOW/tmdl/index.html>.

FOR FURTHER INFORMATION CONTACT: Hazel Groman, U.S. EPA, Office of Wetlands, Oceans and Watersheds (4503F), 401 M St., S.W., Washington, D.C. 20640, (202) 401–4078 for the TMDL rule. Kim Kramer, Office of Wastewater Management, 401 M St., S.W., Washington, D.C. 20640, Mail Code 4203, e-mail: Kramer.Kim@epa.gov, telephone: (202) 260–9541 for information regarding the NPDES provisions, or Susan Gilbertson, Office of Science and Technology, 401 M St., S.W., Washington, D.C. 20640, Mail Code 4305, e-mail: Gilbertson.Sue@epa.gov, telephone (202) 260–7301 for information regarding the water quality standards provisions.

Dated: October 21, 1999.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 99–28044 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 2186, MM Docket No. 99–302, RM–9727]

Radio Broadcasting Services; Monahans and Gardendale, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Capstar Royalty II Corporation, requesting the reallotment of Channel 271C from Monahans, Texas, to Gardendale, Texas, and modification of the license for Station KCDQ to specify Gardendale, Texas, as the community of license. The coordinates for Channel 271C at Gardendale are 31–57–55 and 102–46–10. Although Gardendale is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government is not required as no change in channel or transmitter site has been requested. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 271C at Gardendale.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gregory L. Masters, E. Joseph Knoll III, Wiley, Rein & Fielding, 1776 K street, NW, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–302, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27992 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2187, MM Docket No. 99–303, RM–9737]

Radio Broadcasting Services; Seymour, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Seymour Broadcasting Company proposing the allotment of Channel 254A at Seymour, Texas, as the community's second FM broadcast service. The channel can be allotted to Seymour in compliance with the Commission's Rules provided there is a site restriction 10.1 kilometers (6.3 miles) south of the community. The coordinates for Channel 254A at Seymour are 33–29–57 NL and 99–15–06 WL.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Audrey P. Rasmussen, O'Connor & Hannan, L.L.P., 1919 Pennsylvania, Avenue, NW, Suite 800, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–303, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27991 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2187, MM Docket No. 99–304, RM–9738]

Radio Broadcasting Services; Charlotte, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Charlotte Radio Broadcasting Company proposing the allotment of Channel 227A at Charlotte, Texas. The channel can be allotted to Charlotte in compliance with the Commission's spacing requirements at coordinates 28–49–49 NL and 98–51–01 WL. There is a site restriction 14.3 kilometers (8.9 miles) west of the community. Mexican concurrence will be requested for the allotment of Channel 227A at Charlotte.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, Virginia 22314.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–304, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27990 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2187, MM Docket No. 99–305, RM–9537]

Radio Broadcasting Services; Alberton, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 294C3 at Alberton, Montana. The channel can be allotted to Alberton in compliance with the Commission's spacing requirements at coordinates 47–00–06 NL and 114–28–21 WL. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–305, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27989 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2187, MM Docket No. 99–306, RM–9729]

Radio Broadcasting Services; Inglis, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Levy County Broadcasting proposing the allotment of Channel 257A at Inglis, Florida, as the community's second FM broadcast service. The channel can be allotted to Inglis in compliance with the Commission's spacing requirements at coordinates 29–07–49 NL and 82–41–19 WL. There is a site restriction 11.1 kilometers (6.9 miles) north of the community.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Cary S. Tepper, Booth, Freret, Imlay & Tepper, P.C., 5101 Wisconsin Avenue, NW, Suite 307, Washington, DC 20016–4120.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–306, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27988 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2187, MM Docket No. 99–307, RM–9739]

Radio Broadcasting Services; Big Sky, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by R. Steven Hicks proposing the allotment of Channel 242A at Big Sky, Montana. The channel can be allotted to Big Sky in compliance with the Commission's spacing requirements at coordinates 45–16–02 NL and 111–22–14 WL.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gregory L. Masters, Marjorie J. Dickman, Wiley, Rein & Fielding, 1776 K Street, NW, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–307, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–27987 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2195; MM Docket No. 99–310; RM–9742]

Radio Broadcasting Services; Box Elder, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by La Nina Education Association proposing the allotment of Channel 274A at Box Elder, South Dakota, as the community's first local aural transmission service. Channel 274A can be allotted to Box Elder in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates

for Channel 274A at Box Elder are 44–06–48 North Latitude and 103–04–12 West Longitude.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Ms. Heidi Olivares, La Nina Education Association, 3802 Dawn Road, #A, Madson, Wisconsin 53704 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–310, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–28010 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2195; MM Docket No. 99–309; RM–9694]

Radio Broadcasting Services; Keosauqua, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by McTronix proposing the allotment of Channel 271C3 at Keosauqua, Iowa, as the community's first local aural transmission service. Channel 271C3 can be allotted to Keosauqua in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 271C3 at Keosauqua are 40–43–48 North Latitude and 91–57–48 West Longitude.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: John S. Neely, Miller & Miller, P.C., P.O. Box 33003, Washington, DC 20033 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–309, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–28009 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2195; MM Docket No. 99–308; RM–9693]

Radio Broadcasting Services; Watseka, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Iroquois County Broadcasting Company proposing the allotment of Channel 240A at Watseka, Illinois, as the community's second local FM transmission service. Channel 240A can be allotted to Watseka in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.4 kilometers (3.3 miles) northwest at petitioner's requested site. The coordinates for Channel 240A at Watseka are 40–48–00 North Latitude and 87–47–15 West Longitude.

DATES: Comments must be filed on or before December 6, 1999, and reply comments on or before December 21, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Anne Thomas Paxson, Borsari & Paxson, 2021 L Street, NW, Suite 402, Washington, DC 20036 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

99–308, adopted October 6, 1999, and released October 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–28008 Filed 10–26–99; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 64, No. 207
Wednesday, October 27, 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

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension and a revision to an approved information collection in support of the Conservation Reserve Program (CRP). The collection requirements have been revised to amend the total burden hours to reflect CRP activity from 1999 through 2002, including enrolling new acreage in the program and releasing acreage before contract expiration as authorized by the Federal Agriculture Improvement and Reform Act of 1996.

DATES: Comments on this notice must be received on or before December 27, 1999 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Comments may be sent to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Programs Division, USDA, FSA, CEPD, STOP 0513, 1400 Independence Avenue, SW, Washington, DC 20250–0513, telephone (202)720–7333; facsimile (202)720–4619; or e-mail Cheryl__Zavodny@wdc.fsa.usda.gov.; or facsimile (202) 720–4619.

SUPPLEMENTARY INFORMATION:

Title: Conservation Reserve Program.

OMB Control Number: 0560–0125.

Expiration Date of Approval: February 29, 2000.

Type of Request: Extension and Revision of Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Control Number 0560–0125, as identified above allows FSA to effectively administer the regulations under the CRP. The CRP regulations at 7 CFR Part 1410 and formerly at 7 CFR Part 704 set forth basic policies, program provisions, and eligibility requirements for owners and operators to enter into and carry out long-term CRP contracts with financial and technical assistance and for making cost-share and annual rental payments under the program. All information collection under 7 CFR Part 704 has ceased. This regulation was removed by the final CRP rule published February 19, 1997, which revised 7 CFR Part 1410. CRP information collection requirements will continue under 7 CFR Part 1410. Total public burden hours are based on the following assumptions:

1. Average size for contracts is 70.0 acres for general and 8.0 acres for continuous signup contracts.

2. Approximately 3.442 million acres are scheduled to expire under CRP on September 30, 1999. The Secretary has the authority to maintain 36.4 million acres in the program through 2002. The remaining enrollment authority through 2002 is 7,181,000 acres.

3. Twenty-five percent of the producers requesting early release will not release the entire contract.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .067691 hours per response.

Respondents: Owners, operators, and other producers on eligible cropland.

Estimated Number of Respondents: 575,140.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 38,932.

Comments are sought on these requirements including: (a) whether the continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information to be collected; and (d) minimizing the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Programs Division, USDA, FSA, 1400 Independence Avenue, SW, STOP 0513, Washington DC 20250–0513.

Copies of the information collection may be obtained from Cheryl Zavodny at the above address.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on October 18, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–28035 Filed 10–26–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–044C]

National Advisory Committee on Meat and Poultry Inspection; Correction

This notice revises the information provided in the **Federal Register** notice (64 FR 55226), published on October 12, 1999 (FR Doc. 99–26559). The location of the meeting was listed incorrectly in the **Federal Register**. The **Federal Register** stated that the full Committee meeting will take place at the United States Department of Agriculture, Whitten Building, 14th and Independence Avenue, SW, Washington, DC in the Jefferson Room. The full Committee meeting will now

take place at the Quality Hotel and Suites, Jefferson Room, Courthouse Plaza, 1200 North Courthouse Road, Arlington, VA 22201; telephone (703) 524–4000.

Additionally, the meeting agenda has changed. There will be only four issues discussed. The fifth issue will not be discussed, E. coli 0157 Action Plan.

Also, the actual date the Secretary of Agriculture renewed the charter for the Advisory Committee on Meat and Poultry Inspection is March 22, 1999, not February 12, 1997, as published in the **Federal Register**.

Done at Washington, DC on: October 21, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–28036 Filed 10–26–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by December 27, 1999.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Development & Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., STOP 1522, Room 4034 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0736. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION:

Title: Review Rating Summary.

OMB Control Number: 0572–0025.

Type of Request: Reinstatement of a previously approved collection with change.

Abstract: The Rural Utilities Service (RUS) manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended. An important part of safeguarding loan security is to see that RUS financed facilities are being responsibly used, adequately operated and adequately maintained. Future needs have to be anticipated to ensure that facilities will continue to produce revenue and that loans will be repaid as required by the RUS mortgage. A periodic operations and maintenance (O&M) review, using the RUS Form 300, in accordance with RUS Bulletin 161–5, is an effective means for RUS to determine whether the borrowers' systems are being properly operated and maintained, thereby protecting the loan collateral. An O&M review is also used to rate facilities and can be used for appraisals of collateral as prescribed by the Office of Management and Budget (OMB) Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 233.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 932 hours.

Copies of this information collection can be obtained from Dawn Wolfgang, Program Development and Regulatory Analysis, at (202) 720–0812.

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, DC 20250–1522.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 21, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–28034 Filed 10–26–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems; Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 9 and 10, 1999, 9 a.m., in room 3884 of the Herbert C. Hoover Building, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

November 9

Public Session

1. Comments or presentations by the public.
2. Electronic submission of support documents.
3. ISTAC proposal on graphics processors: present technology and recommendation.
4. A new look at computer architecture.
5. Discussion on revisions to high-performance computer security safeguard plan.

November 9 and 10

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 15th St. and Pennsylvania Ave, NW, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 10, 1999, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or

portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: October 20, 1999.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 99–27980 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–859–801]

Notice of Postponement of Preliminary Antidumping Duty Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Slovakia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: LaVonne Jackson, Doug Campau, or Abdelali Elouaradia, Office V, DAS Group II, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3003, 482–1784, or (202) 482–0498, respectively.

Postponement of Preliminary Determination

The Department of Commerce (''the Department'') is postponing the preliminary determination in the antidumping duty investigation of cold-rolled, flat-rolled, carbon-quality steel products from Slovakia. The deadline for issuing the preliminary determination in this investigation is now December 8, 1999.

On June 21, 1999, the Department initiated an antidumping investigation of cold-rolled, flat-rolled, carbon-quality steel products from Slovakia. *See Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela,* 64 FR 34194. The notice stated that the Department would issue its preliminary determinations no later than 140 days after the date of initiation (*i.e.*, November 8, 1999).

On October 13, 1999, pursuant to section 771(18)(B) of the Tariff Act of 1930, as amended (''the Act''), the Department revoked the non-market economy status of Slovakia. As a result, the Department discontinued the use of its non-market economy methodology in this investigation, and is now proceeding using its market economy methodology. Thus, the Department must now gather additional data, review responses, and address all issues using its market economy investigation methodology. Consequently, in accordance with section 733(c)(1)(B) of the Act, the Department concludes that this case is extraordinarily complicated, and that additional time is necessary to issue the preliminary determination. Therefore, pursuant to section 733(c)(1) of the Act, the Department is postponing the deadline for issuing this determination until December 8, 1999.

This extension is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: October 19, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28058 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–803]

Industrial Nitrocellulose From the United Kingdom: Rescission of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 1999, the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty order on industrial nitrocellulose from the United Kingdom for Imperial Chemical Industries PLC (''ICI''), a manufacturer and exporter of industrial nitrocellulose. This administrative review was requested by ICI and is for the period July 1, 1998 through June 30, 1999. The Department is rescinding this review after receiving a timely withdrawal from ICI of its request for review.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Futtner or Ron Trentham, Group II, Office 4, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–3814 and (202) 482–6320, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

Background

On July 26, 1999, ICI requested that the Department conduct an administrative review of the subject merchandise it exported from the United Kingdom for the period July 1, 1998 through June 30, 1999.

On August 30, 1999, the Department published in the **Federal Register** (64 FR 47167) a notice of initiation of administrative review with respect to ICI for the period July 1, 1998 through June 30, 1999. On September 29, 1999, ICI requested that it be allowed to withdraw its request for a review and that the review be terminated.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Because ICI's request for termination was submitted within the 90-day time limit, and there were no requests for review from other interested parties, we are rescinding this review. We will issue appropriate appraisement instructions directly to the US Customs Service.

This notice is in accordance with section 771(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 21, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration, Group II.

[FR Doc. 99–28056 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–803]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: industrial nitrocellulose from Germany.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from Germany (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from Germany. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Germany was published in the **Federal Register** on July 10, 1990 (55 FR 28270).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 3.84 percent.[2] Since that time, the Department has completed one administrative review.[3] We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Germany (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Germany is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period

[1] See Antidumping Duty Order: Industrial Nitrocellulose from Germany, 55 FR 28271 (July 10, 1990).

[2] However, the underlying investigation and the subsequent review dealt with only one German company, Wolff Walsrode AG (''Wolff'').

[3] See Industrial Nitrocellulose From Germany: Final Results of Antidumping Duty Administrative Review, 63 FR 43372 (August 13, 1998).

[4] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3–5). In support of its assertion, Hercules stresses that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order. *Id.* Citing the Sunset Policy Bulletin, 63 FR at 18872, Hercules argues that continued dumping at any level above *de minimis* after the issuance of the order is highly probative of a likelihood of future dumping. *Id.* Furthermore, Hercules argues that an increase of weighted-average dumping margins of the subject merchandise in the most recent review clearly manifests Wolff's willingness to dump at an increasing rate in order to hold onto its U.S. market share.[5] *Id.*

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined slightly.[6] Therefore, the Department determines that the import volumes of the subject merchandise were reduced slightly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,[7] the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Wolff and all-others: 3.84 percent.[8] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Wolff increased its dumping in order to hold onto its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 5-6.) Hercules urges, the Department, therefore, should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Wolff's likely behavior in the event the order is revoked.

The Department disagrees with Hercules' suggestion pertaining to the margin that is likely to prevail were the order revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or

[5] See footnote 1 and 3, supra. The rate from the antidumping duty order was 3.84 percent; the rate from the final results of the only administrative review, covering the period July 1996 through June 1997, was 7.18 percent for Wolff, which was the only company reviewed.

[6] The import volumes of the subject merchandise are as follows (the order was issued in June of 1990): 1989—2,331; 1990—2,576; 1991—1,800; 1992—2,824; 1993—2,357; 1994—1,787; 1995—2,298; 1996—2,173; 1997—2,021; 1998—2,095. These numbers correspond exactly with the U.S. International Trade Commission Data. Although the imports volumes remained relatively steady throughout the period, they declined immediately after the issuance of the order: 2,331 in 1989 compared to 1,800 in 1991. Also, the average volume of imports during the period 1994 through 1998 (2,074.8) is slightly less than that of 1989 (2,331).

[7] See footnote 6, supra.

[8] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Germany, 55 FR 21058 (May 22, 1990).

increase its market share, the Department may report a more recently calculated margin to the Commission if dumping margins increased after the issuance of the order. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of an increased weighted-average dumping margin did not coincide with increased import volumes of the subject merchandise. Nor was the increased dumping associated with steady market share. On the contrary, our review of imports shows that the higher margin was associated with decreased volumes of imports and slightly declined market share.[9] Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation reflect the behavior of German producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Wolff Walsrode AG	3.84
All Others	3.84

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

[9] The only review in which the Department found a higher weighted-average dumping margin covered the period between July 1996 and June 1997. See footnote 3, supra. Both the import volumes and market shares of the subject merchandise between 1996 and 1998 are lower than those of 1995, and lower than the five-year averages of the import volumes and market shares between 1991—1995. See Hercules' July 1, 1999 Substantive Response Attachment 2.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28062 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–812]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: industrial nitrocellulose from Japan.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from Japan (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from Japan. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Japan was published in the **Federal Register** on July 10, 1990 (55 FR 28268).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 66.0 percent.[2] Since that time, the Department has not conducted any administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Japan (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline

[1] See Antidumping Duty Order: Industrial Nitrocellulose from Japan, 55 FR 28268 (July 10, 1990).

[2] However, the underlying investigation dealt with only one Japanese company, Asahi Chemical Industry Co., Ltd. (''Asahi'').

specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose and was the petitioner in the original investigation. (See Hercules' July 1, 1999 Substantive Response at 1—2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Japan is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination:

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3—5). To support its contention, Hercules points to the drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise virtually disappeared.[4] *Id.* The virtual cessation of imports immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. *Id.*

Moreover, Hercules indicates that, for the past five years, imports of the subject merchandise have been at or near zero.[5] *Id.* In conclusion, Hercules argues that Japanese manufacturers/exporters of the subject merchandise have not been able to sell during the antidumping duty order regime; in other words, Japanese manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considers the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, import volumes of the subject merchandise have declined substantially.[6] Moreover, for the period 1994–1998, the United States International Trade Commission Data shows rather insignificant import volumes for the subject merchandise.[7] Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Because no administrative review has been

[3] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

[4] The order was imposed on July 10, 1990. (See footnote 1, supra.) In 1989 and 1990, imports of the subject merchandise were 487 and 163 metric tons, respectively; however, during 1991 through 1998, the import volumes were as follows: 1991—29; 1992—80; 1993—20; 1994—8; 1995—8; 1996—10; 1997—0; and 1998—16 metric tons. (See Hercules' July 1, 1999 substantive response, Attachment 2.)

[5] See footnote 3, supra. During 1994–1998, the average import volume of the subject merchandise was only 8.4 metric tons, which was about 2.58 percent of the average imports of 1989 and 1990, or 1.72 percent of 1989 imports alone.

[6] See footnote 3, supra. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

[7] See footnote 4.

conducted since the issuance of the order, the margins from the original investigation are the prevailing margins. Thus, the Department determines that weighted-average dumping margins for the subject merchandise have continued at above the de minimis level.

Given that dumping margins above de minimis continue in effect after the issuance of the order, that the import volumes of the subject merchandise decreased substantially after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Asahi and all-others: 66.00 percent.[8] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6.) Hercules argues that, since the Department has not conducted any administrative reviews pertaining to the instant order, the best and only possible recommendation the Department can make, regarding margins that are likely to prevail, is to rely upon the rates from the original investigation. *Id.*

The Department agrees with the Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Japanese producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review:

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Asahi Chemical Industry Co., Ltd.	66.00
All Others	66.00

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28063 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[8] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Japan, 55 FR 21053 (May 22, 1990).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–805]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Industrial Nitrocellulose from the Republic of Korea.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from the Republic of Korea (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') *Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from the Republic of Korea. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks.

The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from the Republic of Korea was published in the **Federal Register** on July 10, 1990 (55 FR 28266).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 66.30 percent.[2] Since that time, the Department has completed one administrative review.[3] We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from the Republic of Korea (''Korea'') (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the petitioner Hercules Incorporated (''Hercules''), on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (*See* Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the administrative review proceeding. (*See* Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Korea is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3–6). To support this argument, Hercules notes a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise completely stopped.[5] *Id.* The cessation of imports in the years immediately after the issuance of the order, Hercules further argues, is

[1] *See Antidumping Duty Order: Industrial Nitrocellulose from the Republic of Korea,* 55 FR 28266 (July 10, 1990).

[2] However, the underlying investigation dealt with only one Korean company, Miwon Company, Ltd. (''Miwon'').

[3] *See Industrial Nitrocellulose From the Republic of Korea; Notice of Final Results of Antidumping Duty Administrative Review,* 63 FR 60302 (November 9, 1998).

[4] *See Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 55233 (October 12, 1999).

[5] The order was imposed on July 10, 1990. (*See* footnote 1, supra.) In 1989 and 1990, imports of the subject merchandise were 147 and 58 metric tons, respectively; however, during the period 1991 through 1998, the import volumes were as follows: 1991—0; 1992—0; 1993—0; 1994—0; 1995—0; 1996—0; 1997—18; and 1998—0 metric tons. (*See* July 1, 1999 substantive response of the Hercules, Attachment 2.)

highly probative of the likelihood of future dumping. *Id.*

Hercules also indicates that, for the past five years, imports of the subject merchandise have been mostly at zero or near zero.[6] *Id.* According to Hercules, the small amount of imports of the subject merchandise in 1997 was the result of Korean producers/exporters' attempt to attain a reduced cash deposit rate in a pending administrative review.[7] *Id.* To further illustrate its contention, Hercules notes that after the weighted-average dumping margin for the subject merchandise was reduced, Korean producers/exporters still could not sustain the exports of the subject merchandise.[8] *Id.* In conclusion, Hercules argues that Korean manufacturers/exporters of the subject merchandise could not sustain their level of exports to the United States after the issuance of the antidumping duty order; in other words, Korean manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considers the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially.[9] Moreover, for the period 1994–1998, the United States International Trade Commission Data shows rather insignificant import volumes for the subject merchandise.[10] Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,[11] the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order, that the import volumes of the subject merchandise decreased substantially after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Miwon and all-others: 66.30 percent.[12] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail if the order were revoked. (*See* the July 1, 1999 Substantive Response of Hercules at 6.) Although the Department found a substantially reduced 2.10 percent dumping margin for a Korean producer in its administrative review, Hercules contends that the reduced dumping margin coincided with greatly declined import volumes of the subject merchandise.[13] *Id.* Moreover, Hercules notes that a year after the administrative review, in 1998, imports of the subject merchandise again returned to zero indicating that Korean producers/exporters were unable to increase their exports of the subject merchandise to the United States at the reduced antidumping margin. *Id.* Therefore, Hercules concludes, the 2.1 percent margin achieved by a Korean producer was clearly the result of a small test shipment and does not reflect commercial reality. *Id.* In other words, the best and only possible recommendation the Department can make, regarding the margins that are likely to prevail, is to rely upon the rates from the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Korean producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Miwon Corporation	66.30
All Others (including Daesang)	66.30

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

[6] *See* footnote 5, supra. During 1994–1998, the average import volume of the subject merchandise was only 3.6 metric tons, which is about 3.51 percent of the average imports of 1989 and 1990, or 2.45 percent of 1989 imports alone.

[7] *See* footnote 3, supra. In that review, the Department found a 2.1 percent weighted-average dumping margin for one reviewed company, Daesang Corporation (''Daesang'') while leaving all other entries of nitrocellulose from Korea subject to the rate determined in the original investigation: 66.30 percent.

[8] *See* footnote 5, supra. The import level of the subject merchandise in 1998 was zero.

[9] *See* footnote 5, supra. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

[10] *See* footnote 6, supra.

[11] *See* footnote 7, supra.

[12] *See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from the Republic of Korea,* 55 FR 21054 (May 22, 1990).

[13] *See* footnote 3, supra. In its only administrative review, the Department found that Daesang Corporation, which was not subject of the original investigation, was dumping at the rate of 2.10 percent during the period July 1, 1996 through June 30, 1997. At the same time, the Department indicated that cash deposit rate for Miwon and all-others was the original, less-than-fair-value rate of 66.30 percent.

with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–803]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Industrial Nitrocellulose from the United Kingdom.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from the United Kingdom (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this antidumping order is industrial nitrocellulose (''INC'') from the United Kingdom. Industrial INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. INC is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from the United Kingdom was published in the **Federal Register** on July 10, 1990 (55 FR 28270).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise is 11.13 percent.[2] Since that time, the Department has completed several administrative reviews.[3] We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from the United Kingdom (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserted that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claimed interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicated that it is the sole remaining U.S. domestic producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all review proceedings. (See Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from the U.K. is extraordinarily complicated. Therefore, on October 12, 1999, the

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[1] See Antidumping Duty Order: INC from the United Kingdom, 55 FR 28270 (July 10, 1990).

[2] However, the underlying investigation and subsequent administrative reviews dealt with only one British company, Imperial Chemical Industries PLC (''Imperial'').

[3] See INC From the United Kingdom: Final Results of Antidumping Duty Administrative Review, 59 FR 66902 (December 28, 1994), as amended, INC From the United Kingdom: Amendment of Final Results of Antidumping Duty Administrative Review, 60 FR 41876 (August 14, 1995); INC From the United Kingdom: Final Results of Antidumping Duty Administrative Review, 61 FR 29342 (June 10, 1996); INC From the United Kingdom: Notice of Final Results of Antidumping Duty Administrative Review, 64 FR 6609 (February 10, 1999), as amended, INC From the United Kingdom: Amended Final Results of Antidumping Duty Administrative Review, 64 FR 11836 (March 10, 1999).

Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3–5). To support its assertion, Hercules points out that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order. *Id.* In addition, Hercules insists that a sharp increase of the weighted-average dumping margins in the most recent review clearly manifests the inability of the British manufacturers/exporters to successfully compete without dumping in the United States.[5] *Id.* In conclusion, Hercules argues that British manufacturers/exporters of the subject merchandise have demonstrated over the past decade that they have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have shown an increasing trend.[6] Moreover, for the period between 1994 and 1998, the United States International Trade Commission Data show rather substantially increased import volumes of the subject merchandise compared to those of pre-order.[7] Therefore, the Department determines that, as acknowledged by Hercules in its July 1, 1999 substantive response at 5, the import volumes of the subject merchandise increased or showed an increasing trend after the issuance of the order.

The Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative reviews,[8] the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

[4] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

[5] See footnote 3, supra. Although weighted-average dumping margins of the subject merchandise decreased in each of the first two administrative reviews (from original investigation margin of 11.13 percent to 6.62 percent in the first review and then to 1.48 percent in the second review), in the third and the most recent administrative review, the dumping margin increased to 13.0 percent.

[6] The import volumes of the subject merchandise are as follows (the order was issued in June of 1990; numbers are in metric tons): 1989–2,430; 1990–3,279; 1991–3,415; 1992–3,931; 1993–3,828; 1994–4,096; 1995–3,423; 1996–3,991; 1997–3,594; 1998–3,461. These numbers correspond exactly with the U.S. International Trade Commission Data.

[7] See footnote 6, supra. During 1994–1998, the average import volume of the subject merchandise was 3,713 metric tons, which denotes a 30.0 percent increase over the average of 1989 and 1990 pre-order import levels, or 53 percent over 1989 import volume alone.

[8] See footnote 5, supra.

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Imperial and all-others: 11.13 percent.[9] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Imperial increased its dumping in order to increase its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 6–7.) In addition to supplying data, which tend to indicate that Imperial's market share in the United States has increased after the imposition of the order,[10] Hercules also claims that Imperial's market behavior of not raising its export prices,[11] after a higher dumping margin was imposed in the most recent administrative review,[12] suggests that Imperial intends to continue dumping at the recent, higher margins to hold onto or to increase its market share. *Id.* Therefore, Hercules urges, the Department should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Imperial's likely behavior in the event the order is revoked.

The Department disagrees with the Hercules' suggestion pertaining to the margin that is likely to prevail were the order to be revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or increase its market share, the Department may report a more recently calculated margin to the Commission. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of increased weighted-average dumping margins of the subject merchandise did not coincide with increased import volumes or increased market share. In contrast, the largest import volume and highest market share of the subject merchandise were associated with the lowest dumping margin.[13] Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation accurately reflect the behavior of British producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Imperial Chemical Industries PLC ("Imperial")	11.13
All Others	11.13

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28065 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Final Determination of Sales at Less Than Fair Value: INC from the United Kingdom,* 55 FR 21055 (May 22, 1990).

[10] *See* footnote 7, supra. Also, according to Hercules' business proprietary information, the magnitude of Imperial's increased market share is comparable to its volume increases during the relevant period.

[11] To support this, Hercules submits its business manager's sworn affidavit, in which the business manager indicated an absence of price increase by Imperial since Imperial's antidumping margin increased from 1.48 percent to 13.0 percent in March, 1999. (See the July 1, 1999 Substantive Response of Hercules, attachment 4.)

[12] *See* footnote 5, supra. In the most recent administrative review, the Department assessed Imperial with a higher 13.0 percent antidumping margin than in the previous review–1.48 percent.

[13] The increases of the import volumes and market shares of the subject merchandise were simultaneous with a decrease (not increase) in dumping margins: in its first two administrative reviews, covering the period 1992 to 1993 and 1993 to 1994 , the Department reduced the weighted-average dumping margins for the subject merchandise to 6.62 (the original rate was 11.13) and 1.48, respectively. The three-year moving average of each of the import volume and the average market share of the subject merchandise during 1992–1994, is the highest compared to any other three-year period (for the market share, the average of 1992–1994 is tied with that of 1994-1996). See footnote 4 and 5, supra. In other words, and more importantly, the imposition of a sharply increased antidumping margin by the Department, for the review period of 1996–1997, did not result in increased import volume and market share. See *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–479–801]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Yugoslavia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Industrial Nitrocellulose From Yugoslavia.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Yugoslavia (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset

Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from Yugoslavia. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Yugoslavia was published in the **Federal Register** on October 16, 1990 (55 FR 41870).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 10.81 percent.[2] Since that time, the Department has completed no administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Yugoslavia (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose and was the petitioner in the original investigation. (See Hercules' July 1, 1999 Substantive Response at 1—2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Yugoslavia is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3—5). To buttress its contention, Hercules points out a drastic decline in import volumes of the subject

[1] *See Antidumping Duty Order: Industrial Nitrocellulose from Yugoslavia,* 55 FR 41870 (October 16, 1990).

[2] However, the underlying investigation dealt with only one Yugoslavian company, Milan Blagojevic (''Milan''), located in Lucani, Yugoslavia.

[3] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise fell to zero.[4] *Id.* The cessation of imports almost immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. *Id.*

Moreover, Hercules indicates that, for the past five years, the import volumes of the subject merchandise have been at zero.[5] *Id.* In conclusion, Hercules contends that Yugoslavian manufacturers/exporters of the subject merchandise have not been able to sell in the United States during the antidumping duty order regime; in other words, Yugoslavian manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules, the United States Census Bureau IM146s, and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially.[6] Moreover, for the period 1994–1998, the United States International Trade Commission Data show a complete cessation of the import volumes for the subject merchandise.[7] Therefore, the Department determines that the import volumes of the subject merchandise ceased after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Because no administrative review has been conducted since the issuance of the order, the margins from the original investigation are the prevailing and therefore effective margins. Thus, the Department determines that weighted-average dumping margins for the subject merchandise have continued above the *de minimis* level.

Given that the import volumes of the subject merchandise ceased completely after the issuance of the order, that dumping margins above the *de minimis* level have continued since the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Milan and all-others: 10.81 percent.[8] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6.) Hercules argues that, since the Department has not conducted any administrative reviews pertaining to the instant order, the best and only possible recommendation the Department can make, regarding margins that are likely to prevail, is the ones from the original investigation. *Id.*

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Yugoslavian producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Milan Blagojevic	10.81
All Others	10.81

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28066 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[4] The order was imposed on October 16, 1990. (See footnote1, supra.) In 1989 and 1990, imports of the subject merchandise were 748 and 1,041 metric tons, respectively; however, during the period from 1991 through 1998, the import volumes were as follows: 1991—312; 1992—47; 1993—0; 1994—0; 1995—0; 1996—0; 1997—0; and 1998—0 metric tons. (See Hercules' July 1, 1999 substantive response, Attachment 2.)

[5] See footnote 4, supra. During 1994–1998, the average import volume of the subject merchandise was 0 metric ton.

[6] See footnote 3, supra. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

[7] See footnote 4.

[8] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Yugoslavia, 55 FR 34946 (August 27, 1990).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–804]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Industrial Nitrocellulose from Brazil.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from Brazil (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Result of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from Brazil. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Brazil was published in the **Federal Register** on July 10, 1990 (55 FR 28266).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 61.25 percent.[2] Since that time, the Department has completed one administrative review.[3] We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Brazil (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the only administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Brazil is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''),

[1] See Antidumping Duty Order: Industrial Nitrocellulose from Brazil, 55 FR 28266 (July 10, 1990).

[2] However, the underlying investigation and the subsequent administrative review dealt with only one Brazilian company, Companhia Nitro Quimica Brasileira (''Quimica'').

[3] See Industrial Nitrocellulose From the Brazil; Notice of Final Results of Antidumping Duty Administrative Review, 58 FR 38750 (July 20, 1993).

[4] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3–6). To support its contention, Hercules points to a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise virtually stopped.[5] Id. The virtual cessation of imports in the years immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. Id.

Hercules also indicates that Brazilian producers/exporters, in an attempt to achieve a reduced cash deposit rate in the forthcoming administrative review, made some small scale imports in 1991 and 1992. Id. Hercules notes that, soon thereafter, however, imports of the subject merchandise began to increase. Id. According to Hercules, this increasing trend stopped and the import volumes of the subject merchandise were reduced to zero after Hercules requested a second administrative review in 1996.[6] Id. In conclusion, Hercules argues that Brazilian producers/exporters of the subject merchandise could not sustain their level of exports after the issuance of the antidumping duty order; in other words, Brazilian producers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, immediately after the imposition of the order, the import volumes of the subject merchandise declined substantially.[7] However, for the period 1994–1998, it is unclear whether the import volumes have declined substantially, or declined at all, when compared to pre-order volume.[8] Therefore, the Department determines that although the import volumes of the subject merchandise decreased significantly immediately after the issuance of the order, the Department cannot determine that import volumes of the subject merchandise decreased for the five-year period preceding the year of publication of this notice of initiation vis a vis pre-order imports volumes.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,[9] the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Quimica and all-others: 61.25 percent.[10] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the

[5] The order was imposed on July 10, 1990. (See footnote 1, supra.) In 1989 through 1990, imports of the subject merchandise were 734 and 207 metric tons, respectively; however, during 1991 and 1998, the imports volumes were as follows: 1991—7; 1992—13; 1993—0; 1994—228; 1995—635; 1996—1261; 1997—698; and 1998—0 metric tons. (See July 1, 1999 substantive response of the Hercules, Attachment 2.)

[6] Hercules is suggesting that the Brazilian producers/exporters were dumping at an increased rate and only stopped exporting the subject merchandise entirely because of imminent imposition of a higher margin in a pending administrative review. Hercules states that it withdrew its request for the review after it recognized that Quimica, the only firm subjected to the investigation and review, had experienced an industrial accident and, as a consequence, would not be in position for some time to dump the subject merchandise in the United States. In other words, exports of the subject merchandise reduced to zero in 1998 because of an accident, which shut down Quimica's production facilities in Brazil. See Industrial Nitrocellulose From Brazil; Rescission of Antidumping Duty Administrative Review, 62 FR 63666 (December 15, 1997).

[7] See footnote 4, supra. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

[8] The average volume of imports of the subject merchandise between 1994 and 1998 was 564.4; however, if we exclude 1998 zero level, which was due to Quimica's production incapacitation, the average volume between 1994 and 1997 was 705.5. The average of 1989 and 1990 pre-order volume was 470.5; in 1989 alone, the pre-order volume was 734.

[9] See footnote 3, supra. In this Administrative Review, covering the period July 1991 through June 1992, the Department determined that the weighted-average dumping margin for Quimica was 5.81 percent and for all-others was 61.25 percent.

[10] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Brazil, 55 FR 23120 (June 6, 1990).

Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6–7.) Although the Department found a substantially reduced 5.81 percent dumping margin for a Brazilian producer in its administrative review, Hercules contends that the reduced dumping margin coincided with greatly declined import volumes of the subject merchandise.[11] Id. Therefore, the rates which would most accurately reflect the antidumping margins that are likely to prevail were the order revoked are the ones from the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margins that are likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Brazilian producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter	Margin (percent)
Companhia Nitro Quimica Brasileira	61.25
All Others	61.25

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

[11] See footnote 5 and 8, supra.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28067 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–802]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Industrial Nitrocellulose from People's Republic of China.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on industrial nitrocellulose from People's Republic of China (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from the People's Republic of China (''China''). Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from China was published in the **Federal Register** on July 10, 1990 (55 FR 28267).[1] In that order, the Department indicated that the weighted-average dumping margins for all entries of the subject merchandise is 78.40 percent. Since that time, the Department has completed only one administrative review. In that review, covering July 1, 1995 through June 30, 1996, we found that China North Industries Guangzhou Corp. (''CNIGC'') was the only exporter. In that review, the Department determined not to grant CNIGC a separate rate; instead, we established a rate of zero for all entries from the People's Republic of China (''PRC-wide rate'') based on information submitted by CNIGC.[2] The order remains in effect for all manufacturers and exporters of the subject merchandise.

[1] See Antidumping Duty Order: Industrial Nitrocellulose from the People's Republic of China, 55 FR 28267 (July 10, 1990).

[2] See Industrial Nitrocellulose From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65667 (December 15, 1997). In the review, the Department found that the PRC-wide rate was zero for the period of review.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from China (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise; nor is it an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all contested review proceedings. (See Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. *See* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from China is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence is high if were the order revoked. (See July 1, 1999 substantive response of the Hercules at 3–6). To buttress its contention, Hercules points out a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise all but disappeared.[4] Id. The virtual cessation of imports immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. Id.

Moreover, Hercules indicates that, for the past five years, imports of the subject merchandise have been at or near zero. Id. According to Hercules, the— small scale of imports of the subject merchandise in 1996 was just the Chinese producers/exporters' attempt to attain a reduced cash deposit rate in a pending administrative review.[5] Id. Hercules further notes that even after weighted-average dumping margin for the subject merchandise was reduced to zero (from 78.40 percent), Chinese producers/exporters could not sustain the exports of the subject merchandise. *Id*. As a result, Hercules concludes, dumping of the subject merchandise will continue if the order were revoked.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Since publication of the final results of the 1995–1996 administrative review, the cash deposit rate has remained zero.

However, consistent with section 752(c) of the Act, the Department also considered the import volumes of the

[3] See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

[4] In 1989 and 1990, imports of the subject merchandise were 508 and 237 metric tons, respectively; however, during the period 1991 through 1998, imports volumes were as follows: 1991—2; 1992—0; 1993—17; 1994—0; 1995—0; 1996—9; 1997—0; and 1998—27 metric tons. (See July 1, 1999 substantive response of Hercules, Attachment 2.)

[5] See footnote 4, supra. In the 1995–1996 review, the Department found a 0% weighted-average dumping margin for entries of nitrocellulose from China.

subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, import volumes of the subject merchandise have declined substantially.[6] Moreover, for the period 1994–1998, although Census Bureau IM 146 data do not reflect any annual imports of the subject merchandise, the United States International Trade Commission Data show rather insignificant imports of the subject merchandise during the period.[7] Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

Given that the import volumes of the subject merchandise decreased significantly after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin:

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for CNIGC and all-others: 78.40 percent.[8] We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, citing the SAA at 890 and the Sunset Policy Bulletin at 18873, Hercules states that the Department normally will provide the Commission with the dumping margins from the investigation unless the import volumes increase while at the same time dumping margins decrease after the issuance of the order. (*See* the July 1, 1999 Substantive Response of the Hercules at 6–7.) Hercules points out that, in the instant case, however, the reduced weighted-average dumping margin for Chinese producers/exporters coincides with a greatly declined import volume of the subject merchandise. *Id*. In other words, Hercules states that Chinese producers/exporters are incapable of reducing weighted-average dumping margins while at the same time increasing exports of the subject merchandise to the United States. *Id*. Therefore, Hercules urges, the Department should abide by its practice, as set forth in the Sunset Policy Bulletin, and report to the Commission the margin set forth in the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Chinese producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margin found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the PRC-wide rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter	Margin (percent)
PRC-wide	78.40

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28068 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[6] See id. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

[7] See id. During 1994–1998, the average import volume of the subject merchandise was 7.2 metric tons, which is a mere 1.93 percent of 1989 and 1990 pre-order import levels.

[8] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose From the People's Republic of China, 55 FR 21051 (May 22, 1999).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–009]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Industrial Nitrocellulose from France.

SUMMARY: On June 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on industrial nitrocellulose from France (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and

Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The product covered by this order is industrial nitrocellulose (''nitrocellulose'') from France. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from France was published in the **Federal Register** on August 10, 1983 (48 FR 36303).[1] In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 1.38 percent.[2] Since that time, the Department has completed several administrative reviews.[3] To date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from France (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated (''Hercules'') on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999, Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all review proceedings. (See Hercules' July 1, 1999, Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from France is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead

[1] *See Industrial Nitrocellulose from France; Antidumping Duty Order,* 48 FR 36303 (August 10, 1983).

[2] However, the underlying investigation and subsequent administrative reviews dealt with only one French company, Societe Nationale des Poudres et Explosifs (''SNPE'') except in the most recent administrative review in which Bergerac, N.C. (''Bergerac''), a successor company with respect to production of the subject merchandise and a subsidiary of SNPE, became the subject of the review.

[3] *See Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review,* 51 FR 43227 (December 1, 1986); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review,* 53 FR 15262 (April 28, 1988); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review,* 53 FR 27185 (July 19, 1988); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review,* 63 FR 49085 (September 14, 1998).

[4] *See Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 55233 (October 12, 1999).

to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999, substantive response of Hercules at 3–6.) To support its assertion, Hercules points out that, during the 1990s, Bergerac continued to increase its extent of dumping of the subject merchandise. Hercules notes that, after finding Bergerac was dumping at the rate of 4.39 percent for the period of 1986–1987, in the next and the most recent administrative review covering 1996–1997, the Department determined that the dumping margin for Bergerac was 13.35 percent. Id. Hercules argues that Bergerac has demonstrated over the past decade that it has to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the Commission indicate that, during 1990s, the import volumes of the subject merchandise have shown an increasing trend.[5] Specifically, between 1994 and 1998, the Commission's data show a rather substantial increase in the import volumes of the subject merchandise *vis a vis* pre-order volumes.[6] Therefore, the Department determines that the import volumes of the subject merchandise increased or showed an increasing trend after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative reviews,[7] the Department determines that, since the issuance of the order, except for the period between May 1983 and July 1986, the weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for SNPE and all-others of 1.38 percent.[8] To date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department should report to the Commission a more recently calculated margin because Bergerac increased its dumping in order to increase its market share in the United States. (See the July 1, 1999, Substantive Response of Hercules at 6–7.) In addition to supplying data which indicate clearly that Bergerac's market share in the United States increased during the 1990s,[9] Hercules also claims that Bergerac's market behavior of not raising its export prices,[10] after a higher dumping margin was imposed in the most recent administrative review,[11] suggests that Bergerac intends to continue dumping at the recent, higher margins to hold onto or to increase its market share. *Id.* Therefore, Hercules urges the Department to provide to the Commission the more recent, higher margin because that margin is a better indicator of Bergerac's likely behavior in the event the order is revoked.

The Department agrees with the Hercules' argument pertaining to the margin that is likely to prevail were the order revoked. In the Sunset Policy Bulletin, the Department indicated that, when a company chooses to increase dumping in order to maintain or increase its market share, the Department may report a more recently calculated margin to the Commission if dumping margins increased after the issuance of the order. (See section II.B.2 of the Sunset Policy Bulletin.) Absent argument and evidence to the contrary, the Department sees no reason to change its practice as articulated in the Sunset Policy Bulletin of selecting a more recently calculated rate when increased weighted-average dumping margins for a company coincide with its increased market share of the subject merchandise. We will report to the

[5] The import volumes of the subject merchandise during the 1990s are as follows (the order was issued in August 1983; numbers are in metric tons): 1990—188; 1991—306; 1992—788; 1993—1,633; 1994—2,564; 1995—2,338; 1996—2,760; 1997—4,377; 1998—3,883. These numbers correspond exactly with the Commission data.

[6] See footnote 5, supra. During 1994—1998, the average import volume of the subject merchandise was 3,184.4 metric tons, which denotes a 36.58 percent increase over the average of 1982 and 1983 pre-order import levels (2,331.5 metric tons).

[7] See footnote 3, supra. Although the weighted-average dumping margins of the subject merchandise decreased to zero or *de minimis* levels in each of the first three administrative reviews (from the original investigation margin of 1.38 percent to 0.17 percent in the first review, 0 percent in the second review, and 0.07 percent in the third review), in the fourth review, the margin increased to 4.39 percent, and in the most recent, fifth, review, the dumping margin increased to 13.35 percent.

[8] See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from France, 48 FR 21615 (May 13, 1983).

[9] In particular, during and after the period covered by the latest administrative review, in which the Department found substantially increased dumping of the subject merchandise, Bergerac's market share increased rather significantly as well (inasmuch as the U.S. demand for the domestic like product has remained stable during the relevant period, Bergerac's increase in the volume of exports of the subject merchandise is directly translated to the increase in Bergerac's market share). Also, in general, during the 1990's, Bergerac's market share showed an increasing trend; this trend started after the Department's fourth administrative review in which the Department found that Bergerac was dumping at 4.39 percent rather than at the zero or de minimis levels, which the Department found during the first three administrative reviews.

[10] To support this, Hercules submitted its business manager's sworn affidavit, in which the business manager indicated that Bergerac had not offered any price increase in its offers to customers since Bergerac's antidumping margin increased from 4.39 percent to 13.35 percent in September 1998. (See the July 1, 1999 Substantive Response of Hercules, attachment 4.)

[11] *See* footnote 6, supra.

Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Bergerac, N.C.	13.35
All Others	1.38

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28069 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for preliminary results of administrative review.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Strollo or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–5255 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR part 351 (1999).

Background

On February 26, 1999, the Department of Commerce (the Department) received a request from Verson Division of Allied Products Corporation for an administrative review of the antidumping duty order on mechanical transfer presses from Japan. On March 19, 1999, the Department initiated this administrative review covering the period of February 1, 1998 through January 31, 1999 (64 FR 14860, published March 29, 1999).

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, *Extension of Time Limit for the Administrative Review of Mechanical Transfer Presses from Japan*, dated October 19, 1999, it is not practical to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results to February 28, 2000. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: October 20,1999.

Richard O. Weible,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–28059 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty new shipper review.

SUMMARY: On July 30, 1999, the Department of Commerce (the Department) published the preliminary results of the new shipper review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea (64 FR 41380). The review covers one manufacturer/exporter of the subject merchandise to the United States and the period July 1, 1998 through December 31, 1998. We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

We have determined that Hyosung Corporation (Hyosung) made no U.S. sales below normal value, and we will instruct the U.S. Customs Service to assess no antidumping duties for Hyosung for the period covered by this new shipper review.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, US Department Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4475 or (202) 482–5222.

APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1998, the Department received a request from Hyosung for a new shipper review pursuant to section 751(a)(2) of the Act and Section 351.214(b) of the Department's regulations. On February 2, 1999, we published the notice of initiation for this new shipper review (64 FR 5030). On July 30, 1999, the Department published in the **Federal Register** the preliminary results of its new shipper review of the antidumping duty order on PET film from Korea. We received no comments on our preliminary results. The final results of this review are unchanged from those presented in our preliminary results.

Scope of the Review

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers the period July 1, 1998 through December 31, 1998. The Department is conducting this review in accordance with section 751(a)(2)(B) of the Act.

Final Results of Review

We determine that a margin of 0.00 percent exists for Hyosung for the period July 1, 1998 through December 31, 1998. We will disclose calculations performed in connection with these final results of review within 5 days of publication of this notice.

We will instruct the U.S. Customs Service not to assess antidumping duties on entries of the subject merchandise from Hyosung for the period of review.

Furthermore, the following deposit requirements shall be required for all shipments of PET film from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this new shipper review, as provided by section 751(a)(1) of the Act: (1) For Hyosung the cash deposit will be zero; (2) For merchandise exported by manufacturers or exporters not covered in this review but covered in the less-than-fair-value (LTFV) investigation or a previous administrative review, the cash deposit will continue to be the most recent rate published in the final determination or final results of review for which the manufacturer or exporter received a company-specific rate; (3) If the exporter is not a firm covered in this review or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of the most recent review or the LTFV investigation; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 21.5%, the ''all others'' rate established in the LTFV investigation.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This new shipper review and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d).

Dated: October 20, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28057 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Roller Chain, Other Than Bicycle From Japan: Initiation and Preliminary Results of Changed Circumstances Review and Intent To Revoke Finding, Rescission of Antidumping Duty Administrative Reviews, and Termination of Scope Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances review and intent to revoke finding, rescission of antidumping administrative reviews, and termination of scope inquiry.

SUMMARY: In response to a request from the petitioner, the American Chain Association (''ACA''), the Department of Commerce (''the Department'') is initiating a changed circumstances review and issuing this notice of preliminary changed circumstances review results and intent to revoke the antidumping finding on roller chain from Japan. Moreover, because the petitioner is no longer interested in maintaining the finding after April 1, 1997, we have preliminarily determinated to revoke the finding retroactive to this date. In addition, in response to the petitioner's and respondents' withdrawal requests for the ongoing 1997–1998 and 1998–1999 administrative reviews, the Department is rescinding these administrative reviews of the finding. Finally, we are terminating a scope inquiry associated with the 1997–1998 Sugiyama Chain Company, Ltd., administrative review.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Tom Futtner, AD/CVD Enforcement Group II, Office 4, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4114 or (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to 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 (April 1998).

Background

On October 13, 1999, the ACA requested that the Department conduct a changed circumstances review to revoke the antidumping finding on roller chain from Japan retroactive to April 1, 1997. The petitioner stated that circumstances have changed such that the petitioner no longer has an interest in maintaining the antidumping finding. Additionally, the petitioner indicated that it represents virtually all roller chain producers in the United States accounting for over 90 percent of the U.S. roller chain production.

The petitioner also requested that, given the pendency of the ongoing administrative review of the finding, the Department initiate and complete the changed circumstances review on an expedited basis.

Futhermore, on October 13, 1999, the petitioner filed a withdrawal of its request for administrative reviews covering the periods of April 1, 1997, through March 31, 1998, and April 1, 1998, through March 31, 1999. Between October 14–18, 1999, Daido Kogyo Company, Ltd. Daido Tsusho Company, Ltd, Daido Corporation, Enuma Chain Manufacturing Company, Sugiyama Chain Company, Ltd., Izumi Chain Manufacturing Company, Ltd., Oriental Chain Company, R.K. Excel Company, Ltd., and Tsubakimoto Chain Company, Ltd., the respondents in this proceeding, also filed a withdrawal of their requests for administrative reviews covering the above-mentioned periods. Additionally, Sugiyama Chain Company, Ltd., requested a termination of a scope inquiry associated with its 1997–1998 administrative review. Given that the petitioner's and respondents' withdrawal and rescission requests were filed after the 90-day period for withdrawing a request for a review, the parties asked the Department to exercise its regulatory discretion under 19 CFR 351.213(d)(1) to rescind the above-mentioned reviews.

Scope of Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller link, or multiple strand of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

On March 24, 1998, the Department determined that certain models of silent timing chain produced and exported by Kaga for use in automobiles are outside the scope of the antidumping finding. (*See Final Scope Ruling: Kaga's Request for Scope Ruling on Automotive Silent Timing Chain*, March 24, 1998, on file in the Central Records Unit (CRU) in room B–099 of the Main Commerce Building).

Initiation and Preliminary Results of Changed Circumstances Review and Intent To Revoke Finding

Pursuant to section 751(d)(1) of the Act, the Department may revoke, in whole or in part, an antidumping findings based on a review under section 751(b) of the Act (*i.e.*, changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 351.216(d) require the Department to conduct a changed circumstances review in accordance with 19 CFR 351.221, if the Department determines that there exist changed circumstances sufficient to warrant a review. Section 782(h) of the Act and 19 CFR 351.222(g)(10(i) provide further that the Department may revoke a finding, in whole or in part, if it concludes that the finding under review is no longer of interest to producers accounting for substantially all of the production of the domestic like product. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

The ACA is a domestic interested party as defined by section 771(9)(E) of the Act and 19 CFR 351.102(b) and was the petitioner in the less-than-fair-value (''LTFV'') investigation of this proceeding. Based on the ACA's October 13, 1999, submission, we preliminarily determine that the ACA represents producers accounting for substantially all of the production of the domestic like product. In light of the affirmative statement by the ACA of no interest in the continued application of the antidumping finding on roller chain from Japan, we are initiating this changed circumstances review. Further, based on the request by the petitioner and its affirmative statement of no interest dating back to April 1, 1997, we have determined that expedited action is warranted, and have combined our notices of initiation and preliminary results. Moreover, we have preliminarily determined that there are changed circumstances sufficient to warrant revocation of the finding in whole. Consequently, we are hereby notifying the public of our intent to revoke in whole the antidumping finding on roller chain from Japan retroactive to April 1, 1997.

If final revocation of the finding occurs, we intend to instruct the Customs Service to end the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of roller chain from Japan on or after April 1, 1997, in accordance with 19 CFR 351.222(g)(4). We will also instruct the Customs Service to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Rescission of Administrative Reviews and Scope Inquiry

On October 13, 1999, and between October 14–18, 1999, respectively, the petitioner and respondents withdrew their requests for administrative reviews for the periods April 1, 1997, through March 31, 1998 and April 1, 1998 through March 31, 1999. These withdrawal requests cover all requests received for administrative reviews during the 1997–1998 and 1998–1999 review segments. In accordance with 19 CFR 351.213(d)(1), we are rescinding these reviews because the parties withdrew their requests for reviews and no other interested party requested that the Japanese respondents be reviewed. Although parties to the proceeding did not file their withdrawal requests within 90 days of the publication of initiation of the requested review, we are exercising the Department's discretion to rescind a review after 90 days because it is reasonable to do so. In this case, the petitioner concomitantly has filed a request for a changed circumstances review and revocation of the finding based on a lack of domestic interest dating back to April 1, 1997, the month the requests were filed for the 1997–1998 administrative review. Given the lack of domestic interest prior to the date of initiatives of the 1997–1998 review, we have determined that it is reasonable to rescind both reviews based on the petitioner's and respondents' requests for terminations of these reviews. Finally, we are

terminating a scope inquiry associated with the 1997–1998 administrative review of Sugiyama Chain Company, Ltd.

Public Comment

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice. Written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal comments to written comments, limited to issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28061 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99–023. *Applicant:* University of Vermont, Given Building, Room E219, Burlington, VT 05405. *Instrument:* Microforge, Model MF–830. *Manufacturer:* Narishige Scientific Instrument Lab., Japan. *Intended Use:* The instrument is intended to be used for polishing glass microelectrodes during studies of the electrical properties of Dorsal Root Ganglion and other neuronal and non-neuronal tissues. Experiments are designed to characterize the difference between the sodium and potassium channel currents among experimental and control animals. The objective of the studies is to find a correlation between the electrical properties and the properties of the inflamed bladder tissue. *Application accepted by Commissioner of Customs:* September 30, 1999.

Docket Number: 99–024. *Applicant:* University of Vermont, Given Building, Room E219, Burlington, VT 05405. *Instrument:* Glass Microelectrode Puller, Model PP–830. *Manufacturer:* Narishige Scientific Instrument Lab., Japan. *Intended Use:* The instrument is intended to be used to pull glass capillary tubes to a point fine enough to allow one to seal a small piece of cell membrane in the resulting microscopic opening in studies of the electrical properties of Dorsal Root Ganglion and other neuronal and non-neuronal tissues. Experiments are designed to characterize the difference between the sodium and potassium channel currents among experimental and control animals. The objective of the studies is to find a correlation between the electrical properties and the properties of the inflamed bladder tissue. Application accepted by Commissioner of Customs: September 30, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–28060 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

October 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Brazil and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 21, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Aggregate Limit	
200–227, 237, 239pt. [1], 300–326, 331–348, 350–352, 359pt. [2], 360–363, 369–D [3], 369pt. [4], 400–431, 433–438, 440–448, 459pt. [5], 464, 469pt. [6], 600–629, 631, 633–652, 659pt. [7], 666, 669–P [8], 669pt. [9] and 670, as a group.	591,553,474 square meters equivalent.
Sublevels within the aggregate	
218	7,350,735 square meters.
219	26,836,716 square meters.
225	12,863,788 square meters.
300/301	9,969,289 kilograms.
313	61,733,128 square meters.
314	10,107,264 square meters.
315	30,321,791 square meters.
317/326	27,565,262 square meters.
334/335	197,806 dozen.
336	109,894 dozen.
338/339/638/639	1,978,068 dozen.
342/642	582,430 dozen.
347/348	1,428,604 dozen.
350	221,635 dozen.
361	1,494,539 numbers.
363	31,897,074 numbers.
369–D	712,414 kilograms.
410/624	14,701,474 square meters of which not more than 2,775,267 square meters shall be in Category 410.
433	19,265 dozen.
445/446	75,470 dozen.
604	697,850 kilograms of which not more than 533,358 kilograms shall be in Category 604–A [10].
607	6,480,040 kilograms.
647/648	659,357 dozen.
669–P	2,374,718 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 359pt.: all HTS numbers except 6406.99.1550.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369pt.: all HTS numbers except 6302.60.0010, 6302.91.0005, 6302.91.0045 (Category 369–D); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[5] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[6] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[7] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[8] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[9] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[10] Category 604–A: only HTS number 5509.32.0000.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 12, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factor for merged Categories 338/339/638/639 is 10 (square meters equivalent/category unit).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–28071 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

October 22, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 438 is being increased for swing, reducing the limit for Categories 645/646.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 64 FR 6050, published on February 8, 1999.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 22, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on October 27, 1999, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
438	100,800 dozen.
645/646	170,049 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–28074 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Colombia

October 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Colombia and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 21, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Colombia and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following restraint limits:

Category	Twelve-month limit
315	28,425,533 square meters.
443	131,889 numbers.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 4, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–28072 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Arab Republic of Egypt

October 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Egypt and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 21, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–O [1], 314–O [2], 315–O [3], 317–O [4] and 326–O [5], as a group.	130,768,460 square meters.
Sublevels within Fabric Group	
218	2,508,000 square meters.
219	30,766,900 square meters.
220	30,766,900 square meters.
224	30,766,900 square meters.
225	30,766,900 square meters.
226	30,766,900 square meters.
227	30,766,900 square meters.
313–O	56,496,844 square meters.
314–O	30,766,900 square meters.
315–O	36,129,848 square meters.
317–O	30,766,900 square meters.
326–O	2,508,000 square meters.
Levels not in a group	
300/301	12,157,140 kilograms of which not more than 3,812,906 kilograms shall be in Category 301.
338/339	3,427,555 dozen.
340/640	1,419,988 dozen.
369–S [6]	1,798,146 kilograms.
448	19,762 dozen.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated October 1, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–28070 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Uruguay

October 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 21, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334	185,605 dozen.
335	159,779 dozen.
410	2,997,371 square meters of which not more than 1,712,786 square meters shall be in Category 410–A [1] and not more than 2,759,482 square meters shall be in Category 410–B [2].
433	17,898 dozen.
434	26,701 dozen.
435	53,926 dozen.

Category	Twelve-month restraint limit
442	38,147 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated October 14, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–28073 Filed 10–26–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision (ROD) for the Disposal and Reuse of K.I. Sawyer Air Force Base (AFB), Michigan

On September 16, 1999, the Air Force issued the Supplemental Record of Decision (SROD) for the disposal and reuse of K.I. Sawyer AFB, Michigan. The decisions included in the SROD were made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) for the disposal and reuse of K.I. Sawyer AFB, filed with the Environmental Protection Agency and made available to the public on February 15, 1996.

K.I. Sawyer AFB closed on September 30, 1995, pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) and the recommendations of the Defense Base Closure and Realignment Commission. The FEIS analyzed potential environmental impacts of the Air Force's disposal options by portraying a variety of potential land uses to cover a range of reasonably foreseeable future uses of the property and facilities by others.

The Air Force issued a ROD on April 12, 1996, which documented a series of decisions regarding the intended disposal of Government-owned property for both public airport and economic development use, together with the intended termination of certain leases of improved real property with the County of Marquette, and the disposal of base utilities.

The SROD modifies certain decisions made in the ROD, thus completing the disposal decisions for K.I. Sawyer AFB. Specifically, in the SROD the Air Force, in consultation with Marquette County, modified the Airport Public Benefit Transfer, and Economic Development Conveyance property boundaries and simplified the K.I. Sawyer parcel disposal map.

The implementation of these conversion activities and associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Feeder, State and Local statutes and regulations, and all reasonable and practical efforts have been incorporated to minimize harm to the local public and the environment.

Any questions regarding this matter should be directed to Mr. Paul MacPherson at 703–696–5569. Correspondence should be sent to AFBCA/DB, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–28053 Filed 10–26–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

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), Savannah River. 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: Monday, November 15, 1999: 4:00 p.m–9:00 p.m.; Tuesday, November 16, 1999: 8:30 a.m.–4:00 p.m.

ADDRESSES: All meetings will be held at: Sheraton Charleston Hotel, 170 Lockwood Boulevard, Charleston, SC 29403.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of Environmental Quality, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802 (803) 725–5374.

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

Monday, November 15, 1999

4:00 p.m. Outreach Subcommittee
6:30 p.m. Public Comment Session
7:00 p.m. Subcommittee Meetings
9:00 p.m. Adjourn

Tuesday, November 16, 1999

8:30 a.m.
- Approval of Minutes, Agency Updates (approximately 15 minutes)
- Public Comment Session (5-minute rule, approximately 10 minutes)
- Facilitator Update (approximately 15 minutes)
- SRS and Criticality Issues (approximately 30 minutes)
- Medical University of South Carolina Cancer Registry Update (approximately 30 minutes)
- Environmental Restoration and Waste Management Subcommittee Report (approximately 1½ hours)
- Public Comment (approximately 10 minutes)

12:00 p.m.
- Lunch Break
- Environmental Restoration and Waste Management Subcommittee Report continued (approximately 45 minutes)

Nuclear Materials Management Subcommittee Report (approximately 1 hour)

Risk Management and Future Use Subcommittee Report (approximately 20 minutes)

Administrative Subcommittee Report (approximately 20 minutes)

Proposal to Amend By-Laws

Outreach Subcommittee Report (approximately 10 minutes)

Public Comments (approximately 10 minutes)

4:00 p.m.

Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting, Monday, November 15, 1999.

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 Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The 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.

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 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling (803)–725–5374.

Issued at Washington, DC, on October 21, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–28032 Filed 10–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–2–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 21, 1999.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on October 12, 1999 certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, Second Revised Volume No. 1, bear a proposed effective date of November 1, 1999.

The purpose of this instant filing is to track rate changes attributable to a storage service purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules SST and FSS. The costs of the above referenced storage service comprise the rates and charges payable under ESNG's Rate Schedules SST and FSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Copies of this filing are on file with the Commission and are available for public inspection.

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 my 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. 99–28021 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–27–000]

KN Interstate Gas Transmission Co.; Notice of Tariff Filing

October 21, 1999.

Take notice that on October 15, 1999, KN Wattenberg Transmission LLC (KNW) tendered for filing Tariff Sheet(s) of its FERC Gas Tariff, First Revised Volume No. 1 KNW is submitting this filing in order to incorporate a back up for determination of the index prices for the imbalance cash out mechanism.

First Revised Volume No. 1

First Revised Sheet No. 18
Original Sheet No. 18A
Original Sheet No. 31A

KNW states that copies of this filing have been served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing maybe 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. 99–28025 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–25–000]

Natural Gas Pipeline Company of America, K N Interstate Gas Transmission Co., K N Wattenberg Transmission Limited, Liability Company, Caprock Pipeline Company, Canyon Creek Compression Company, Stingray Pipeline Company, Trailblazer Pipeline Company, and TCP Gathering Company; Notice of Petition for Waiver

October 21, 1999.

Take notice that on October 13, 1999, Natural Gas Pipeline Company of America (Natural), K N Interstate Gas Transmission Co., K N Wattenberg Transmission Limited Liability Company, Caprock Pipline Company, TCP Gathering Co., Canyon Creek Compression Company, Stingray Pipeline Company and Trailblazer Pipeline Company (collectively Petitioners) filed a petition for limited waiver of the Commission's Regulations and the nomination procedures set forth in their respective Tariffs in order to waive certain nomination cycles during the Y2K rollover period. Petitioners request waiver of such provision in order to minimize business disruptions and promote stability of their regular business transactions on and after January 1, 2000.

Petitioners state that copies of the filing have been mailed to all of the shippers 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 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. 99–28026 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–009]

Natural Gas Pipeline Company of America; Notice of Proposed Change in FERC Gas Tariff

October 21, 1999.

Take notice that on October 13, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing Original Sheet No. 26B to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective October 12, 1999.

Natural states that the purpose of this filing is to implement a Negotiated Rate transaction with MidAmerican Energy Company under Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions (GT&C) of Natural's tariff.

Natural requested waiver of the Federal Energy Regulatory Commission's (Commission) Regulations, including the 30-day notice requirement of Section 154.207, to the extent necessary to permit Original Sheet No. 26B to become effective October 12, 1999. Natural also requested waiver of Section 49.1(e) of the GT&C of its Tariff to the extent that this filing is submitted one (1) day late.

Natural states that copies of the filing are being mailed to its customers, interested state regulatory commissions and all parties set out on the official service list at Docket No. RP99–176.

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. 99–28027 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–494–002]

Northwest Pipeline Corporation; Notice of Compliance Filing

October 21, 1999.

Take notice that on October 15, 1999, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Second Revised Sheet No. 63, to become effective October 1, 1999.

Northwest states that the purpose of this filing is to comply with the Order Accepting Tariff Sheets, Subject to Conditions issued September 30, 1999 in Docket Nos. RP99–494–000 and RP99–494–001 (Order). Northwest states that it has revised the basis for scheduling interruptible injection and withdrawal nominations in Rate Schedule SGS–2I to utilize a price-based priority for scheduling.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28023 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1981–010]

Oconto Electric Cooperative; Notice of Meeting

October 21, 1999.

On November 10, 1999, the Federal Energy Regulatory Commission staff will meet with Oconto Electric Cooperative and agency representatives to discuss project-related issues concerning the Stiles Hydroelectric Project (Project No. 1981–010), which is located on the Oconto River near Oconto Falls, in Oconto County, Wisconsin. The meeting will be from 9:00 a.m. to 3:00 p.m. The meeting will be conducted at Oconto Electric Cooperative's office, located at 7479 REA Road, Oconto Falls, Wisconsin.

For more information about this meeting or the Stiles Hydroelectric Project, please contact:

Patti Leppert-Slack, Federal Energy Regulatory Commission, 888 First Street, NE Room 72–33 Washington, DC 20426, (202) 219–2767, E-mail: *patricia.leppertslack@ferc.fed.us*

Jan Stranz, Oconto Electric Cooperative, 7479 REA Road, Oconto Falls, Wisconsin, (920) 846–2816, E-mail: *jstranz@ocontoelectric.com*

David P. Boergers,

Secretary.

[FR Doc. 99–28028 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–4–000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

October 21, 1999.

Take notice that on October 13, 1999, Transcontinental Gas Pipe Line Corporation tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached thereto. The proposed effective date of the revised tariff sheets is December 1, 1999.

Transco states that the purpose of the instant filing is to implement and modify the current imbalance ''cash out'' provisions of Transco's film and interruptible transportation rate schedules. Specifically, Transco proposes to:

- Consolidate into a new Section 37, ''Cash Out provisions'', in the General Terms and Conditions of its tariff the imbalance ''cash out'' provisions set forth in its firm and interruptible rate schedules and include in those rate schedules a reference to the terms of the new Section 37;
- Substitute Gas Daily in place of Natural Gas Week as the source publication for the spot price indices and to establish a Reference Spot Price and monthly Average Spot Price for each zone to be used to determine the Reference Sport ''Buy'' or ''Sell'' and the Average Spot Price at which Transco and buyers under the applicable rate schedules will ''cash out'' imbalances;
- Revise (i) the monthly Reference Spot ''Buy'' and ''Sell'' Price for each one to use the average of the three (3) Lowest or Highest Daily Midpoint Prices, respectively, for that zone in the month determined from Gas Daily, as opposed to the currently used lowest and highest weekly Reference Spot Price for the month determined from Natural Gas Week, and (ii) the monthly Average Spot Price for each zone to use the simple arithmetic average of the Midpoint Price for that zone in the month from Gas Daily; and
- Revise the imbalance tolerance level to one and one-half percent (1.5%) from two and one-half percent (2.5%), to determine the application of the Weighted Average Spot Price in the ''cash out'' of imbalances for so-called majority shippers.

Transco states that its proposed tariff revisions are consistent with Commission policy.

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 202–209–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28022 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–45–002]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

October 21, 1999.

Take notice that on October 15, 1999, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing its report for refunds made on September 20, 1999, under Docket No. RP99–451.

Williams states that on July 29, 1999, as amended August 12, 1999, it filed an interruptible excess refund report for the month of October 1993. By letter order issued September 9, 1999, the Commission accepted the report and directed refunds be made pursuant to the timetable provided in Article 12 of Williams' tariff. The order also directed Williams to file a refund report within 30 days of the date the refund was made. Williams refunded approximately $1.3 million, including interest, on September 20, 1999.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–28019 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6879–019]

Southeastern Hydro-Power, Inc.; Notice of Availability of Environmental Assessment

October 21, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Hydropower Licensing has reviewed the application requesting the Commission's authorization to amend the license for the proposed W. Kerr Scott Hydroelectric Project, to be located on the Yadkin River immediately below the existing W. Kerr Scott Dam, operated by the Wilmington District Corps of Engineers, in Wilkes County, North Carolina, and has prepared an Environmental Assessment (EA) for the proposed action.

In the EA, Commission staff concludes that approval of the subject amendment of license with staff's recommended mitigative measures would not produce any significant adverse environmental impacts; consequently, the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, N.E., Washington, DC 20426, or by calling (202) 208–1371. The EA also may be viewed on the Web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

For further information, please contact Jim Haimes at (202) 219–2780.

David P. Boergers,

Secretary.

[FR Doc. 99–28024 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–624–000]

Wyoming Interstate Company, Ltd.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Medicine Bow Lateral Phase II Project and Request for Comments on Environmental Issues

October 21, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Medicine bow Lateral Phase II Project involving the construction and operation of natural gas transmission facilities by Wyoming Interstate Company, Ltd. (WIC) in Weld County, Colorado and Converse County, Wyoming.[1] These proposed facilities primarily consist of about 5.6 miles of 24-inch-diameter pipeline and 7,170 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

WIC wants to expand the capacity of its facilities in Colorado and Wyoming to transport an additional 120,000 Decatherms per day of natural gas on the Medicine Bow Lateral. WIC seeks authority to construct and operate:

Phase II Facilities (1999)

- About 5.6 miles of 24-inch-diameter pipeline in Weld County, Colorado;
- One 7,170-hp compressor unit at its existing Douglas Compressor Station in Converse County, Wyoming; and
- One check meter at its existing Cheyenne Compressor Station in Weld County, Colorado.

The location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the proposed facilities would require about 61.3 acres of land. Following construction, about 33.3 acres would be maintained as permanent right-of-way. The remaining 28 acres of land would be restored and allowed to revert to it former use. All construction at WIC's Douglas Compressor Station in Converse County, Wyoming and its Cheyenne Compressor Station in Weld County, Colorado would occur within the existing sites.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources, fisheries, and wetlands
- vegetation and wildlife
- endangered and threatened species
- land use
- cultural resources
- air quality and noise

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

[1] WIC's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded.

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP99–624–000; and
- Mail your comments so that they will be received in Washington, DC on or before November 22, 1999.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 99–28029 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

October 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11821–000.

c. *Date filed:* September 27, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Deer Creek Dam Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Deer Creek Dam and Reservoir on Deer Creek, near the Town of Williamsport, Pickaway County, Ohio.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115

i. *FERC Contact:* Ed Lee (202) 219–2809 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Descrition of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Deer Creek Dam and Reservoir, and would consist of the following facilities: (1) a new 90-foot-long and 5.5-foot-in-diameter steel penstock; (2) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 800 kilowatts; (3) a new 300-foot-long, 14.7-kilovolt transmission line; and (4) appurtenent facilities. The proposed average annual generation is estimated to be 5 gigawatt-hours. The cost of the studies under the permit will not exceed $600,000.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and File Maintenance Branch, located at 888 First Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed

project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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 regulation to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or 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.

David P. Boerger,

Secretary.

[FR Doc. 99–28020 Filed 10–26–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6466–1]

Good Neighbor Environmental Board; Change of Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the U.S. Environmental Protection Agency gives notice of change of agenda for the Good Neighbor Environmental Board meeting published in 64 FR 54626.

The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico. The Board is required to submit an annual report to the President and the Congress. The Board has representatives from eight U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The Board meets three times annually, including an annual meeting with its Mexican counterpart, Region 1 of the Mexican National Advisory Council for Sustainable Development. The joint meeting with Region 1 of the Mexican National Advisory Council for Sustainable Development has been canceled. However, the Good Neighbor Environmental Board will meet during the scheduled dates.

DATES: The Board will meet on November 3–5, 1999. The Board will have work group sessions on November 3, 1999, from 4:00 p.m. to 6:00 p.m. On November 4, the Board will meet from 9:00 a.m. until 5:30 p.m. On November 5, the Board will meet from 9:00 a.m. until 12:00 p.m. instead of adjourning at 2:30 p.m. The public comment session will be held on Thursday, November 4 from 12:00 p.m. to 12:30 p.m. The public comment session scheduled for the Joint Session on Friday, November 5 from 1:00 p.m. to 1:30 p.m has been canceled. Seating will be limited and available on a first-come, first-served basis.

Members of the public who wish to make brief oral presentations should contact Nancy Bradley at 202–564–9741 by November 1, 1999 to reserve a time during the public comment session. Individuals or groups making presentations will be limited to a total time of five minutes. Those who have not reserved time in advance may make comments during the public comment session as time allows.

ADDRESSES: The Regency Plaza Hotel, 1515 Hotel Circle South, San Diego, California. Materials or written comments may be sent to Melanie Medina-Ortiz, Designated Federal Officer, U.S. EPA (1601A), Office of Cooperative Environmental Management, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie Medina-Ortiz, Designated Federal Officer, U.S. EPA, Office of

Cooperative Environmental Management, telephone 202–564–5987.

Dated: October 25, 1999.

Gordon Schisler,

Deputy Director, Office of Cooperative Environmental Management.

[FR Doc. 99–28220 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34203; FRL–6389–3]

Organophosphate Pesticide; Availability of Preliminary Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of the EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary human health and ecological risk assessments and related documents for chlorpyrifos. This notice also starts a 60-day public comment period for the preliminary risk assessments. Comments are to be limited to issues directly associated with the one organophosphate that has the risk assessments placed in the docket and should be limited to issues raised in those documents. By allowing access and opportunity for comment on the preliminary risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments will be appropriate for some, if not all, of these organophosphate pesticides. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Comments, identified by the docket control number OPP–34203, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify the docket control number OPP–34203 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on chlorpyrifos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities may also be interested, 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 applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, 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/. In addition, copies of the preliminary risk assessments for the one organophosphate pesticide may also be accessed at http: www.epa.gov/oppsrrd1/op.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34203. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify the docket control number OPP–34203 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form

must be identified by docket control number OPP–34203. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve this notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

EPA is making available preliminary risk assessments that have been developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the FFDCA, as amended by the FQPA. The Agency's preliminary human health and ecological risk assessments for one organophosphate pesticides are available in the individual organophosphate pesticide docket: Chlorpyrifos.

Included in the individual organophosphate pesticide docket is the Agency's preliminary risk assessments. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for the one organophosphate pesticide listed in this notice. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments will be appropriate for the one organophosphate pesticide. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

As the preliminary risk assessments for the remaining organophosphate pesticides are completed and registrants are given a 30-day review period to identify possible computational or other clear errors in the risk assessment, these risk assessments and registrant responses will be placed in the individual organophosphate pesticide dockets. A notice of availability for subsequent assessments will appear in the **Federal Register**.

The Agency is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessments for the chemicals specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to these specific chemicals. Comments should be limited to issues raised within the preliminary risk assessments and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the organophosphate tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by December 27, 1999 at the address given under Unit I. of the ''SUPPLEMENTARY INFORMATION.'' Comments will become part of the Agency record for each individual organophosphate pesticide to which they pertain.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: October 21, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–28046 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66272; FRL–6387–8]

Methyl Parathion, Receipt of Requests for Cancellation; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Receipt of requests for voluntary cancellation; cancellation order.

SUMMARY: The companies that hold the pesticide registrations of pesticide products containing methyl parathion (*O,O*-dimethyl-*O*-(4-nitrophenyl) phosphorothioate) have asked EPA to cancel their registrations for these products. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these voluntary cancellation requests from the registrants. These requests for voluntary cancellation are the result of an agreement regarding the registration of products containing methyl parathion reached between EPA and the registrants. Given the risks associated with use of methyl parathion under the existing terms and conditions of use, EPA is granting the requests for voluntary cancellation. The voluntary cancellation is effective today, with the publication of this document in the **Federal Register**, which contains the Cancellation Order. As of today, any distribution, sale, or use of canceled methyl parathion products will only be permitted if such distribution, sale, or use is consistent with the terms of the Cancellation Order set forth in this document.

DATE: The cancellations are effective on October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis Deziel, Special Review and Reregistration Division (7508), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460, telephone number: 703–308–8173, e-mail address: deziel.dennis@epa.gov.

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you manufacture, sell, distribute, or use methyl parathion products. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II of this document. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available support documents from the EPA Internet Home Page at http://www.epa.gov/. You may access this document by selecting ''Laws and Regulations'' on EPA's Home Page and then looking up the entry for this document under the ''**Federal Register** - Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.* To access information about the risk assessment for methyl parathion, go to the Home Page for the Office of Pesticide Programs or go directly *http:www/epa.gov/oppsrrd1/op/methyl_*parathion.htm.

2. *In person.* The Agency has established an official record for this action under docket control number 66272. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number 66272 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

3. *Electronically.* You may submit your comments electronically by e- mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by the docket control number 66272. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide copies of any technical information and/or data you used that support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.
- Make sure to submit your comments by the deadline in this notice.
- To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests for Voluntary Cancellation

In a memorandum of agreement (''Agreement'') effective August 2, 1999, EPA and all registrants of products containing methyl parathion agreed to take several steps to reduce the risks associated with the use of methyl parathion. Methyl parathion is one of the most toxic and widely used organophosphate pesticides. EPA initiated the negotiations with registrants after methyl parathion was found to pose unacceptable dietary risks, especially to children. Among other things, the registrants agreed to cancel the use of methyl parathion on all fruits, many vegetables, and all non-food and non-feed uses. The crop uses that the registrants agreed to cancel are listed under ''Uses To Be Canceled'' in Table 1 below. Canceling these crop uses considerably reduces risks to children through food, and mitigates some of the risks of concern to workers and non-target species in the environment, such as honeybees.

TABLE 1.— USES TO BE CANCELED OR MAINTAINED

Uses To Be Canceled	Uses To Be Maintained
Food/Feed Uses: Apples, artichokes, birdsfoot trefoil, broccoli, Brussels sprouts, carrots, cauliflower, celery, cherries, clover, collards, filberts, garden beets, grapes, kale, kohlrabi, lettuce, mustard greens, nectarines, peaches, pears, plums, rutabagas, sorghum, spinach, succulent beans, succulent peas, tomatoes, turnips, vetch..	Food/Feed Uses: Alfalfa[1], almonds[2], barley, cabbage[1], corn, cotton, dried beans, dried peas, grass (including rangeland and pastures), hops, lentils[2], oats, onions, pecans[1], rape seed (canola)[1], rice, rye[1], soybeans, sugar beets[1], sunflower[1], sweet potatoes[2], walnuts[2], wheat, white potatoes
Non-Food Uses: Christmas trees, chrysanthemums, daisies, field grown ornamentals, flowering plants, forest, grasses grown for seed, guayule, jojoba, marigolds, any mosquito larvicide use, nursery stock, non-agricultural land, roadside areas, wasteland..	Non-Food Uses: No non-food uses remain.

[1] Emulsified Concentrate formulation only
[2] Microencapsulated formulation only

In order to cancel these crop uses, the Agreement provides that existing registrations of methyl parathion products will be replaced with new registrations of these products without the uses identified in Table 1 above as ''Uses to be Canceled.'' As part of the Agreement, the registrants agreed to submit voluntary requests for cancellation of all existing registrations of pesticide products containing methyl parathion. The products for which cancellation was requested are listed in Table 2 of this notice. These include Special Local Need (SLN) registrations that authorize the use of the product on any crop listed under ''Uses To Be Canceled'' in Table 1 of this notice. The Agreement also provides that any registrant that desires to continue to hold a registration for any pesticide product containing methyl parathion must submit an application for registration pursuant to section 3(c)(7)(A) of FIFRA and consistent with the terms of the Agreement. Among other things, applications for registration of manufacturing-use products must include in the ''Directions for Use'' section of the label a statement that the product may only be reformulated for uses identified in Table 1 of this notice as ''Uses To Be Maintained'' that the registrant previously supported under a registration listed in Table 2 of this notice. Any SLN registrations that authorize the use of a methyl parathion product on any use to be maintained will automatically be supported by the new product registration issued by EPA. The Agreement further provides that requests for voluntary cancellations may be expressly conditioned on EPA's grant of such applications for registration. Thus, the issuance of new registrations and the cancellation of existing registrations will effectively cancel the methyl parathion uses that the registrants agreed to cancel.

TABLE 2.—COMPANY NAME, REGISTRATION NUMBERS AND PRODUCT NAMES

Company	Registration No	Product	SLNs
FMC Corporation Agricultural Products Group	279–2149	Methyl Parathion 2 Thioden 3EC	
.....	279–2609	Methyl Parathion 1.0 Thioden 2.0 C.O. EC	
Griffin L.L.C.	1812–399	Griffin Methyl Parathion Technical	WA980020
.....	1812–405	Declare	ID980005
Wilbur-Ellis Company	2935–527	Methyl Parathion 5 Spray	NV97000100
.....	2935–528	Methyl Parathion 4 Spray	WA97001800
.....	2935–482	Ethyl–Methyl Parathion 6–3 Spray	TX97000900
Elf Atochem North America Inc.	4581–292	Penncap–M Microencapsulated Insecticide	AR99009 AL97000300 CA97002400 ID84001000 IL99000700 IN88000200 IN88000700 LA96000100 MN97000100 MO95000100 MS97000600 NM82000400 WA82005400 WI95000500

TABLE 2.—COMPANY NAME, REGISTRATION NUMBERS AND PRODUCT NAMES—Continued

Company	Registration No	Product	SLNs
Cheminova Agro A/S	4787–28	Cheminova Methyl Parathion Technical	
Cheminova Inc.	67760–29	Cheminova Methyl Parathion 4EC	ID97001300 OR97002000 TX97000600 WA970003400
Amvac Chemical Corporation	5481–175	Methyl Parathion 5	
	5481–307	Methyl Parathion 4 Emulsifiable	
	5481–330	Durham Methyl Parathion Granules 2	
	5481–437	Parathion E/M 6–3	
Helena Chemical Company	5905–198	Helena Brand Malathion-Methyl Parathion Emulsifiable Liquid	
	5905–528	Helena 4 LB. Methyl Parathion	
Terra International, Inc.	9779–344	Riverside Methyl Parathion 4	
Drexel Chemical Co.	19713–37	Drexel Methyl Parathion 4E	
	19713–281	Drexel Methyl Parathion 4	
Platte Chemical Company, Inc.	34704–794	Methyl Parathion 4EC	
	34704–795	Methyl Parathion 5–E	
Micro–Flo Company	51036–284	Methyl Parathion 4EC	

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. However, such comment period may be waived upon a registrant's request. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrants have requested that EPA waive any applicable comment period before taking action on their requests to cancel the registrations of the products identified in Table 2 of this notice. In light of this request and to expedite the risk mitigation measures set forth in the Agreement, EPA is granting the request to waive the comment periods and is canceling the registrations today with the publication of this document in the **Federal Register**.

As part of the Agreement negotiated with the registrants, EPA agreed to allow continued distribution and sale of existing stocks of canceled products through December 1, 1999, and continued use of such stocks pursuant to the terms of the existing labels through December 31, 1999. The Agreement also called on EPA to grant the voluntary cancellation requests as expeditiously as possible. Because of the risks associated with the use of methyl parathion, the Agency's agreement to the expeditious granting of cancellation requests, and the Agency's issuance of new registrations pursuant to the Agreement, the Agency is granting the requested cancellations to be effective on October 27, 1999.

III. Cancellation Order

The registrants have requested voluntary cancellation of the registrations of the pesticide products identified in Table 2 of this notice. Pursuant to section 6(f) of FIFRA, EPA hereby grants the requests for voluntary cancellation and orders that the registrations of the pesticide products identified in Table 2 of this notice be canceled. Any distribution, sale, or use of existing stocks of these products that is not consistent with the terms of this Order will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

For purposes of this Order, the term ''existing stocks'' is defined, pursuant to EPA's existing stocks policy at 56 FR 29362, Wednesday, June 26, 1991, as those stocks of a canceled pesticide product that were in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation.

A. Existing Stocks Provision

1. *Distribution or sale by registrants*. The distribution or sale of existing stocks by registrants will not be lawful under FIFRA after December 1, 1999, except for the purpose of shipping such stocks for relabeling or repackaging, for export consistent with the requirements of section 17 of FIFRA, or for proper disposal.

2. *Distribution or sale by other persons*. The distribution or sale of existing stocks by persons other than registrants will not be lawful under FIFRA after December 1, 1999, except for the purpose of shipping such stocks for relabeling or repackaging, for export consistent with the requirements of section 17 of FIFRA, or for proper disposal.

3. *Use of existing stocks*. The use of existing stocks will not be lawful under

FIFRA after December 31, 1999, except for the purposes of producing (e.g., repackaging or relabeling) new manufacturing-use and end-use products that conform with the terms of the Agreement. Persons applying such existing stocks as part of a service of applying methyl parathion products prior to December 31, 1999, shall not be considered to be engaged in the distribution or sale of pesticides, unless such persons also deliver unapplied methyl parathion pesticides. Any use of existing stocks of canceled product prior to January 1, 2000, must be in accordance with either the directions for use contained in the Agreement or the existing labeling of that product.

B. Notification of Possession of Canceled Products

No later than November 1, 1999, and pursuant to section 6(g) of FIFRA, any producer or exporter, registrant, applicant for a registration, applicant or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who after the publication of this Notice possesses any stocks of the pesticide products identified on Table 2 of this notice, shall notify EPA and appropriate State and local officials of: (1) Such possession; (2) the quantity of canceled methyl parathion pesticide product possessed; and (3) the place at which the canceled methyl parathion pesticide product is stored.

List of Subjects

Environmental protection.

Dated: October 12, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–27800 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00569B; FRL–6388–2]

Pesticides; Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of the revised version of the pesticide science policy document entitled ''Threshold of Regulation (TOR) Policy—Deciding Whether a Pesticide With a Food Use Pattern Requires a Tolerance.'' This notice is the twelfth in a series concerning science policy documents related to Food Quality Protection Act and developed through the Tolerance Reassessment Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Environmental Protection Agency (7506C), 401 M St., SW., Washington, DC 20460; telephone number: (703) 308-9341; fax: (703) 305-5884; e-mail address: prunier.vivian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide producers	32532	Pesticide manufacturers Pesticide formulators

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action affects certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, the science policy documents, and certain other related documents that might be available electronically, from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. On the Office of Pesticide Programs' Home Page select ''FQPA'' and then look up the entry for this document under ''Science Policies.'' You can also go directly to the listings at the EPA Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry to this document under ''**Federal Register**--Environmental Documents.'' You can go directly to the **Federal Register** listings http://www.epa.gov/fedrgstr/.

2. *Fax on demand*. You may request a faxed copy of the revised science policy paper, as well as supporting information, by using a faxphone to call (202) 401–0527. Select item 6042 for the paper entitled ''Threshold of Regulation (TOR) Policy—Deciding Whether a Pesticide With a Food Use Pattern Requires a Tolerance.'' You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP-00569B. In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) (FRL–6041–5) have also been inserted in the docket under docket control number OPP–00557. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background for the Tolerance Reassessment Advisory Committee (TRAC)

On August 3, 1996, the Food Quality Protection Act of 1996 (FQPA) was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard (''a reasonable certainty of no harm'') for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections

for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10-year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs. The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard, but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to OPP.

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the TRAC, chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states and other interested groups. The TRAC has met six times as a full committee from May 27 through April 29, 1999.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process and related policies would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas it believes were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL–6041–5), EPA is announcing through the **Federal Register** the availability of a series of draft documents concerning nine science policy issues identified by the TRAC related to the implementation of FQPA. After receiving and reviewing comments from the public and others, EPA is also issuing revised science policy documents which reflect changes made in response to comments. In addition to comments received in response to these **Federal Register** notices, EPA will consider comments received during the TRAC meetings. Each of these issues is evolving and in a different stage of refinement. Accordingly, as the issues are further refined by EPA in consultation with USDA and others, they may also be presented to the SAP.

III. Summary of Revised Science Policy Guidance Document

This **Federal Register** notice announces the availability of a revised version of the EPA pesticide science policy guidance document that has been retitled ''Threshold of Regulation (TOR) Policy—Deciding Whether a Pesticide With a Food Use Pattern Requires a Tolerance.'' The guidance document describes the approach that EPA will use for determining when a food use pattern does not produce residues in or on food that require establishment of a tolerance or tolerance exemption. Specifically, the guidance document describes:

A. EPA's authority for determining whether a tolerance or tolerance exemption is, or is not, required.

B. The criteria that EPA will use for determining whether a tolerance is required for a pesticide use in, on, or near food that produces no detected residues in the food.

C. The data, including toxicology and residue chemistry studies, that EPA will rely upon when deciding whether a tolerance is required.

D. Procedures that EPA will follow for evaluating new or existing pesticide uses that meet the criteria of the TOR policy.

E. Procedures that EPA will follow to establish a regulation in title 40 of the Code of Federal Regulations (CFR) for each use that meets the criteria of the TOR policy.

The Agency plans to use this guidance during tolerance reassessment to determine whether a tolerance is needed for existing uses. The Agency expects to use this guidance to evaluate proposed pesticide uses that could replace pesticide uses that are being discontinued. EPA believes that this policy will promote a reasonable transition for agriculture.

IV. Issues Raised in Comments

EPA published a draft version of the document described in Unit III. in the **Federal Register** on December 4, 1998 (63 FR 67063) (FRL–6048–2) and comments were filed under docket control number OPP–00569. The original public comment period ended on February 4, 1999, but was extended to February 18, 1999, in a **Federal Register** document published on February 5, 1999 (64 FR 5795) (FRL–6061–5). The Agency received comments from 22 different organizations. All comments were considered by the Agency in revising the document. The comments and the Agency's responses to these comments are briefly summarized in this Unit.

Many of the comments were similar in content, and pertained to general issues concerning the proposed policy or specific sections within the draft document. To facilitate review and consideration of the comments for purposes of revising the document, the Agency grouped the comments in accordance to nature of the comment, or issue or section of the document with which they addressed. Hence, comments were grouped as follows:

A. The purpose and effects of the policy.

B. Residue chemistry data requirements.

C. Toxicity data requirements.

D. Risk criteria for TOR decisions.

E. Registration criteria for pesticide uses that meet the criteria of the TOR policy.

F. Procedural issues, including publication of decisions made under the policy, enforcement, and assessment of fees.

The full text of the Agency's comments and response to the comments document is available as described in Unit I.B.1.

The comments raised several significant issues including:

1. What is EPA's authority for deciding that a tolerance is not required for a pesticide use in, on, or near food?

EPA has interpreted section 402 of the Federal Food, Drug and Cosmetic Act (FFDCA) as meaning that any use of a

pesticide in, on, or near growing crops, livestock, or food will result in residues in the food that are subject to section 408 of the Act unless the EPA decides otherwise. The TOR policy would establish criteria to decide whether additional food use patterns, in addition to those identified in 40 CFR 180.6, do not produce residues in food for which a tolerance or tolerance exemption is required. EPA finds that sections 408(e) and 701(a) of the FFDCA give EPA authority to issue regulations necessary to interpret the Act.

2. How will EPA implement, publish, and compile TOR decisions? How will FDA enforce TOR decisions?

Commenters asked EPA to publish notices of TOR policy decisions that specify the conditions of use and analytical method used to support each TOR decision and to maintain a list of TOR decisions in the CFR.

EPA has decided to issue each TOR decision as a regulation. The TOR regulation will identify the pesticide, conditions of use of the pesticide, and the analytic method that the Agency relied on in determining that the use of the pesticide would not produce detectable residues. This information will guide growers or other pesticide users who wish to employ a pesticide for a TOR use and should enable them to avoid misusing the pesticide.

This policy does not alter FDA's enforcement in any way. FDA monitors food for pesticide residues. FDA will continue to monitor food in interstate commerce for pesticide residues. To detect and quantify pesticide residues in a food, FDA may use either the analytical method that EPA relied upon in making the TOR decision or another method. Because the TOR policy is based on the premise that no residues will be found in a food following the use of a pesticide, FDA will continue to regard any residue finding for which there is no tolerance or tolerance exemption as a violation of the FFDCA and would deem the food as adulterated under section 402(a)(2)(B) of the FFDCA.

3. What would happen to a TOR use if a more sensitive analytical method is developed?

Food processors were concerned that FDA would eventually develop more sensitive enforcement methods and would be able to detect residues from TOR uses.

EPA agrees that advances in the science of analytical chemistry may eventually produce methods that are capable of detecting pesticide residues from TOR uses. If FDA adopts a new enforcement method that is more sensitive than the method described in the TOR regulation and subsequently detects residues in a food, it could deem the food to be adulterated under section 402 of the FFDCA. However, FDA generally provides the public ample notice when it is considering adopting a new analytical method for enforcement purposes. A person who is relying on a TOR approval to support a pesticide use would have opportunity to evaluate the new analytical method before FDA adopts it.

4. Several commenters asserted that EPA should expand the TOR Policy criteria to include detected residues that pose risks that are so inconsequential that they are ''*de minimis*'' and should not be regulated.

Under this principle, an agency may decide that some violations of the law are so trivial that they are not worth regulating. The commenters argued that, if EPA applies this principle, it would be able to find that a residue does not need to be regulated under FFDCA section 408 if a given level of a particular pesticide based on the hazard characteristics of the pesticide poses a ''*de minimis*'' risk. Detected residues of a pesticide could also be eligible for consideration under a ''*de minimis*'' policy.

EPA's approach does not attempt to write an exception to the statutory language as does the *de minimis* principle; rather, EPA has relied upon the less controversial legal approach of fashioning a reasonable interpretation of existing statutory language -- here, ''any pesticide chemical residue in or on a food.'' EPA's policy describes criteria that will be taken into account in determining when a pesticide can be deemed to be ''in or on food'' when the pesticide is NOT detectable on the food. EPA's approach of focusing on the risk posed by potential residues is a reasonable interpretation of when zero detected residues means the pesticide is not in or on food.

EPA chose not to rely on the *de minimis* doctrine as its primary justification for several reasons. First, despite the fact that the *de minimis* principle is well-established, there is always some legal risk when an agency asks a court to disregard the plain language of the statute. In the event that a court concludes that potential risk is not an appropriate consideration in determining when undetected residues qualify as residues ''in or on food,'' the *de minimis* principle provides a secondary justification for EPA's approach. Second, reliance on a *de minimis* theory as a primary justification is only necessary if EPA's policy extends to pesticide residues that are detectable. However, EPA is uncertain whether an expansion of TOR to detected residues posing insignificant risks is necessary to meet the concerns that motivated EPA to formulate the TOR policy. If, at some later date, EPA decides to explore an expansion of TOR, EPA would at that time evaluate the application of the *de minimis* doctrine as the primary justification for the TOR policy. Finally, EPA does not need to rely on the *de minimis* principle in order to apply the policy. As outlined in the policy, EPA has already been making this type of determination as to a considerable range of pesticide uses.

5. The criteria in the ''essentially zero'' exposure approach proposed in the draft TOR policy blurred the distinction between a food use pattern that is subject to FFDCA and a non-food use that is not subject to FFDCA.

It appears that the proposed ''essentially zero'' exposure approach for a TOR determination could be interpreted as applying both to food uses e.g., uses that result in a reasonable expectation of no finite residues in milk, meat, poultry or eggs and to uses that are likely to be classified as ''non-food'' uses.

EPA modified the policy to make clear that it applies to the uses of pesticide in, on, or near growing crops, livestock, or food and not to uses that have been classified as ''non-food'' uses.

EPA found that the proposed ''essentially zero'' exposure approach for a TOR determination could be interpreted as applying to certain food uses e.g., uses that result in no finite residues in milk, meat, poultry, or eggs. EPA already has procedures for handling ''essentially zero'' residues in some foods in 40 CFR 180.6(a)(3) and 180.6(c)(3). Because a mechanism already exists for managing certain pesticide uses that result in ''essentially zero'' residues in food, EPA believes that the ''essentially zero'' exposure approach proposed in the TOR policy is redundant and potentially confusing. To eliminate this confusion, EPA will not use the ''essentially zero'' exposure approach in its TOR policy.

6. Should EPA make TOR decisions in the absence of data to characterize a pesticide's hazard?

A government Agency advised EPA to continue to require toxicity information for all food use patterns, including uses that meet the criteria of the TOR policy.

When EPA originally proposed ''essentially zero'' exposure criteria for TOR decisions, it reasoned that if exposure is ''essentially zero,'' risk would also be ''essentially zero.'' EPA has reconsidered this position, however, because it cannot conclude with certainty that very low exposures are

without risk if there is no relevant information about the biological activity of the pesticide. Accordingly, EPA expects to evaluate the array of toxicity data that are normally used in a dietary risk assessment in order to identify health hazards and quantify a dose response. The Agency will normally perform a quantitative risk assessment before concluding that a specific use poses ''essentially zero'' risk from dietary exposures. Therefore, proponents of a TOR use should provide a full set of toxicity data, as specified in 40 CFR 158.340.

7. What criteria will be used to define ''essentially zero'' risk for infants and children?

EPA should explain what ''acceptable risk'' means with respect to risks to infants and children or other subpopulations when the Agency states that food risks from a TOR use must be less than 0.1% of acceptable risks.

EPA will separately evaluate the incremental dietary risk (i.e., risks from food) posed by a proposed TOR use to each population subgroup, particularly infants and children. If EPA has already determined the appropriate FQPA safety factor for a particular pesticide, EPA will use this safety factor in its evaluation of the proposed TOR use. If EPA has not established an FQPA safety factor, EPA will, as a matter of policy, decide whether the FQPA safety factor is appropriate, and if so, the Agency will use it when evaluating the potential risk posed by the proposed TOR use to infants and children.

8. The risk criteria in the TOR policy represent ''risk management policy,'' not ''science policy.'' Furthermore, the definition of ''essentially zero'' risk is so restrictive that few pesticide uses will qualify.

Several commenters asked that EPA ease the risk criterion, recommending either a specific value such as 1% of acceptable risk for the pesticide or more subjective criterion such as ''an insignificant proportion of allowable risk'' be used as the risk threshold in the TOR policy.

EPA agrees that the selection of the risk criterion for the TOR policy is a risk management rather than a science policy decision. EPA intends that the exposures from TOR uses be so small that risk resulting from such exposures would be of no concern. Because selection of the risk criterion for TOR decisions is a risk management decision; the risk level itself should connote the triviality of the risk.

EPA conducted its own analysis to ascertain whether the selected risk criteria were so strict that no uses would qualify. The results suggest that many pesticides will qualify for a TOR for use on a food item that is a minor component of the diets of the general U.S. population or children aged 1 to 6 years.

9. Some interpreted the policy to mean that if there are no detected residues above 10 ppb, no tolerances are needed.

EPA finds that this interpretation is not accurate. Tolerances (or exemptions from tolerance) continue to be required for any use of a pesticide in, on, or near food unless EPA determines that the use meets TOR criteria.

10. EPA should adopt alternative criteria for deciding not to establish tolerances for potential residues resulting from the use of pesticides to treat seeds.

Registrants of seed treatment asserted that exposures from seed treatment uses would be even lower than exposures from other uses that may be eligible for TOR decisions. Accordingly, EPA should adjust data requirements and other criteria for making TOR decisions on seed treatment uses.

The Agency will apply the criteria in the revised TOR Policy to seed treatment uses. As discussed above, a proponent of a TOR use would normally be expected to submit the full toxicity data set for a food use. EPA will, however, consider waiving toxicity data requirements on a case-by-case basis.

11. EPA should not require tolerance fees for TOR requests because fees can be charged only for actions done under FFDCA 408.

TOR eligibility determinations involve application of FFDCA section 408. The decision whether FFDCA section 408 applies to a particular case is itself a section 408 action. Accordingly, EPA could require payment of a ''tolerance fee'' to cover the costs of evaluating a TOR eligibility request.

V. Policies Not Rules

The policy document discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, the policy in this guidance is not binding on either EPA or any outside parties. Although this guidance provides a starting point for EPA risk assessments, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that a policy is not appropriate for a specific pesticide or that the circumstances surrounding a specific risk assessment demonstrate that a policy should be abandoned.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 17, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–28047 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[NCEA–CD–99–1072; FRL–6464–1]

Air Quality Criteria for Particulate Matter (External Review Draft)

AGENCY: Environmental Protection Agency.

ACTION: Notice of a Draft for Public Review and Comment.

SUMMARY: The Environmental Protection Agency (EPA), National Center for Environmental Assessment (NCEA), is today announcing the availability of an external review draft of the document, Air Quality Criteria for Particulate Matter. Required under sections 108 and 109 of the Clean Air Act, the purpose of this document is to provide an assessment of the latest scientific information on the effects of airborne particulate matter (PM) on the public health and welfare for use in the next periodic review of the National Ambient Air Quality Standards (NAAQS) for PM.

DATES: Anyone who wishes to comment on the draft document, Air Quality Criteria for Particulate Matter, must submit the comments in writing by no later than January 14, 2000.

ADDRESSES: Send the written comments to the Project Manager for Particulate Matter, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

A copy of the Air Quality Criteria for Particulate Matter (External Review Draft) is available on CD ROM from the OAO Corporation, which is under contract to the EPA. Contact Ms. Cindy Jenkins, OAO Corporation representative, at 919–541–4826, 919–541–1818 (fax), or jenkins.cindy@epa.gov to request the document. OAO will need the document's title, Air Quality Criteria for Particulate Matter (External Review Draft), as well as your name and address

to properly process your request. Internet users may download a copy from the Internet homepage for EPA's National Center for Environmental Assessment. The URL is http://www.epa.gov/ncea/.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis Kotchmar, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–4158; fax: 919–541–1818; E-mail: kotchmar.dennis@epa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency is updating and revising, where appropriate, the EPA's Air Quality Criteria for Particulate Matter. Sections 108 and 109 of the Clean Air Act require that the EPA carry out a periodic review and revision, where appropriate, of the criteria and the National Ambient Air Quality Standards (NAAQS) for the ''criteria'' air pollutants such as particulate matter. Details of the EPA's plans for the review of the NAAQS for PM were announced in a previous **Federal Register** notice (62 FR 55201, October 23, 1997).

Near the end of the comment period on the external review draft, Air Quality Criteria for Particulate Matter, the EPA will present the draft at a public meeting for review by the Clean Air Scientific Advisory Committee (CASAC). There will be a subsequent **Federal Register** notice to inform the public of the exact date and time of that CASAC meeting.

The EPA is aware that a substantial number of new scientific studies on particulate matter are underway that will likely be completed and accepted for publication in time to be included in the final criteria document. To this end, the Agency encourages timely completion and submission of these studies for publication. Because the potential import of many of these additional studies cannot be assessed in the present draft, the Agency is requesting that the CASAC's and the public's comments on this external review draft focus particularly on the aspects of organization, structure, and presentation in the document, although comments on provisional conclusions and specific details are, of course, welcome.

Following the CASAC meeting, the EPA plans to incorporate revisions to the document in response to public comments and CASAC review of the first external review draft, and then to release a second external review draft for public comment and CASAC review in midyear 2000. For reasons discussed above, the second draft may address a number of studies not completed in time for assessment in the first draft. Accordingly, the EPA urges that interested parties be prepared to review the second draft on that basis.

Findings and conclusions from the Air Quality Criteria for Particulate Matter will be used as key inputs to the preparation during 2000 of a draft EPA staff paper on airborne particles, which will pose possible options for the EPA Administrator to consider in regard to potential retention or revision of current PM NAAQS.

Dated: October 21, 1999.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 99–28045 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6464–4]

NOTICE OF PROPOSED ADMINISTRATIVE ORDER ON CONSENT FOR REMOVAL UNDER SECTIONS 104, 106(a), 107, AND 122 OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT PULVERIZING SERVICES SUPERFUND SITE, TOWNSHIP OF MOORESTOWN, NEW JERSEY

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative order on consent and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency (''EPA'') Region II announces a proposed Administrative Order on Consent under sections 104, 106(a), 107, and 122 of CERCLA, relating to the Pulverizing Services Superfund Site (''Site'') in the Township of Moorestown, Burlington County, New Jersey. This Site is not on the National Priorities List established pursuant to section 105(a) of CERCLA. This notice is being published to inform the public of the proposed Order and of the opportunity to comment on the proposed cost reimbursement provision of this Order.

The Administrative Order on Consent is being entered into by the Respondent, PPG Industries, Inc., and EPA. The Site occupies approximately 24 acres in an industrial park in the Township of Moorestown, New Jersey. The Site was operated as a toll processing facility for the formulation of pesticides by several companies from approximately 1935 to 1979. Respondent owned and operated the Site from approximately 1948 to 1963.

The work portion of this Order will require the removal of soils contaminated with elevated levels of pesticides. Previous Orders at this Site have addressed site security, the removal of materials from buildings located on the Site, and the study of soil contamination at the Site.

Because of the existence of an orphan share of liability at the Site, pursuant to the EPA's Orphan Share Policy, EPA agrees in the proposed Order not to pursue the Respondent for unreimbursed past costs related to the Site and for future costs related to oversight of the proposed Order.

DATES: EPA will accept written comments relating to the proposed settlement on or before November 26, 1999.

ADDRESSES: Comments should be sent to Delmar Karlen, Chief, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Comments should reference the Pulverizing Services Superfund Site and EPA Index No. II–CERCLA–99–20389. For a copy of the Order, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Alexandra Varlay, Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: 212–637–3144.

Dated: October 7, 1999.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 99–28043 Filed 10–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Acquisition Services Information Requirements.

Form Number: 3700/04A.

OMB Number: 3064–0072.

Annual Burden

Estimated annual number of respondents: 31,528.

Estimated time per response 0.42 hours.

Average annual burden hours 13,241 hours.

Expiration Date of OMB Clearance: August 31, 2001.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before November 26, 1999 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The proposed revision to this collection involves the submission of information on Form 3700/04A by contractors who wish to do business with the FDIC. The form is used to help determine a contractor's compliance with FDIC contracting regulations for potential FDIC contract awards, including whether the contractor is a minority-owned business or women-owned business.

Dated: October 29, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–28092 Filed 10–26–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 10, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Paul James Senty, Onolaska, Wisconsin; Amy Cathrine Hegenbarth, Madison, Wisconsin; and James Herbert Hegenbarth, Madison, Wisconsin; all to retain voting shares of Deerfield Financial Corporation, Madison, Wisconsin, and thereby indirectly retain voting shares of The Bank of Deerfield, Deerfield, Wisconsin.

Board of Governors of the Federal Reserve System, October 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–27981 Filed 10–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (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 November 19, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Bank of America Corporation, and NB Holdings Corporation, both of Charlotte, North Carolina; to acquire 19.6 percent of the voting shares of Lake - Osceola State Bank, Baldwin, Michigan.

B. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Overton Merger Corporation, Livingston, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Overton Financial Services, Inc., Livingston, Tennessee, and thereby indirectly acquire Union Bank & Trust, Livingston, Tennessee.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Farmers & Merchants Investment, Inc., Milford, Nebraska; to acquire 19.6 percent of the voting shares of North Central Bancorp, Inc., Norfolk, Nebraska, and thereby indirectlyacquire Bank of Norfolk, Norfolk, Nebraska.

2. Twenty-First Century Financial Services Company, Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Oklahoma National Bank, Tulsa, Oklahoma (a *de novo* bank in organization).

In connection with this application, Applicant also has applied to acquire Twenty-First Century Building Company, Tulsa, Oklahoma, and thereby engage in leasing activities, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, October 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–27983 Filed 10–26–99; 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 November 10, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. State Street Corporation, Boston, Massachusetts; to engage *de novo* through its subsidiary, WFBN.com, LLC, Chicago, Illinois, in a joint venture and thereby engage in furnishing general economic information and advice and providing data processing and data transmission services, pursuant to §§ 225.28(b)(6) and (14) of Regulation Y.

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. The Fuji Bank, Limited, Tokyo, Japan; to establish through Heller Financial, Inc., Chicago, Illinois, a joint venture between Heller's indirect, wholly owned subsidiary, Heller Financial Leasing, Inc., Troy, Michigan, and SFS Holding Corporation, Park Ridge, New Jersey, an indirect, wholly owned subsidiary of Sony Corporation, Tokyo, Japan, and thereby engage de novo through Sony Financial Services LLC in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; and in leasing personal or real property or acting as agent, broker, or adviser in leasing such property, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, October 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–27982 Filed 10–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of new Privacy Act system of records.

SUMMARY: The FTC is establishing a new system of records subject to the Privacy Act of 1974, as amended. This system implements the requirements of the Identity Theft and Assumption Deterrence Act of 1998. The Commission will use this system to log and acknowledge complaints submitted by victims of identity theft, to provide information to such individuals, and to refer their complaints to appropriate entities.

DATES: Comments must be submitted by November 26, 1999. This system notice, which is being published in proposed form, shall become final and effective December 13, 1999, without further notice unless otherwise amended or repealed by the Commission on the basis of any comments received.

ADDRESSES: Submit comments in writing to the Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, ''FTC File No. P994320, Identity Theft Program–Comment.''

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2447. For more information about the Commission's identity theft program, contact Beth Grossman, (202) 326–3019, or Joanna Crane, (202) 326–3258, Attorneys, Division of Planning & Information, Bureau of Consumer Protection, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the FTC is publishing this notice of a new agency system of records, to be designated as FTC–IV–2, ''Identity Theft Complaint Management System–FTC.'' This system will enable the FTC to fulfill its statutory responsibilities under section 5 of the Identity Theft and Assumption Deterrence Act of 1998, Pub. L. 105–318, 112 Stat. 3007, 3010, 18 U.S.C. 1028 note (''ITADA''). The ITADA designates the FTC as a clearinghouse for the receipt and referral of identity theft complaints and requires that the FTC establish procedures: (1) To log and acknowledge receipt of complaints from individuals who certify that they have a reasonable belief that one or more of their means of identification have been assumed, stolen, or otherwise unlawfully acquired in violation of the statute; (2) to provide informational materials to such individuals; and (3) to refer such complaints to ''appropriate entities.'' Under the statute, these entities include, but are not limited to, the three major national consumer reporting agencies (currently Equifax, Experian and Trans Union), and appropriate law enforcement agencies for potential law enforcement action.

The new system of records is designed to meet these statutory requirements and will be managed and operated by the FTC's Bureau of Consumer Protection, Division of Planning & Information. The system consists primarily of a computerized database that will compile and track identity theft complaints received by the agency. Copies of identity theft complaints originally received in paper format (e.g., by mail or fax) will also be considered part of the system, but will be retained for only a temporary period after they are entered by agency personnel or contractors into the database.

Records in this system will include complaint information submitted by identity theft victims or on their behalf by others (e.g., friends or relatives). Additional sources of information will include other federal, state and local agencies (''data-contributing agencies'') and retail businesses that may suspect they are dealing with an individual or entity engaged in identity theft. The FTC will use the system to log and acknowledge these complaints, to provide identity theft victims with information on how to deal with credit or other problems that may result from

identity theft, and to evaluate and refer their complaints to appropriate entities.

Until the system is fully established and operational, data from these complaints are being compiled and maintained in the Commission's general consumer complaint database (FTC–IV–1). That database, however, was not originally designed to serve the special statutory purpose for which the identity theft complaint system is being created, nor was it meant to record or track certain identity theft data that the FTC intends to collect with respect to identity theft complaints. Records in the identity theft complaint system will also be maintained and retrieved according to a somewhat broader category of individuals, as described below. Thus, the Commission is treating these complaint systems as separate systems of records for Privacy Act purposes, even if, as a practical matter, the information in both systems will reside on a common relational database and will be compiled and entered into the database by many of the same agency and contractor personnel.

Despite the sensitive nature of identity theft complaint data, the ITADA does not itself contain any provisions to protect the confidentiality of the data that the Commission is required to compile. Nonetheless, because these complaints will be collected and maintained in a system of records pertaining to individuals within the meaning of the Privacy Act, such records will be disclosed by the Commission only as authorized by that Act. *See* 5 U.S.C. 552a(b). The Commission intends that such disclosures will include certain necessary ''routine uses'' that the Commission has previously published pursuant to subsection (b)(3) of the Act, 5 U.S.C. 552a(b)(3), and made generally applicable to all of its FTC Privacy Act systems of records (e.g., use in government law enforcement litigation, where necessary). *See* 57 FR 45678 (1992) (Appendix I). Likewise, identity theft complaint data may also be incorporated, as appropriate, into other systems of records maintained by the Commission, such as the Commission's general complaint database (FTC–IV–1, cited earlier) or its legal investigatory files (FTC–I–1), and would be subject to any ''routine uses'' applicable to those systems.

The Commission has also identified certain additional ''routine uses'' that are necessary in order to carry out the requirements of the ITADA. These ''routine uses'' include referral of the complaint to a company that is the subject of the complaint or otherwise associated with the complaint, such as the three major national consumer reporting agencies, since such entities would be in a position to resolve the complaint by taking investigative or corrective action.

Another ''routine use'' is disclosure of the complaint to other federal, state, or local government authorities for law enforcement or regulatory purposes. This routine use will allow referral of complaint data for investigatory purposes with or without a specific law enforcement request from such authorities, as would otherwise be required by the Privacy Act. *See* 5 U.S.C. 552a(b)(7). It will also allow routine disclosure of complaint records, as needed, to other regulatory agencies at the federal, state or local level so they have the information they need to identify methods or patterns of identity theft and to develop regulations, policies, or other safeguards or remedies to help stop or prevent identity theft. Once the Commission makes an authorized disclosure of complaint data to a company or another government agency, complainants should be aware that further disclosures beyond the Commission's control may not be avoidable as a practical or legal matter. The Commission intends to limit this risk by sharing complaint information only under confidentiality agreements that require that the information be used only for purposes consistent with the ITADA (e.g., resolving the individual's complaint, law enforcement or regulation, etc.).

Similarly, neither the ITADA nor the Privacy Act prevents a request for public disclosure from being filed under the Freedom of Information Act, 5 U.S.C. 552. Identity theft complaint data would normally be exempt from disclosure under that statute, however, where such disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(b)(6), or for other reasons. *See, e.g.,* 5 U.S.C. 552(b)(7)(A) (investigatory materials that are compiled for law enforcement purposes and, if disclosed, could reasonably be expected to interfere with law enforcement proceedings).

Because the categories of individuals covered by the system may include, among others, the target of an identity theft complaint, the Commission has determined that it is necessary to exempt the system from disclosure to such individuals for law enforcement purposes, even in cases where the Commission may choose to make the complaint file available for review by the complainant or other individual who submitted the information. Thus, the Commission proposes to exempt this system of records under 5 U.S.C. 552a(k)(2), and is proposing elsewhere in the **Federal Register** to amend its Privacy Act rules, 16 CFR 4.13, to include this system in its list of systems covered by that exemption. *See* 16 CFR 4.13(m).

Accordingly, as set forth below, the Commission proposes a new system of records to become effective on the date noted earlier, unless the Commission amends or revokes the system on the basis of any comments received. Pursuant to 5 U.S.C. 552a(r), the Commission is providing notice of this proposal to the appropriate committees of the House of Representatives and the Senate, and to the Office of Management and Budget.

FTC–IV–2

SYSTEM NAME:

Identity Theft Complaint Management System–FTC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM/LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Records will be compiled and centrally maintained at this location, including any identity theft complaints that may be initially received or collected by the agency's Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who communicate with the Commission to complain about or to request assistance in resolving problems relating to identity theft, or to request information concerning identity theft.

b. Individuals who submit their complaints about identity theft to another organization that has agreed to provide its consumer complaint information on identity theft to the Commission (a ''data-contributing member'').

c. Individuals who communicate to the Commission on behalf of another person who is the victim of identity theft. In such a case, both individuals will be covered.

d. Individuals who are suspected of committing the complained-about identity theft.

e. Individuals who, at the time the records are added to the system, are Commission employees or contractors assigned to process or respond to correspondence or telephone calls.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Personal identifying information about the individual who communicates with the Commission or data

contributing agency as a victim of identity theft, including, for example, the individual's name, address, telephone number, fax number, date of birth, social security or credit card numbers, e-mail address and other personal information extracted or summarized from the individual's complaint. Personal identifying information about the individual who communicates with the Commission or data-contributing agency as a reporting individual on behalf of someone else who was the victim of the identity theft, including, for example, the reporting individual's name, address, phone or fax number and e-mail address.

b. Name, address, telephone number or other information about an individual suspected of having committed the complained-about identity theft.

c. Name, address, telephone number or other information about a company that is suspected of having committed identity theft, is the subject of a complaint about how it handled the alleged incident of identity theft, or is associated with the complaint either as a creditor, debt collector, account issuer, credit bureau, or in another role (hereinafter, ''company complained about or otherwise associated with the complaint''). This company information, although included in the system, is not subject to the Privacy Act.

d. Name and reference number of FTC staff member or contractor who entered or updated the complaint information in the Identity Theft Complaint Management System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*; section 5 of the Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. 1028 note.

PURPOSE(S):

To maintain records of complaints and inquiries concerning identity theft, in order to: enable the Commission to track and respond to complaints and inquiries; enable the Commission to refer complaints to appropriate entities, which may include referral to the three major national consumer reporting agencies and appropriate law enforcement agencies for potential law enforcement action; provide useful information that may lead to or be incorporated into law enforcement investigations and litigation or for other law enforcement purposes (when used in connection with law enforcement activities, also becomes part of FTC-I–1, Investigational, Legal and Public Records); provide useful information that may contribute to regulation and oversight of institutions and systems that play a role in or are affected by identity theft; and provide statistical data on the number and types of complaints and inquiries about identity theft received by the agency or its data-contributing members.

ROUTINE USES OF RECORDS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system may be disclosed as permitted by 5 U.S.C. 552a(b), and, as authorized by 5 U.S.C. 552a(b)(3), in accordance with the routine uses announced by the Commission in Appendix I of its system notice applicable to all other agency Privacy Act systems of records (57 FR 45678). Additional routine uses for records in this system are as follows, provided that no routine use specified either herein or in Appendix I shall be construed to limit or waive any other routine use published for this system:

a. Records may be made available or referred on an automatic or other basis to a company complained about or otherwise associated with the complaint, which may include the three major national consumer reporting agencies.

b. Records may be made available or referred on an automatic or other basis to other federal, state, or local government authorities for regulatory or law enforcement purposes.

c. Records may be incorporated, as appropriate, into other systems of records maintained by the Commission, including the Commission's consumer complaint database (FTC–IV–1) or its legal investigatory files (FTC–I–1), and subject to the routine uses published for those systems.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Identity theft complaints maintained in this system of records may be referred to consumer reporting agencies (and other appropriate entities) in accordance with the Identity Theft and Assumption Deterrence Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in a computer data base maintained on magnetic disks and tape. Paper records stored in file folders.

RETRIEVABILITY:

Indexed by name, area code, phone number, address, state, zip code, social security number and date of birth of consumers who are the victims of identity theft. Also indexed by the name, area code, phone number, address, state, and zip code of individuals, if any, who are identity theft suspects. Also indexed by FTC reference number, by name, address, and telephone number of company complained about or otherwise associated with the complaint, by name of other government entity or consumer reporting agency, if any, contacted by consumer in effort to resolve complaint, by name of FTC office or data-contributing agency receiving complaint, by name of Commission staff member or contractor who entered or updated the information concerning the complaint in the system database, and by other categories of retrieval.

SAFEGUARDS:

Paper records of incoming complaints maintained in lockable rooms and cabinets; access to computerized records by electronic security precautions, including ''user ID'' and password combinations and encrypted communications with external law enforcement agencies. Access restricted to those agency personnel and contractors whose responsibilities require access, or to approved staff members of external law enforcement agencies who have entered into a confidentiality agreement with the Commission.

RETENTION AND DISPOSAL:

Letters retained for a minimum of one year; automated information retained indefinitely.

SYSTEM MANAGERS AND ADDRESS:

Identity Theft Program Manager, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

NOTIFICATION PROCEDURE:

16 CFR 4.13. Not applicable to the extent the system is exempt under 5 U.S.C. 552a(k)(2), as discussed below.

RECORD ACCESS PROCEDURES:

16 CFR 4.13. Not applicable to the extent the system is exempt under 5 U.S.C. 552a(k)(2), as discussed below.

CONTESTING RECORD PROCEDURES:

16 CFR 4.13. Not applicable to the extent the system is exempt under 5 U.S.C. 552a(k)(2), as discussed below.

RECORD SOURCE CATEGORIES:

Individuals who have complained about identity theft and others who may submit complaints on behalf of such individuals; data-contributing agencies; companies complained about or otherwise associated with a complaint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

5 U.S.C. 552a(k)(2). *See* 16 CFR 4.13(m). This exemption protects records compiled for law enforcement purposes and is intended to prevent unauthorized disclosure to a target of the complaint. The Commission reserves the right to afford, at its discretion, any individual with notification, access, and contesting procedures under the Commission's rules (16 CFR 4.13) with regard to information entered or otherwise submitted by that individual into the system.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc 99–28007 Filed 10–25–99; 10:38 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Notice of Intent to Prepare an EIS; MA

The General Services Administration (GSA) intends to prepare an Environmental Impact Statement (EIS) on the following project:

New Federal Courthouse, Springfield, Hampden County, Massachusetts

The GSA will serve as lead agency and project sponsor in the preparation and filing of an EIS. The proposed action would involve the construction and operation of a new courthouse in Springfield, Massachusetts. Space and security constraints in the existing Federal Court facilities located in the Federal Building at 1550 Main Street, Springfield have caused the Court to seek relocation to a new building that would supply the required space, security, and facilities to accommodate the Court's current and projected caseload. This action is intended to provide approximately 140,000 occupiable square feet (13,000 square meters) of space for the various operations of the Federal Court and related agencies.

The EIS will evaluate a No-Action alternative and a Build alternative involving a preferred site on State Street between Elliot Street and Spring Street in Springfield, Massachusetts. It will also evaluate impacts on the affected environment, including, but not limited to, socioeconomics, hazardous materials, traffic/transportation, land use, urban design/neighborbood character, historic/cultural resources, noise, air quality, environmental justice, and cumulative impacts.

Public Scoping Meeting

To ensure that all issues relating to the proposed project are identified and all potentially significant issues are addressed and satisfied in the EIS, public comments and suggestions are being solicited. To facilitate the receipt of comments, two public Scoping Meetings will be held in Springfield on Monday, November 15, 1999. The first will be held from 3 PM to 5 PM on the fifth floor of the Federal Building, 1550 Main Street, and the second will be from 6 PM to 8 PM on the second floor of the City Hall, 36 Court Street. Public comment concerning the scope of the EIS will be taken at these meetings.

FOR FURTHER INFORMATION CONTACT: Kevin J, Richards, Asset Manager, U.S. General Service Administration, Portfolio Management Division (1 PT), 10 Causeway Street, 9th Floor, Boston, MA 02222–1077, Tel: (617) 565–5845, Fax: (617) 565–8650, E-mail: Kevin.Richards@gsa.gov.

Written comments may be mailed to the informational contact person no later than December 3, 1999.

Issued in Boston, Massachusetts on October 20, 1999.

George Klueber,

Portfolio Manager, General Service Administration, Region 1.

[FR Doc. 99–28093 Filed 10–26–99; 8:45 am]

BILLING CODE 6820–01–M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR H–78]

Utilization and Disposal

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin provides revised information for Federal agencies on the disposal of excess biomedical equipment and IT equipment with potential Y2K defects.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Personal Property Management Policy Division, Office of Governmentwide Policy, General Services Administration, Washington, DC 20405; telephone (202) 501–3846; e-mail martha.caswell@gsa.gov.

GSA Bulletin FPMR H–78 Utilization and Proposal

TO: Heads of Federal agencies

SUBJECT: Disposal of Year 2000 (Y2K) Noncompliant Biomedical Equipment and Information Technology (IT) Equipment

1. *What is the purpose of this bulletin?* To provide revised information for Federal agencies on the disposal of excess biomedical and IT equipment with potential Y2K defects.

2. *When does this bulletin expire?* This bulletin contains information of a continuing nature and will remain in effect until canceled or revised.

3. *What is the background?* The Y2K technology problem concerns computers, computer chips, and software that may not properly recognize or process dates after December 31, 1999. In addition, there are other specific dates that may be troublesome, such as February 29, 2000. This problem may affect the normal operation of biomedical equipment and information technology (IT) equipment. In biomedical equipment used in direct patient treatment, the monitoring of vital patient parameters, or used to support or sustain life, the Y2K problem may present a potential risk to public health and safety if not corrected. In those situations, biomedical device failure could injure the patient or compromise effective patient treatment. In response to this potential risk, GSA is providing guidance to Federal agencies on the disposal of such equipment when it becomes excess to their needs.

4. *What does this bulletin cover?* This bulletin applies to (1) all excess biomedical equipment, and (2) all excess IT equipment.

5. *Biomedical equipment.* a. *Where can I find information about the Y2K status and potential risks posed by biomedical equipment?* Federal agencies should consult the Food and Drug Administration's (FDA's) website at *http://www.fda.gov* for general Y2K information on biomedical equipment. Federal agencies can find more specific information provided by manufacturers of biomedical equipment in the Federal Y2K Biomedical Equipment Clearinghouse (Y2K Clearinghouse) located at *http://www.fda.gov/cdrh/yr2000/year2000/html.* Federal agencies can also access the Y2K Clearinghouse through the FDA website's Year 2000 link.

b. *How can I determine the Y2K status of the biomedical equipment?* Information provided by the original manufacturer is the best source for determining the Y2K status of the biomedical equipment under consideration.

c. *Where can I find manufacturer information?* Please consult the FDA Y2K Clearinghouse website or contact the manufacturer directly.

d. *How do I use Y2K information when disposing of excess biomedical*

equipment? Use the manufacturer's information, with the assistance of your biomedical engineers/technicians, to determine the Y2K status of equipment and label the biomedical equipment as:

(1) Y2K compliant;
(2) Y2K noncompliant; or
(3) Y2K status unknown.

6. *How do I dispose of biomedical equipment that is Y2K compliant?* If Y2K compliant, identify excess biomedical equipment as ''Y2K compliant'' on the equipment itself and on the excess reporting document (SF 120). Dispose of such equipment through normal disposal procedures described in FPMR 101–43.3, 101–44.2, and 101–45.3. Federal agencies obtaining excess Y2K compliant biomedical equipment must reflect the ''Y2K compliant'' status on all inventory control documentation pertaining to such equipment.

7. *Y2K noncompliant biomedical equipment.* a. *What should I consider before I dispose of biomedical equipment that is not Y2K compliant?* Before you proceed with disposal, consider two questions: First, what is the potential risk posed by the equipment? And second, does the equipment meet the criterion for ''extremely hazardous'' property'' as defined in paragraph 7.c.?

b. *How can I determine what types of Y2K noncompliant biomedical equipment pose the greatest potential risk?* Use the information found under ''Computer-Controlled Potentially High-Risk Medical Devices'' on the FDA website to help you identify biomedical equipment having the greatest potential for presenting a risk to patients if used with an uncorrected date problem.

Note: The FDA website is not all-inclusive. See paragraph 7.e. for the disposal of Y2K noncompliant biomedical equipment not mentioned on the ''Computer-Controlled Potentially High-Risk Medical Devices'' list.

c. *What is ''extremely hazardous'' biomedical equipment?* ''Extremely hazardous,'' in this instance, is Y2K noncompliant biomedical equipment that is judged by the holding agency to pose a potential risk by endangering public health or safety, or the environment, if not rendered harmless (i.e., made Y2K compliant) before being used by other agencies or released outside the Government.

d. *How do I dispose of Y2K noncompliant biomedical equipment that I judge to be ''extremely hazardous?''* If not made Y2K compliant, you must destroy Y2K noncompliant biomedical equipment that is extremely hazardous to render it innocuous, in accordance with FPMR 101–45.902–2(a)(2). Destruction means the rendering of biomedical equipment completely inoperable for its intended purpose. Actions such as cutting, tearing, crushing, breaking, burning, etc. will accomplish rendering inoperable.

e. *Do I need to be concerned about Y2K noncompliant biomedical equipment not mentioned under ''Computer-Controlled Potentially High-Risk Medical Devices?''* Yes. Evaluate other Y2K noncompliant biomedical equipment for associated risks. Using the manufacturer's information, and with assistance from your biomedical engineers/technicians, assess whether or not the equipment, if used without a modification to address the date problem, will endanger public health or safety, or the environment (i.e., can be deemed ''extremely hazardous''). If judged to be ''extremely hazardous,'' dispose of in accordance with paragraph 7.d.

f. *What if I judge the Y2K noncompliant biomedical equipment, of any type, to be non-hazardous?* You must identify it as ''Y2K noncompliant'' on the equipment itself and on the excess reporting document (SF 120) and dispose of it through normal disposal procedures described in FPMR 102–43.3, 102–44.2 and 101–45.3. Federal agencies obtaining excess Y2K noncompliant biomedical equipment must reflect the ''Y2K noncompliant'' status on all inventory control documentation pertaining to such equipment.

8. *How do I dispose of biomedical equipment when the Y2K status is unknown?* You may not transfer excess biomedical equipment when the Y2K status cannot be determined. If the Y2K status cannot be determined, the holding agency must destroy the equipment in accordance with FPMR 101–45.902–2(a)(2).

9. *IT equipment.* a. *How do I define ''IT'' equipment?* ''IT'' is any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

b. *Do I also report the status of IT equipment?* Yes, all IT equipment must also be identified by the holding agency as Y2K compliant, Y2K noncompliant, or Y2K status unknown. The Y2K status must be visible on the equipment and all excess reporting documents.

c. *What disposal procedures do I following for IT equipment?* IT equipment, of any status, will be disposed of through normal disposal procedures as described in FPMR 101–43.3, 101–44.2 and 101–45.3.

10. *Whom should I contact for further information?* Martha Caswell, Personal Property Management Policy Division, Office of Governmentwide Policy, General Services Administration, Washington, DC 20405; telephone (202) 501–3846; e-mail martha.caswell@gsa.gov.

11. *Cancellation.* FPMR Bulletin H–76 dated August 4, 1999, is canceled.

Dated: October 21, 1999.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 99–28004 Filed 10–26–99; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1392]

Agency Information Collection Activities; Announcement of OMB Approval; State Enforcement Notification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''State Enforcement Notification'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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 the **Federal Register** of August 24, 1999 (64 FR 46204), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0275. The approval expires on October 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: October 20, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–27974 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1393]

Agency Information Collection Activities; Announcement of OMB Approval; State Petitions for Exemption from Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''State Petitions for Exemption from Preemption'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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 the **Federal Register** of August 20, 1999 (64 FR 45554), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0277. The approval expires on October 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: October 20, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–27975 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1522]

Agency Information Collection Activities; Announcement of OMB Approval; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Temporary Marketing Permit Applications'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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 the **Federal Register** of August 31, 1999 (64 FR 47508), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0133. The approval expires on October 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: October 20, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–27978 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N-4397]

Agency Emergency Processing Request Under OMB Review; Survey of Food Manufacturing Facilities for Year 2000 Compliance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information concerns a survey of food manufacturing facilities for Year 2000 compliance.

DATES: Submit written comments on the collection of information by November 1, 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: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

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: Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375(b)) permits the Secretary of Health and Human Services (the Secretary) to disseminate information regarding food, drugs, devices, and cosmetics in situations involving in the opinion of the Secretary imminent danger to health, or gross deception of the consumer. FDA has requested emergency processing of this proposed collection of information under the PRA (44 U.S.C. 3507(j) and 5 CFR 1320.13). FDA is requesting certain information, i.e., manufacturer, food products produced, etc., immediately to allow for the assessment of their vulnerability to Year 2000 problems and to take corrective actions, if necessary, in advance of January 1, 2000. The potential existence of Year 2000 problems in the food industry could pose potentially serious health and safety consequences. The use of normal clearance procedures would prolong the time needed to assess Year 2000 compliance by regulated industry.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and

clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Survey of Food Manufacturing Facilities for Year 2000 Compliance

Facilities will be asked to provide a status on their Year 2000 readiness. They will also be asked if they have contingency plans. The survey will also ask if they have tested, verified, and certified their systems. The request will also ask for a single point of contact at the manufacturer to discuss information.

The manufacturer will provide paper copy of the information to FDA. The provision of information will signify that the information provided is true to the best of the manufacturer's knowledge. The information will be used for possible FDA inspectional followup, if it indicates potential unsafe food manufacturing situations, as well as in the preparation of industry and consumer directed material addressing Year 2000 concerns.

Respondents: Food manufacturers.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
250	1	250	1	250

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

FDA establishment inventory lists were used to determine the number of firms who would be subject to this collection. FDA estimates that it will take firms an average of 2 hours to collect, prepare, and submit the requested information.

Dated: October 20, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–27977 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F–0187]

Ciba Specialty Chemicals Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 5B4467) (filed by Ciba Specialty Chemicals Corp.; formerly named Ciba-Geigy Corp.) proposing that the food additive regulations be amended to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-s-triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidyl)imino] hexamethylene [(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer in polymers used as indirect food additives.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 3, 1995 (60 FR 39753), FDA announced that a food additive petition (FAP 5B4467) had been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-s-triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidyl)imino] hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]], as a light stabilizer in polymers used as an indirect food additive. Ciba Specialty Chemicals Corp., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: October 12, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrion.

[FR Doc. 99–27976 Filed 10–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 99D–4488 and 99D–4489]

Guidance for Industry: Reducing Microbial Food Safety Hazards for Sprouted Seeds and Guidance for Industry: Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing two related guidance documents entitled ''Guidance for Industry: Reducing Microbial Food Safety Hazards for Sprouted Seeds'' and ''Guidance for Industry: Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production.'' These guidances are intended to provide recommendations to suppliers of seed for sprouting and sprout producers about how to reduce microbial food safety hazards common to the production of raw sprouts to ensure that sprouts are not a cause of foodborne illness and to ensure that they comply with the food safety provisions of the Federal Food, Drug, and Cosmetic Act (the act). The first guidance is based largely on recommendations from the National Advisory Committee for Microbiological Criteria for Food's report entitled ''Microbial Safety Evaluations and Recommendations on Sprouted Seeds'' (the 1999 NACMCF report) (Ref.1). The second guidance is intended to assist sprouters in implementing one of the principle recommendations (i.e., microbial testing) in the broader sprout guidance.

DATES: Written comments may be submitted at any time, however, comments should be submitted by December 13, 1999, to ensure adequate consideration in preparation of revised documents, if warranted.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Guidance for Industry: Reducing Microbial Food Safety Hazards for Sprouted Seeds'' and/or the guidance entitled 'Guidance for Industry: Sampling and Microbial Testing of

Spent Irrigation Water During Sprout Production'' to the Office of Plant and Dairy Foods and Beverages (HFS–306), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4200. Send one self-adhesive label to assist that office in processing your request. The guidances are attached to this notice as appendixes 1 and 2 and are also accessible via the FDA home page on the Internet: http://www.fda.gov. Submit written comments on the final guidance(s) to the Dockets Management Branch (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–2975, FAX: 202–205–4422, e-mail: msmith1@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1995, raw sprouts have been increasingly implicated in foodborne outbreaks. Between January 1995 and May 1999, there were 11 reported outbreaks in the United States associated with sprouts from commercial growers, 9 of which were due to various *Salmonella* serotypes and 2 to *Escherichia coli* O157. The number of culture-confirmed cases in each of these outbreaks ranged from 8 to more than 500, and more than 1,300 cases have been reported overall (Ref. 1). Alfalfa and clover sprouts have been implicated most often, but, because all kinds of sprouts are produced under similar conditions, all raw (uncooked) sprouts may pose a risk. In all of the reported outbreaks, the likely source of the pathogen was contaminated seed. However, in a large 1996 *Salmonella* Montevideo/Meleagridis outbreak, poor sanitation and unhygienic practices at the sprouting facility may also have contributed to the contamination of sprouts (Ref. 1).

Sprouted seeds represent a food safety problem because the conditions under which sprouts are produced (time, temperature, water activity, pH, and nutrients) are ideal for the exponential growth of bacteria. If bacterial pathogens are present on or in the seed, sprouting conditions are likely to encourage their proliferation (Ref. 2).

FDA and other public health officials are working with industry to identify and implement production practices to ensure that seed and sprouted seed are produced under conditions that are safe. While these efforts have improved food safety awareness within the industry and have led to a significantly better understanding of the microbial ecology of sprout-associated foodborne illness, not all industry segments have been reached. Traceback investigations reveal that most of the firms associated with recent outbreaks were not using approved seed disinfection treatments, or were not using them consistently, and were not testing for microbial contamination during sprout production. Although currently approved treatments can significantly reduce pathogen levels in or on seeds, they have not been shown to completely eliminate pathogens (Ref. 1). Consequently, outbreaks continue to occur.

On July 9, 1999, FDA issued a consumer advisory advising all consumers to be aware of the risks associated with eating any variety of raw sprouts, and advising persons at high risk of developing serious illness due to foodborne disease (children, the elderly, and persons with weakened immune systems) not to eat raw sprouts (Ref. 3). This advisory is updated from a previous advisory issued August 31, 1998 (Ref. 4), and was prompted by information from clover and alfalfa sprout-associated salmonellosis outbreaks that occurred from January 1999 through May 1999.

II. Guidance

In 1997, FDA asked the National Advisory Committee for Microbiological Criteria for Food (NACMCF) to : (1) Review the current literature on sprout-associated outbreaks, (2) identify the organisms and production practices of greatest public health concern, (3) prioritize research needs, and (4) provide recommendations on intervention and prevention strategies. On May 28, 1999, NACMCF adopted a report entitled ''Microbial Safety Evaluations and Recommendations on Sprouted Seeds'' (Ref. 1).

FDA is now issuing ''Guidance to Industry: Reducing Microbial Food Safety Hazards for Sprouted Seeds'' (the sprout guidance). This guidance incorporates some of the recommendations made by the 1999 NACMCF report. The guidance identifies the most important steps, e.g., use of good agricultural practices (Ref. 5), seed disinfection treatment, and microbial testing, which the agency believes should be implemented immediately to reduce the risk of raw sprouts as a vehicle for foodborne illness and to ensure that sprouts comply with the Food Safety Provision of the act (21 U.S.C. 301–397).

As noted in the sprout guidance, routine use of approved seed disinfection treatments (such as 20,000 parts per million of calcium hypochlorite in water) is likely to reduce the level of contamination if present in or on seeds and, in turn, reduce the risk of foodborne illness from the consumption of sprouted seed. However, current approved treatments do not guarantee total elimination of pathogens. If even a few pathogens survive a seed disinfection treatment, they can grow to high levels during sprouting and contaminate the entire batch. Therefore, although seed disinfection treatment is recommended, microbial testing of spent irrigation water from each batch or production lot of sprouts should also be conducted to prevent contaminated product from entering the food supply.

In addition, FDA is issuing ''Guidance to Industry: Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production'' (the microbial testing guidance). This guidance is designed to assist sprouters in designing a microbial testing program to ensure adulterated product does not enter commerce. Specifically, this guidance recommends testing spent irrigation water from each individual batch or production lot of sprouts for two pathogens, *E. coli* O157:H7 and *Salmonella*. The microbial testing guidance also provides instructions for the sampling and testing of sprouts for those instances when it is not possible to test spent irrigation water. However, sprouts should not be tested in lieu of irrigation water when spent irrigation water is available.

Sprouters should be aware that the microbial testing program described in this guidance involves a number of hazards. Microbial test procedures should only be run by qualified personnel, in a qualified independent laboratory that is separate from food production areas. Additional criteria for laboratories performing these tests are provided in the microbial testing guidance.

As more effective treatments or other food safety controls are identified and implemented, the current recommendation to test spent irrigation water from each batch of sprouts produced may be changed, e.g., to periodic microbial testing as a tool for validating the effectiveness of food safety systems.

These guidance documents do not provide detailed information on all individual steps that should be followed in the production of seeds and sprouts. References and resources for assistance are listed at the end of this notice and in the broader sprout guidance. Other materials, in the form of further

guidance, educational videos, etc. will be made available, as appropriate. For example, FDA and the California Department of Health Services, Food and Drug Branch, in cooperation with industry, are producing a comprehensive educational video outlining sprout specific practices, in a number of areas, including those practices recommended in this guidance. The agency expects the video to be available in early 2000.

The guidance documents (see appendixes 1 and 2) represent FDA's current thinking on prevention of microbial hazards in sprouted seeds. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of applicable statutes and regulations. Following the recommendations in this guidance will not shield any person or any food from appropriate enforcement under the act if adulterated food is distributed in interstate commerce. The guidances are being distributed in accordance with FDA's policy for Level 1 guidance documents as set out in the agency's Good Guidance Practices, published in the **Federal Register** of February 27, 1997 (62 FR 8961).

FDA believes this guidance and current education and outreach efforts will have a significant positive impact on those industry segments that still need tools to make a safer product. The agency will closely monitor the safety of sprouts and the adoption of enhanced prevention practices as set out in this guidance.

Failure to adopt effective preventive controls can be considered insanitary conditions which may render food injurious to health. Food produced under such conditions is adulterated under the act (section 402(a)(4) (21 U.S.C. 342(a)(4))). FDA will consider enforcement actions against seed and sprout producers who do not have effective preventive controls in place, in particular, effective microbial testing.

On December 27, 1999, FDA plans to initiate a national field assignment, sending investigators to sprouting facilities to test water used to grow sprouts (i.e., spent irrigation water) and to assess the level of adoption of preventive controls.

III. References

The following references are 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. National Advisory Committee on Microbiological Criteria for Foods, 1999a. Microbiological Safety Evaluations and Recommendations on Sprouted Seeds, http://vm.cfsan.fda.gov/~mow/sprouts2.html.

2. National Advisory Committee on Microbiological Criteria for Foods, 1999b. Microbiological Safety Evaluations and Recommendations on Fresh Produce. Food Control, 10:117–143.

3. FDA, 1999, Press Release—Consumers Advised of Risks Associated With Raw Sprouts, P99–13, http://www.fda.gov/bbs/topics/NEWS/NEW00684.html.

4. FDA, 1998, Talk Paper—Interim Advisory on Alfalfa Sprouts, T98–47.

5. FDA, 1998, Guidance for Industry—Guidance to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables, http://www.foodsafety.gov/~dms/prodguid.html.

IV. Comments

FDA is soliciting public comments, but is implementing this guidance document immediately because of continuing foodborne illness outbreaks associated with consumption of raw sprouts. Interested persons may, at any time, submit written comments on the guidance documents to the Dockets Management Branch (address above). Two copies of any comments are to be submitted except that individuals may submit one copy. Comments should be identified with the appropriate docket numbers found in brackets on each guidance document. A copy of the guidance documents and comments received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 21, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

The text of the guidances follows:

GUIDANCE FOR INDUSTRY -

REDUCING MICROBIAL FOOD SAFETY HAZARDS

FOR SPROUTED SEEDS[1]

[Docket No. 99D–4488]

All parties involved in the production of sprouts—seed producers, seed conditioners, and distributors, and sprout producers—should be aware that seeds and sprouted seeds have been recognized as an important cause of foodborne illness. The following recommendations identify the preventive controls that the Food and Drug Administration (FDA) believes should be taken immediately to reduce the risk of raw sprouts serving as a vehicle for foodborne illness and ensure sprouts are not adulterated under the food safety provisions of the Food, Drug, and Cosmetic Act (the act). Failure to adopt effective preventive controls can be considered insanitary conditions which may render food injurious to health. Food produced under such conditions is adulterated under the act (21 U.S.C. 342(a)(4)). FDA will consider enforcement actions against any party who does not have effective preventive controls in place, in particular, microbial testing.

These recommendations are based on the recommendations of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF, 1999) and elaborate on Compliance Policy Guide 7120.28 (CPG 7120.28).

Seed Production: Seeds for sprout production should be grown under good agricultural practices (GAPs) in order to minimize the likelihood that they will contain pathogenic bacteria. For more information on GAPs, see FDA's 1998 ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables''. Copies of this guidance are available on the internet (http://www.foodsafety.gov/dms/prodguid.html) or by calling the number listed in the references and resources at the end of this guidance.

Seed Conditioning, Storage, and Transportation: Seeds that may be used for sprouting should be conditioned, stored, and transported in a manner that minimizes the likelihood that the seeds will be contaminated with pathogens. For example, seed should be stored in closed or covered containers in a clean dry area dedicated to seed storage. Containers should be positioned off the floor and away from walls to reduce the possibility of contamination by rodents or other pests and to facilitate regular monitoring for pest problems.

Sprout Production: Sprouters should implement appropriate practices to ensure that sprouts are not produced in violation of the act which prohibits the production of food under insanitary conditions which may render food injurious to health (21 U.S.C. 342(a)(4)). In addition to seed treatment and testing for pathogens (see below), sprouters should maintain facilities and equipment in a condition that will protect against contamination. Facilities with poor sanitation can significantly increase the risk of contaminating product. Sprouters should employ good

[1] This guidance has been prepared by the Office of Plant and Dairy Foods and Beverages in the Center for Food Safety and Applied Nutrition at the Food and Drug Administration. This guidance represents the agency's current thinking on reducing microbial food safety hazards for sprouted seeds. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations. Following the recommendations in this guidance will not shield any person or any food from appropriate enforcement under the Federal Food, Drug, and Cosmetic Act if adulterated food is distributed in interstate commerce.

sanitation practices as a standard operating procedure to maintain control throughout all stages of sprout production. Inadequate water quality and poor health and hygienic practices can all increase the risk of food becoming contaminated with pathogens. Sprouters may wish to review 21 CFR Part 110 which sets forth good manufacturing practices (GMPs) in manufacturing, packaging, or holding human food that cover these aspects of food production.

Seed Treatment: Seeds for sprouting should be treated with one or more treatments (such as 20,000 ppm calcium hypochlorite[2]) that have been approved for reduction of pathogens in seeds or sprouts. Some treatments can be applied at the sprouting facility while others will have to be applied earlier in the seed production process. However, at least one approved antimicrobial treatment should be applied immediately before sprouting[3]. Sprouters should carefully follow all label directions when mixing and using antimicrobial chemicals.

Testing for Pathogens: Because currently approved antimicrobials have not been shown to be capable of eliminating all pathogens from seed, sprout producers should conduct microbiological testing of spent irrigation water from each production lot to ensure that contaminated product is not distributed. Because testing for pathogens can be done with irrigation water as early as 48 hours into what is generally a 3 to 10 day growing period, producers who plan accordingly can obtain test results before shipping product without losing product shelf-life. Testing, whether done by the producer or contracted out, should be done by trained personnel, in a qualified laboratory, using validated methods. Additional information on sample collection and microbial testing, including how to sample and test sprouts when testing spent irrigation water is not practicable (as may be the case with soil-grown sprouts), can be found in a companion guidance document referenced below.

[2] In 1998, the Environmental Protection Agency issued a ''section 18'' for the temporary use of 20,000 ppm calcium hypochlorite to disinfect seed for sprouting. In the fall of 1999, the exemption was renewed for another year. However, in order to ensure continued availability of this treatment, registrants should be actively pursuing a full registration under section 3 in 2000.

[3] Antimicrobials are either pesticides chemicals or food additives, depending on where they are used. As such their use on seeds for sprouting must be approved by EPA or FDA. To find out what antimicrobials have been approved by EPA or FDA for use on seeds for sprouting, you can call 202–418–3098.

Traceback: Traceback cannot prevent a foodborne illness outbreak from occurring. However, being able to trace a food back to it's source quickly can limit the public health and economic impacts of an outbreak, if it occurs. Information gained in traceback investigations may also help prevent future outbreaks. Sprout producers, seed producers, conditioners and distributors should develop and implement systems to facilitate traceback and recalls in the event of a problem. All parties should test their systems in advance of a real problem.

References and resources:

1. Food and Drug Administration. 1982. Compliance Policy Guide Sec. 555.750 Seeds for Sprouting Prior to Food Use, i.e., Dried Mung Beans, Alfalfa Seeds, etc. (CPG 7120.28) can be viewed and printed from the WWW at the following address http://www.fda.gov/ora/compliance—ref/cpg/cpgfod/cpg555–750.html

2. Food and Drug Administration. 1998. Guidance for Industry—Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables can be viewed and printed from the WWW at the following address http://www.foodsafety.gov/dms/prodguid.html or may be obtained by calling 202–401–9725.

3. Food and Drug Administration, 1999. Press Release—Consumers Advised of Risks Associated with Raw Sprouts. P99–13. http://www.fda.gov/bbs/topics/NEWS/NEW00684.html

4. FDA, 1999. ''Guidance for Industry: Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production'' can be viewed and printed from the WWW at http://vm.cfsan.fda.gov

5. National Advisory Committee on Microbiological Criteria for Foods. 1999a. Microbiological Safety Evaluations and Recommendations on Sprouted Seeds. http://vm.cfsan.fda..gov/mow/sprouts2.html

6. National Advisory Committee on Microbiological Criteria for Foods. 1999b. Microbiological Safety Evaluations and Recommendations on Fresh Produce. Food Control. 10:117–143.

7. Copies of Federal regulations in the Code of Federal Regulations (CFR) may be purchased from the U.S. Government Printing Office or by telephone at (202) 512–1800. The CFR is also available at local branches of U.S. Government Printing Office Bookstores. Information on location of regional branches is available on the WWW at the following address: http://vm.cfsan.fda.gov/lrd/ob-reg.html

8. Sections of the CFR, such as 21 CFR Part 110 Current Good Manufacturing Practices in Manufacturing, Packing, or Holding Human Food, can be viewed and printed from the WWW at the following address: http://www.access.gpo.gov/nara/cfr/index.html.

Appendix 2—Guidance for Industry: Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production

GUIDANCE FOR INDUSTRY -

SAMPLING AND MICROBIAL TESTING OF SPENT IRRIGATION WATER

DURING SPROUT PRODUCTION[4]

[Docket No. 99D–4489]

Introduction

Raw sprouts have been associated with at least eleven foodborne illness outbreaks since 1995. FDA and other public health officials are working with industry to identify and implement production practices that will assure that seed and sprouted seed are produced under safe conditions. While these efforts have improved food safety awareness within the industry and have led to a significantly better understanding of the microbial ecology of sprout-associated foodborne illness, not all industry segments have been reached and outbreaks continue to occur. Consequently, FDA released a guidance document, entitled ''Guidance for Industry: Reducing Microbial Food Safety Hazards for Sprouted Seed'' (the ''sprout guidance''). The sprout guidance identifies a number of areas, from the farm to the sprout facility, where FDA believes immediate steps should be taken to reduce the risk of sprouts serving as a vehicle for foodborne illness and to ensure that sprouts are not adulterated under the Food, Drug, and Cosmetic Act (the act). Specific recommendations in the sprout guidance include: development and implementation of good agricultural practices and good manufacturing practices in the production and handling of seeds and sprouts, seed disinfection treatments, and microbial testing before product enters the food supply.

The agency will closely monitor the safety of sprouts and the adoption of enhanced prevention practices as set out in the sprout guidance. FDA plans to send investigators to sprouting facilities to test water used to grow sprouts (i.e., spent irrigation water) and assess the adoption of preventive controls. Failure to adopt effective preventive controls can be considered insanitary conditions which may render food injurious to

[4] This guidance has been prepared by the Office of Plant and Dairy Foods and Beverages in the Center for Food Safety and Applied Nutrition at the Food and Drug Administration. This guidance represents the agency's current thinking on reducing microbial food safety hazards for sprouted seeds. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations. Following the recommendations in this guidance will not shield any person or any food from appropriate enforcement under the Federal Food, Drug, and Cosmetic Act if adulterated food is distributed in interstate commerce.

health. Food produced under such conditions is adulterated under the act (21 U.S.C. 342(a)(4)). FDA will consider enforcement actions against any party who does not have effective preventive controls in place, in particular, effective microbial testing.

This guidance document, ''Sampling and Microbial Testing of Spent Irrigation Water During Sprout Production,'' is intended to assist sprouters in implementing one of the principal recommendations in the broader sprout guidance, i.e., that producers test spent irrigation water for two pathogens (Salmonella and Escherichia coli O157:H7) before product enters commerce. Instructions are also provided for the sampling and testing of sprouts for those instances when it is not possible to test spent irrigation water. However, for the reasons discussed below, sprouts should not be tested in lieu of irrigation water.

Why Test

Salmonella and Escherichia coli O157:H7 have been the major causes of sprout-associated illness outbreaks. Seeds are the likely source of contamination in most of these outbreaks. Routine use of approved seed disinfection treatments (such as 20,000 parts per million of calcium hypochlorite in water) is likely to reduce the level of contamination if pathogens are present in or on seeds and, in turn, reduce the risk of foodborne illness from the consumption of sprouted seed. However, current approved treatments cannot guarantee total elimination of pathogens. The same conditions that encourage germination and growth of seeds (e.g., temperature, available moisture, and nutrients), also encourage the growth of bacterial pathogens. Even if only a few pathogens survive a seed disinfection treatment, they can grow to high levels during sprouting and contaminate the entire batch. Therefore, seed disinfection treatments should be combined with microbial testing to ensure that pathogens are not present before sprouts enter the food supply.

As additional food safety controls are identified and implemented, the current recommendation to test irrigation water from every batch of sprouts produced may be changed, e.g., to periodic microbial testing as a tool for validating the effectiveness of food safety systems.

Who Should Perform The Tests

Sample collection

Sample collection should be done by personnel that have been trained to collect representative samples aseptically. Obviously, sample collection should be done on site, either by employees or by contract personnel. Aseptic sampling procedures are described below.

Testing

FDA recommends that all testing for pathogens be conducted in an external, qualified, independent laboratory that should meet several key criteria. First, the lab should be physically separated from the food production facility to prevent cross-contamination from test materials. This is especially important where the materials used in the enrichment step required before testing and the positive controls (described below) can contain pathogens and if not properly handled may contaminate sprouts.

Second, the laboratory should be staffed by personnel with training and experience in analytical microbiology techniques to ensure that tests are performed correctly and that all appropriate safety precautions, including appropriate waste disposal, are followed. Third, the laboratory should have appropriate resources and a demonstrable quality management system.

If testing is done by the sprouter, then the laboratory facilities, personnel, and management system should also meet all these criteria to ensure that testing is reliable and does not create food safety hazards.

Why Sample Irrigation Water

Procedures are provided for testing spent irrigation water and sprouts. Although each has advantages and disadvantages, FDA is recommending testing spent irrigation water.

Spent irrigation water that has flowed over and through sprouts is a good indicator of the types of microorganisms in the sprouts themselves and the microflora in spent irrigation water is fairly uniform. Thus sampling procedures for spent irrigation wate are relatively simple. Furthermore, water can be used directly in the test procedures described here. The only potential disadvantage of testing spent irrigation water is that the level of microorganisms recovered in irrigation water is about 1 log less than the level in sprouts. If pathogens are present in sprouts at very low levels, it is possible that they might be missed in water but recovered in sprouts.

Testing the sprouts themselves has several significant disadvantages. First, multiple sprout samples must be taken from different locations in the drum or trays to ensure that the sample collected is representative of the batch. Furthermore, additional preparation (e.g., selecting representative subsamples for analyses, blending or stomaching, and allowing sprout particles to settle out) is required when testing sprouts. Each additional step in any procedure (sampling or testing) introduces a possibility for error.

Consequently, sprouts should not be tested in place of irrigation water unless production methods make it impossible to test spent irrigation water. For example, spent irrigation water may not be available when sprouts are grown in soil. [Note: The recommendation to test irrigation water does not preclude adding the testing of sprouts (either sprouts collected during production or finished product), to a food safety plan that includes testing irrigation water.] Sampling and testing steps specific to sprouts are given in italics and may be disregarded when testing spent irrigation water.

Sampling Plan

Sprouters should have a sampling plan in place to ensure the consistent collection of samples in an appropriate manner. The following factors should be considered in determining when and how to sample.

When to Sample

Pathogens are most likely to be present at detectable levels at or after 48 hours from the start of the sprouting process. Levels will not necessarily increase after 48 hours and may decline slightly. Thus, collecting samples for testing can be done as early as 48 hours after the start of sprouting. If seeds are presoaked (e.g., soaked in water for a short time and then transferred to growing units for sprouting), presoak time should be included in the 48 hour minimum.

If you are using rapid test kits, samples may be collected as late as 48 hours prior to shipping and still provide an opportunity for the sprouter to obtain test results before product enters the food supply. However, early results will allow a sprouter to take corrective actions sooner, minimizing the potential for a contaminated batch of sprouts to contaminate other production batches. Earlier testing (i.e., 48 hours after the start of sprouting) will also minimize the time and resources spent on a batch of sprouts if a presumptive positive is found. If a firm's action plan includes running confirmatory tests on a presumptive positive before discarding product, testing earlier rather than later allows more time to run additional tests.

How to Sample

Aseptic procedures are critical to avoid contaminating the sample during sample collection, storing the sample(s), and transporting the sample(s) to the lab. Aseptic sampling procedures, as described below, should be part of a firm's plan for sample collection.

Equipment used to collect samples should be clean and sterile. Sampling tools and sample containers may be purchased pre-sterilized. Alternatively, tools and containers may be sterilized at 121 °C (250 °F) for 30 minutes in an autoclave prior to use. Heat-resistant, dry materials may be sterilized in a dry-heat oven at 140 °C (284 °F) for 3 hours.

The type of sample containers used will depend on the type of samples collected but may include pre-sterilized plastic bags, tubes, cups, and flasks. Containers should be dry, leak-proof, wide mouthed, and of a size suitable for the samples. Sample containers should be properly labeled prior to starting sample collection.

Sample collectors should wear a clean lab coat, sterile gloves, and a hair net to insure they do not contaminate the samples. Hands should be washed immediately before sampling, and prior to putting on sterile gloves. Sterile gloves should be put on in a manner that does not contaminate the outside of the glove. Gloves should be properly disposed of after use.

Hands should be kept away from mouth, nose, eyes, and face while collecting samples.

Sampling instruments should be protected from contamination at all times before and during use. Sampling instruments and samples moved between the sampling site and the sample container, should not be passed over the remaining pre-sterilized instruments.

The sterile sample container should be opened only sufficiently to admit the sample, place the sample directly in the container, then immediately closed and sealed. If collecting samples in a container with a lid, the lid and container should be held in one hand while collecting the sample. The lid should NOT be completely removed. (The lid should not be held separately or placed on a counter).

The sample container should be filled no more than 3/4 full to prevent overflow. The air from the container should not be expelled when sealing, particularly for plastic bags. Samples or sampling equipment should not be exposed to unfiltered air currents.

Samples should be delivered to the laboratory promptly. Perishable material should be kept at an appropriate temperature, preferably at 0 to 4.4 °C (32 to 40 °F). Sealed coolant packs should be used to avoid contamination from melting ice.

What to Sample and How Much to Collect

FDA recommends that a sprouter test for pathogens by collecting a sample of spent irrigation water from each production lot or batch. For purposes of this guidance, a production lot or batch is defined as sprouts from a single lot of seed that were started at the same time in a single growing unit (i.e., a single drum or rack of trays). Pooling samples should be avoided as pooling from different production batches may decrease the sensitivity of the tests by diluting the level of pathogens in a contaminated sample with samples that are not contaminated. Pooling samples from different batches also complicates the interpretation of results. If a presumptive positive is found, the sprouter should discard all lots represented by the pooled sample or perform additional tests to determine which batch(s) are contaminated.

1. Sample Collection for Spent Irrigation Water

The volumes given below for spent irrigation water (or sprouts) represent a sufficient sample size to test for both Salmonella and Escherichia coli O157:H7.

If testing spent irrigation water, 1 liter of water (about 2 pints or one quart) should be aseptically collected as the water leaves a drum or trays during the irrigation cycle.

If sprouts are grown in drums, a single 1 liter sample may be collected.

If sprouts are grown in trays, and all trays in a production lot have a common trough for collecting spent irrigation water, a 1 liter sample may be collected at that point. If there is no common collection point for water from trays, it may be necessary to collect water samples from individual trays and pool these samples. In this case, a sampling plan should be devised to ensure collection of a sample that is representative of the production lot. When 10 or fewer trays make up a production lot, approximately equal volumes of water should be collected from each of the 10 trays to make a total sample volume of 1 liter. For example, collect about 100 ml of water from each of 10 trays to make a 1 liter sample; about 125 ml from each of 8 trays; 167 ml from each of 6 trays, and so on. When more than 10 trays make up a production lot, ten samples should be aseptically collected, approximately 100 ml each from different trays. Again, samples should be collected throughout the entire production lot (e.g., if there are 20 trays in a production lot, collect samples from every other tray in the rack moving from top to bottom, side to side, and front to back). Samples should be placed directly into a clean, sterile, prelabeled container.

2. Sample Collection for Sprouts

If testing sprouts, thirty-two (32) sample units should be aseptically collected, approximately 50 grams each, from different locations in the drum or growing trays. The total sprout sample will be approximately 1,600 g (about 56.48 ounces or 3.53 pounds per production lot or batch). Sample units should be collected throughout the entire production lot (e.g., from top to bottom, side to side, and front to back of the drum or trays). Each 50 gram sample unit should be placed directly into individual clean, sterile, prelabeled containers. (Keeping the thirty-two sample units separate will make it easier for the lab to select representative analytical units for microbial analysis compared to pulling analytical units from a single 1,600 gram mass of sprouts.)

Microbial Testing

Testing Procedures

The testing procedures described in this guidance are screening tests. They were chosen to obtain results as simply and quickly as possible (i.e., to provide answers in 48 hours or less) on the presence or absence of two major pathogenic bacteria, i.e., Salmonella and Escherichia coli O157:H7. Formal confirmation methods, which take longer than 48 hours, are described in the FDA Bacteriological Analytical Manual (published by AOAC International, Gaithersburg, MD).

The kits identified in this guidance are AOAC approved screening tests and/or FDA has experience with their use. These are also the tests that FDA plans to use as screening tests to monitor spent irrigation water at sprouting facilities. If screening methods, other than those described here are used, they should first be validated either by formal collaborative studies or by comparative studies with standard methods using the specific commodity in question spent irrigation water or sprouts.

Procedures for determining the presence or absence of Escherichia coli O157:H7 and Salmonella species using the test kits listed below are provided at the end of this guidance. These procedures should be performed separate from the food production

facility by a qualified laboratory, preferably an independent, certified lab.

The rapid test procedures described in this guidance all involve an enrichment step to encourage the selective growth of pathogens, if they are present, in order to make their detection possible. These test kits will NOT detect pathogens in irrigation water or sprouts if the enrichment step is not performed.

In addition, seasonal or regional differences in water quality, type of seed being sprouted, individual sprout production factors, and variations in sampling and analytical conditions may all impact on the effectiveness of the screening tests. Therefore, the lab should periodically run positive controls (i.e., sprout or water samples to which a known quantity of pathogens have been added) to ensure the tests used are capable of detecting pathogens when they are present in the samples being tested.

Test Kits

Escherichia coli O157:H7

1. VIP EHEC, Biocontrol, Inc., Bellview, WA., (AOAC Official method ι 996.09)

or

2. Reveal E. coli O157:H7, Neogen Corp., Lansing, MI.

Salmonella

1. Assurance Gold Salmonella EIA, (AOAC Official method ι 999.08)

or

2. Visual Immunoprecipitate (VIP) Assay for Salmonella, (AOAC Official method # 999.09)

(Both kits are manufactured by BioControl Systems, Inc., 12822 SE 32nd Street, Bellevue, WA 98005).

General Laboratory Instructions

Prepared Media Storage

Unless noted otherwise most media can be made in advance and stored at 20–30 °C (68–86 °F) in the dark with a shelf life of at least one month. Media should be well wrapped or contained in order to reduce evaporation.

Equipment Sterilization

Safe and proper operation of sterilizing autoclaves requires specially trained personnel. The sterilization time is typically 121 °C (250 °F) for 15 minutes.

Media and Equipment Decontamination

Used culture media and test kits should be decontaminated by autoclaving before disposal. Decontamination should be performed in an area that is totally separated from media preparation and sterilization. Trained personnel should be used to properly decontaminate used media.

Dividing Samples into Subsamples for Analyses

Spent Irrigation Water - A total of 1 L of spent irrigation should be collected for analysis. Two (2) 100 ml subsamples should be analyzed for the presence of E. coli O157:H7. Two (2) 375 ml subsamples should be analyzed for the presence of Salmonella. Any unused portion of the spent irrigation water should be stored under refrigeration pending completion of the analysis.

Sprouts - Thirty-two (32) 50 g analytical units of sprouts should be collected for analysis. Two (2) of the 50 g analytical units (25 g subsamples from each) should be analyzed for the presence of E. coli O157:H7 and thirty (30) of the 50 g sample units (25 g subsamples from each) should be analyzed for the presence of Salmonella. Unused portions of the sprout analytical units should be stored under refrigeration pending completion of the analysis.

Sample preparation (stomaching sprouts)

The procedures in this guidance use a blender to prepare sprouts for testing. As an alternative to blending, sprouts may be homogenized in a Stomacher (Model 400). To use a Stomacher, place 25 grams of sprouts in a sterile Stomacher bag, add 225 ml enrichment broth and process on medium speed for 2 minutes.

Interpretation of Results and Subsequent Actions

Interpreting Results

Analyses should be performed in duplicate (two tests for each of the two pathogens). When results are negative for all tests, results are assumed to be correct. When results are positive for one or both tests for either pathogen, the results are considered presumptive and the grower should either:

1. Consider the presumptive positive result(s) to be true and take immediate corrective actions, as described below, OR
2. Ask the testing laboratory to run confirmatory tests and destroy the batch only if the confirmatory tests are also positive for the presence of a pathogen.

In considering the second option, remember that confirmatory testing takes extra time and will lessen the marketable shelf life of the sprouts. (All product should be held until test results are available.) Rapid test kits are for screening ONLY. Confirmatory testing should be done using standard methods in the FDA Bacteriological Analytical Manual (Edition 8, Revision A–1998).

Corrective Actions

Each facility should have a corrective action plan in place before a positive is found so that, if one does occur, corrective actions can be taken quickly. The following should be included in a corrective action plan.

Seed is the likely source of contamination in sprout-associated foodborne illness outbreaks. Further, recent outbreak investigations have shown that a single contaminated seed lot can result in contamination of multiple production lots of sprouts. Therefore, when a batch of sprouts is considered to be contaminated with a pathogen, the batch of sprouts, the seed lot used to produce the sprouts, and any other sprout production lots that were made from the same seed lot and that are still under control of the sprouter, should be discarded.

In addition, anything in the sprouting facility that has come into contact with the contaminated production lot or its water (e.g., drums, trays, bins, buckets, tool and other sprouting equipment, testing equipment, and other possible surfaces, such as floors, drains, walls, and tables), should be thoroughly cleaned and then sanitized to avoid contamination of subsequent batches of sprouts. Care must be taken in handling contaminated sprouts or water, equipment, and test materials to avoid accidental exposure to the pathogen(s).

A) Procedure for the Escherichia coli O157:H7 Rapid Analysis of Spent Irrigation Water or Sprouts.

I. Test Kits choose one.• VIP EHEC[5], Biocontrol, Inc., Bellview, WA., or • Reveal E. coli O157:H7[5], Neogen Corp., Lansing, MI.

II. Equipment and Materials

1. 1 Mechanical blender (capable of 10,000 to 12,000 rpm) or Stomacher Model 400 (with required stomacher bags)
2. Sterile blender jars, with cover, resistant to autoclaving for 60 min at 121 °C
3. 1 Balance, with weights (2000 g capacity, sensitivity of 0.1 g)
4. 1 L Erlenmeyer flask
5. 2 Sterile graduated pipettes, 1.0 and 10.0 ml and pipette aids
6. Sterile instruments for use in taking and handling of samples (such as knives, tongs, scissors, spoons, etc.)
7. Sterile culture tubes, 16 x 150mm or 20 x 150mm
8. Incubator/shaker platform, 35 + 1 °C
9. pH meter or test strips
10. Fisher or Bunsen burner
11. Magnetic stirrer and stir bars

[5] The enrichment procedure described in this guidance for the tests for Escherichia coli O157:H7 have been modified by FDA to enhance the ability of the kits to detect Escherichia coli O157:H7 in spent irrigation water and sprouts.

12. Sterile syringes
13. Sterile 0.2 m filters
14. Distilled water

III. Ingredients

1. Peptone
2. NaCl
3. Na2HPO4
4. KH2PO4
5. Casamino acid
6. Yeast extract
7. Lactose
8. Acriflavin (antibiotic)
9. Cefsulodin (antibiotic)
10. Vancomycin (antibiotic)

Preparation of antibiotic stock solutions

Prepare a stock solution of each antibiotic (acriflavin, cefsulodin, and vancomycin) by dissolving 1000 mg of each antibiotic in a separate tube containing 10.0 ml of distilled water. Filter-sterilize the solution using a 0.2 m filter and syringe. The stock solution may be stored for several months in foil wrapped tubes at 4 C (39.2 C).

Prepare the modified Buffered Peptone Water as described below, autoclave, cool, add antibiotic supplements. Instructions for sprouts are given in italics.

Modified Buffered Peptone Water (mBPW)

Step 1. To make 1000 ml of mBPW, mix the following constituents into distilled water, stirring to dissolve. For spent irrigation water, prepare double strength (2X) mBPW, as follows: (*If testing sprouts, use single strength enrichment broth base.*)

Modified Buffered Peptone Water (mBPW)

Ingredient	Double strength (2X) (For use with spent irrigation water)	Single strength (1X) (For use with sprouts)
Peptone	20.0 g	10.0 g
NaCl	10.0 g	5.0 g
Na2HPO4	7.2 g	3.6 g
KH2PO4	3.0 g	1.5 g
Casamino acid	10.0 g	5.0 g
Yeast extract	12.0 g	6.0 g
Lactose	20.0 g	10.0 g
Distilled water*	1000 ml	1000 ml

*pH 7.2 ± 0.2 (Test pH of distilled water BEFORE adding the ingredients above. If necessary, pH may be adjusted with 1N HCl or 1N NaOH.

Step 2. Sterilize mBPW by autoclaving at 121 °C (250 °F) for 15 minutes. Remove from autoclave and allow to cool until cool to the touch.

Step 3. Once the medium is cooled and immediately prior to the addition of a subsample, add the following filter-sterilized antibiotics to 1000 ml of medium. For spent irrigation water, add the quantity of antibiotics listed in the column labeled double strength to the double strength (2X) mBPW. (If testing sprouts, add the quantity of antibiotics listed in the column labeled single strength to the single strength mBPW.)

Antibiotic supplements for mBPW

Antibiotic Stock Solution	Double strength (2X) (For use with spent irrigation water)	Single strength (1X) (For use with sprouts)
Acriflavin (A)	0.2 ml	0.1 ml
Cefsulodin (C)	0.2 ml	0.1 ml
Vancomycin (V)	0.16 ml	0.08 ml

IV. Testing - Perform analysis in duplicate: For microbial testing, duplicate sub-samples (analytical units) need to be removed from the sample and placed in enrichment broth. Enrichment broth containing sub-samples are allowed to incubate for a period of time, and a small quantity of the enrichment broth/sample is applied to the test kit device. Specific directions follow:

Step 4.

Water: Two (2) 100 ml subsamples of spent irrigation will be analyzed. From the 1000 ml sample of spent sprout irrigation water, aseptically transfer 100 ml of sample into a sterile 1L flask containing 100 ml of 2X mBPW+ACV. Repeat with second subsample.

Sprouts: Two (2) 50 g analytical units of sprouts will be analyzed. From two of the thirty-two 50 g analytical units collected, aseptically remove and weigh out a 25g subsample of sprouts. Transfer each of the 25 gram subsamples of sprouts into separate sterile blender jars or sterile stomacher bags. Add 225 ml of single strength enrichment broth with added antibiotic supplements (1X mBPW+ACV) and blend at 10,000 to 12,000 rpm until homogenized (at least 60 seconds) or stomach for 2 minutes on medium setting in a Stomacher Model 400. Transfer sprout homogenate to a 1L Erlenmeyer flask.

Step 5. Incubate the enrichment broth/sample mixtures overnight at 37 °**C (98.6 °F) with shaking at 140 RPM.**

Step 6. Test each enrichment broth sample for the presence of E. coli O157:H7, using either the VIP EHEC device or the Reveal E. coli O157:H7 device. Use 0.1 ml from the inoculated and incubated mBPW +ACV to inoculate VIP or 0.12 ml for the Reveal. Follow the manufacturers instructions for the inoculation of test kits.

Step 7. Observe test results within 10 minutes to avoid possible fading of bands which could lead to false negative results. A band in both the test and control chambers is a positive test for contamination. A band in only the control chamber is a negative test. If a band does not appear in the control chamber, the test was not done correctly and must be repeated.

B) Procedure for the Salmonella Rapid Analysis of Spent Irrigation Water (or Sprouts)

I. Test kits choose one

- Assurance Gold Salmonella EIA, or
- Visual Immunoprecipitate (VIP) Assay for Salmonella

Both are manufactured by BioControl Systems, Inc., (12822 SE 32nd Street, Bellevue, WA 98005). For purposes of pre-enrichment and selective enrichment, these test kits provide different instructions for each of three types of foods: (a) processed foods, (b) dried powder processed foods, and (c) raw foods. For the analysis of sprouts and spent irrigation water, use the pre-enrichment/selective enrichment procedures described for (c) raw foods.

II. Equipment and materials1. Blender and sterile blender jars OR Stomacher Model 400 with appropriate stomacher bags.

2. Sterile, 16 oz (500 ml) wide-mouth, screw-cap jars, sterile 500 ml Erlenmeyer flasks, sterile 250 ml beakers, sterile glass or paper funnels of appropriate size, and, optionally, containers of appropriate capacity to accommodate composited samples
3. Balance, with weights; (2000 g capacity, sensitivity of 0.1 g)
4. Balance, with weights; (120 g capacity, sensitivity of 5 mg)
5. Incubator, 35 °C (95 °F)
6. Refrigerated incubator or laboratory refrigerator, 4 + 1 °C (39 + 1 °F)
7. Water bath, 42 + 0.2 °C (107.6 + 0.2 °F)
8. Sterile spoons or other appropriate instruments for transferring food samples
9. Sterile culture dishes, size 15 x 100 mm, glass or plastic
10. Sterile pipettes, 1 ml, with 0.01 ml graduations; 5 ml with 0.1 ml graduations and 10 ml with 0.1 ml graduations and pipette aids
11. Inoculating needle and inoculating loop (about 3 mm id or 10 l), nichrome, platinum-iridium, chromel wire, or sterile plastic
12. Sterile test or culture tubes, sizes 16 x 150 mm and 20 x 150 mm
13. Test or culture tube racks
14. Vortex mixer
15. Sterile shears, large scissors, scalpel, and forceps
16. Fisher or Bunsen burner
17. pH test paper (pH range 6–8) with maximum graduations of 0.4 pH units per color change
18. Sterile syringe
19. Sterile 0.2 m filters

III. Media and reagents

For preparation of media and reagents, refer to sections 967.25 to 967.28 in *Official Methods of Analysis* (published by AOAC International, Gaithersburg, MD USA). Designations within parentheses refer to Appendix 3, Media and Reagents, of the *Bacteriological Analytical Manual* (BAM), Edition 8, Revision A (also published by AOAC International).
1. Buffered peptone water (commercially available-Oxoid, BBL, or Difco)
2. Buffered peptone water + novobiocin
3. Tetrathionate (TT) broth (M145)
4. Rappaport-Vassiliadis (RV) medium (M132)
5. Trypticase soy broth (commercially available)
6. Trypticase soy broth + novobiocin
7. Trypticase soy broth + 2, 4 dinitrophenol + novobiocin
8. 1 N Sodium hydroxide solution (NaOH) (R73)
9. 1 N Hydrochloric acid (HCl) (R36)
10. Novobiocin solution, 0.1%
11. Sterile distilled water

Buffered peptone water (Number 1.), Buffered peptone water with novobiocin (Number 2), Trypticase soy broth with novobiocin (Number 6) and Trypticase soy broth with 2,4 dinitrophenol and novobiocin (Number 7), are not included in the BAM. Their preparation is described below.

1. Buffered Peptone Water (BPW)

Dissolve 20 grams of commercially available buffered peptone water medium in 1 liter distilled water. Mix thoroughly. Dispense 225 ml portions into 500 ml Erlenmeyer flasks. After autoclaving for 15 min at 121 °C, and just before use, aseptically adjust volume to 225 ml with sterile distilled water. Adjust pH, if necessary, to 7.2 + 0.2 with sterile 1 N NaOH or 1 N HCl.

2. Buffered Peptone Water + novobiocin (BPW + n)

Immediately prior to the addition of a 25 g subsample, add 4 ml of 0.1% novobiocin solution to each 225 ml volume of buffered peptone water.

6. Trypticase soy broth + novobiocin (TSB+n)

Suspend 30 g of commercial available trypticase soy broth medium in 1 L of distilled water. Mix thoroughly. Warm gently on a temperature controlled hot plate until the medium is dissolved. Dispense in 10 ml aliquots in 20 x 150 mm tubes and autoclave 15 min. at 121 °C.
Just prior to sample addition, add 0.1 ml of 0.1% novobiocin solution to each tube containing 10 ml of Trypticase soy broth.

7. Trypticase soy broth + 2, 4 dinitrophenol + novobiocin (TSB+DNP+n)

Suspend 30 g of commercial available trypticase soy broth medium and 0.1 g of 2, 4 dinitrophenol in 1 L of distilled water. Mix thoroughly. Warm gently on a temperature controlled hot plate until the medium is dissolved. Dispense in 10 ml aliquots in 20 x 150 mm tubes and autoclave 15 min. at 121 °C (250 °F).
Just prior to sample addition, add 0.1 ml of 0.1% novobiocin solution to each tube containing 10 ml of Trypticase soy broth + 2, 4 dinitriphenol.

9. Novobiocin solution, 0.1%

Novobiocin, sodium salt 0.1 g
Distilled water 100 ml

Dissolve novobiocin in distilled water. Do not autoclave. Sterilize by filtering through a 0.2 m filter. Store solution at 4 °C (39.2 °F), protected from light (e.g. wrap container in aluminum foil). Solution can be stored for one week.

IV.Testing

A. Irrigation water-From the 1 L spent irrigation water sample, two (2) 375 ml subsamples will be analyzed for the presence of Salmonella.
1. Aseptically transfer a 375 ml subsample directly to a 6 L Erlenmeyer flask containing 3,375 ml BPW + n. Swirl to mix thoroughly. Repeat procedure with second 375 ml subsample of spent irrigation water.
2. Allow flasks to stand for 60 min at room temperature. Mix well and determine pH with test paper. Adjust pH, if necessary, to 6.8 + 0.2 with sterile 1 N NaOH or 1 N HCL.
3. Incubate flasks without shaking for 18–26 hours at 35–37 °C (95–98.6 °F). Each flask is considered to contain pre-enrichment broth.

4a. If using the Assurance Gold *Salmonella* Enzyme Immunoassay, transfer 0.1 ml pre-enrichment broth to 10 ml RV medium and transfer another 1.0 ml of pre-enrichment broth to 10 ml TT broth. Incubate in a water bath 5–8 hours at 42 °C (107.6 °F). Incubation of the RV medium and TT broth in the water bath is termed the selective enrichment process. Following selective enrichment, transfer and combine 1.0 ml TT broth and 0.5 ml RV medium into a single tube containing 10 ml of prewarmed [42 °C (107.6 °F)] TSB + n broth. Incubate in a water bath 16–20 hours at 42 °C (107.6 °F). Continue as described in this kit's instructions for (c) raw foods.

4b. If using the VIP Assay for *Salmonella*, transfer 0.1 ml pre-enrichment broth to 10 ml RV medium and transfer another 1.0 ml of pre-enrichment broth to 10 ml TT broth. Incubate in a water bath 18–24 hours at 42 °C. Incubation of the RV medium and TT broth in the water bath is termed the selective enrichment process. Following selective enrichment, transfer and combine 0.5 ml of TT broth and 0.5 ml RV medium into a single tube containing 10 ml prewarmed [42 °C (107.6 °F)] TSB+DNP+n broth. Incubate in a water bath 5–8 hours at 42 °C (107.6 °F). Continue as described in this kit's instructions for (c) raw foods.

B. Sprouts - Thirty 50 g analytical units of sprouts were collected for Salmonella analysis. Aseptically weigh out a 25 g subsample from each analytical unit and transfer each subsample to a sterile blending jar (or stomacher bag). Add 225 ml buffered peptone water plus novobiocin (BPW + n). Blend the 25 g sprout subsample with 225 ml BPW + n for 2 min. Repeat procedure for remaining twenty-nine analytical units.

1. The thirty 25 g sprout subsamples may be analyzed by either of the following two options:

Option A:

Each 25 g/225 ml blended sprout homogenate is poured into a 500 ml Erlenmeyer flask, or equivalent container, and analyzed individually.

Option B:

Fifteen of the thirty 25 g/225 ml blended sprout homogenates are poured into a 6 L Erlenmeyer flask, and analyzed collectively. Repeat with the remaining 15 blended sprout homogenates . Thus, each sample consists of two 375-g composites .

2. Allow flasks to stand for 60 min at room temperature. Mix well and determine pH with test paper. Adjust pH, if necessary, to 6.8 + 0.2 with sterile 1 N NaOH or 1 N HCL.

3. Incubate flasks without shaking for 18–26 hours at 35–37 °C (95–98.6 °F). Each flask is considered to contain pre-enrichment broth.

4a. If using the Assurance Gold Salmonella Enzyme Immunoassay, transfer 0.1 ml pre-enrichment broth to 10 ml RV medium and transfer another 1.0 ml of pre-enrichment broth to 10 ml TT broth. Incubate in a water bath 5–8 hours at 42 °C (107.6 °F). Incubation of the RV medium and TT broth in the water bath is termed the selective enrichment process. Following selective enrichment, transfer and combine 1.0 ml TT broth and 0.5 ml RV medium into a single tube containing 10 ml of prewarmed [42 °C (107.6 °F)] TSB + n broth. Incubate in a water bath 16–20 hours at 42 °C (107.6 °F). Continue as described in this kit's instructions for (c) raw foods.

4b. If using the VIP Assay for Salmonella, transfer 0.1 ml pre-enrichment broth to 10 ml RV medium and transfer another 1.0 ml of pre-enrichment broth to 10 ml TT broth. Incubate in a water bath 18 24 hours at 42 °C. Incubation of the RV medium and TT broth in the water bath is termed the selective enrichment process. Following selective enrichment, transfer and combine 0.5 ml of TT broth and 0.5 ml RV medium into a single tube containing 10 ml prewarmed [42 °C (107.6 °F)] TSB+DNP+n broth. Incubate in a water bath 5–8 hours at 42 °C (107.6 °F). Continue as described in this kit's instructions for (c) raw foods.

[FR Doc. 99–28016 Filed 10–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0298]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New; *Title of Information Collection:* Evaluation of New Medicare Members of Medicare+Choice Plans; *Form No.:* HCFA–R–0298 (OMB# 0938–New); *Use:* The objective of this survey is to understand the special information needs of new Medicare members, their sources of information, their preferred distribution channels, their understanding of the traditional Medicare program and their understanding of their particular +Choice plan, and the impact National Medicare Education Program activities may have on new members' decisions to choose a +Choice plan or change their plan; *Frequency:* On occasion; *Affected Public:* Individuals; *Number of Respondents:* 3000; *Total Annual Responses:* 3000; *Total Annual Hours:* 1212.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 18, 1999.

John Parmigiani,

Acting, HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–27986 Filed 10–26–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–680–99–2822–00–D889]

Closure and Restriction Orders

AGENCY: Bureau of Land Management, (BLM) Interior.

ACTION: Emergency closure of certain public lands to human entry in the Juniper Flats area, San Bernardino County, California.

SUMMARY: Public lands in the Juniper Flats area are closed to human entry from October 17, 1999 to July 1, 2000. Closed are approximately 16,000 acres burned in the Willow fire. You are not to enter the closed area by any means of access, including but not limited to: motor vehicles, OHVs, equestrian, bike or foot traffic. The closure protects persons, property, soil, cultural resources, vegetation, wildlife, and wildlife habitat.

DATES: This closure order goes into effect at 11:59 p.m. on Sunday, October 17, 1999 and shall remain in effect until 11:59 p.m. on Saturday, July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Tim Read, Barstow Field Office Manager, Bureau of Land Management, 2601 Barstow Road, Barstow, CA 92311; or call (760) 252–6000.

SUPPLEMENTARY INFORMATION: On Saturday August 28th, the Willow Fire started on U.S. Forest Service lands adjacent to BLM lands in the Juniper Flats area. The fire burned 63,486 acres, including approximately 16,000 acres of BLM land. Natural resources comprising the local ecosystems were extensively damaged by the fire. The vegetative cover was burned away leaving bare soils exposed and vulnerable to erosion. The loss of vegetation has also stressed wildlife populations by reducing available cover and forage.

The fire damaged cultural resources, soils, vegetation, wildlife, and wildlife habitat. As a result these resources are extremely sensitive to further impacts from human activity. We are closing the area to prevent disturbances to these types of sensitive resources. By preventing disturbances we will help avoid excessive soil erosion and loss, vegetative damage, wildlife mortality, riparian area degradation, destruction of fences, and water quality impacts. Temporarily closing the area provides a protected environment for natural systems to begin recovering. A successful recovery is needed to sustain the long term health of the land.

In general, the closed public lands are east of Deep Creek Road, south of the Atchison Topeka and Santa Fe rail lines, west of Highway 18, and north of Deep Creek. The authority for this closure is 43 CFR 8364.1, 18 U.S.C. 3571. This closure only applies to those portions of the following sections burned during the Willow Fire: San Bernardino Base and Meridian, T.3N. R.1W. sections 2, 3, 4, 5, 6; T.3N. R.2W. sections 1, 2, 3, 4, 5, 6, 7 and 8; T.3N. R.3W. sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12; T.4N. R.1W. sections 31 and 32; T.4N. R.2W. sections 26, 27, 28, 29, 31, 32, 33, 34 and 35; T.4N. R.3W. sections 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34 and 35. If you fail to comply with this closure order you may be fined up to $100,000.00 or be imprisoned for up to 12 months, or both.

You are exempt from this closure if you are engaged in one of these activities: law enforcement, emergency services, government business, or work to maintain utilities and infrastructure. You may be exempt if permitted by a BLM Authorizing Officer. You and your guests are exempt to access your residence or property if it is within the closed area. This closure only affects public lands. County roads and segments of roads through private lands are unaffected. You are exempt to use the portion of Bowen Ranch Road that is a County road. The exempt portion crosses public lands in section 31 of T.4N. R.2W., and sections 1, 11 and 12 of T.3N. R.3W., ending at the boundary of the Bowen Ranch.

Two previous closures provided immediate protection for the burned area. While those closures were in effect a long term rehabilitation strategy was developed. The strategy is contained in a report compiled by the fire rehabilitation team. The closure is being re-issued as part of the rehabilitation strategy. Our intent is to protect the damaged natural systems through at least the first growing season. The growing season runs from the fall to the spring. This is when there is sufficient rainfall for the vegetation to grow. The recovery effort will be evaluated next spring to determine if the closure needs to be re-issued again.

Tim Read,

BLM, Barstow Field Office Manager.

[FR Doc. 99–27704 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–063–5440–EQ–F502; N–62443]

Notice of Realty Action Nevada: Conveyance of Public Land for Airport Purposes in Lander County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Conveyance of Public Land for Airport Purposes in Lander County, Nevada.

SUMMARY: The following public land in Lander County, Nevada has been found suitable for conveyance to Lander County for airport purposes under section 516 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2215).

Mount Diablo Meridian

T. 18 N., R. 42 E.,
Sec. 1, lots 1–3, S½NE¼, SE¼NW¼.
T. 19 N., R. 42 E.,
Sec. 25, S½S½;
Sec. 36, E½, E½NW¼.
T. 18 N., R. 43 E.,
Sec. 6, lots 3 and 4.
T. 19 N., R. 43 E.,
Sec. 30, lot 4;
Sec. 31, lots 1–4, SE¼NW¼, E½SW¼.
Containing approximately 1205.09 acres

Conveyance of the land is consistent with applicable Federal and County land use plans and will help meet the needs of Lander County. The land is not required for any Federal purposes and will not be conveyed until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chuck Lahr, Realty Specialist, Bureau of Land Management, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, Nevada 89820.

SUPPLEMENTARY INFORMATION: The airport is currently under lease (Nev–057498) to Lander County, Nevada. The lease will be terminated prior to the proposed conveyance. The land is segregated by virtue of the existing airport lease. This notice continues the segregation of the above described public land from operation of the public land laws, including the mining laws. The segregative effect will end upon issuance of the conveyance. Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way for ditches and canals constructed by authority of the United States, Act of August 30, 1890, (43 U.S.C. 945);

2. All mineral deposits shall be reserved to the United States, together with the right to prospect for, mine, and

remove such deposits under applicable laws and regulations as the Secretary of the Interior may prescribe;

3. The property shall revert to the United States in the event the lands are not developed for airport or airway purposes or are used in a manner inconsistent with the terms of the conveyance.

And will be subject to:

1. Those rights for highway purposes granted to the Nevada Department of Transportation, its' successors or assigns, by right-of-way CC–021379A, pursuant to the Act of August 27, 1958, as amended, (23 Stat. 317).

2. Those rights for telephone line purposes to Shoshone Telephone Cooperative, Inc., its' successors or assigns, by right-of-way N–7189, pursuant to the Act of March 4, 1911.

3. Those existing Federal grazing permits, unless waived by the grazing permittee. Such grazing shall be valid for a period of 2 years from the date that the permittee has received notification of the land transfer. In accordance with Part 402(g) of the Act of October 21, 1976, as amended (43 U.S.C. 1752), the grazing permittees will receive reasonable compensation for the value of their interest in authorized permanent improvements.

4. All other valid existing rights.

And will contain the following Covenants:

1. That the grantee will use the property interest for airport purpose, and will develop that interest for airport purposes within one to five years after the date of this conveyance, except that if the property interest is necessary to meet future development of an airport in accordance with National Plan of Integrated Airports System (NPIAS) the grantee will develop that interest for airport purposes on or before the period provided in the plan or within a period satisfactory to the Administrator of the Federal Aviation Administration and any interim use of that interest for other than airport purposes will be subject to such terms and conditions as the Administrator may prescribe.

2. That the airport runway system and its appurtenant safety areas, and all buildings and facilities, will be operated for public airport purposes on fair and reasonable terms without unjust economic discrimination; or on the basis of race, color, or national origin, as to airport employment practices, and as to accommodations, services, facilities, or other public uses of the airport.

3. That the grantee will not grant or permit any exclusive right forbidden by Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349 9(a), as amended), at the airport or at any other airport now owned or controlled by it.

4. Agrees that no person shall be excluded from any participation, be denied any benefits, or be otherwise subjected to any discrimination on the grounds of race, color, national origin, or disability.

5. Agrees to comply with all requirements imposed by or pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21)—nondiscrimination in federally assisted programs of the Department of Transportation—effectuation of Title VI of the Civil Rights Act of 1964.

6. That in furtherance of the policy of the Federal Aviation Administration under covenant, the grantee:

- Agrees that, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity;
- Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and
- Agrees that it will terminate forthwith any other exclusive right to conduct any aeronautical activity now existing at such an airport.

7. That any later transfer of the property interest conveyed will be subject to the covenants and conditions in the Instrument of Conveyance.

8. That, if the covenant to develop the property interest (or any part thereof) for airport purposes within one year after the date of this conveyance is breached, or if the property interest (or any part thereof) is not used in a manner consistent with terms of the conveyance, the Administrator may give notice to the grantee requiring him to take specified action towards development within a fixed period. These notices may be issued repeatedly, and outstanding notices may be amended or supplemented. Upon expiration of a period so fixed without completion by the grantee of the required action, the Administrator may, on behalf of the United States, enter, and take title to, the property interest conveyed or the particular part of the interest to which the breach relates.

9. That, if any covenant or condition in this instrument of conveyance, other than the covenant contained in paragraph 7 of this section, is breached, the Administrator may, on behalf of the United States, immediately enter, and take title to, the property interest conveyed or, in his discretion, that part of that interest to which the breach relates.

10. That a determination by the Administrator that one of the foregoing covenants has been breached is conclusive of the facts; and that, if the right entry and possession of title stipulated in the forgoing covenants is exercised, the grantee will, upon demand of the Administrator, take any action (including prosecution of suit or executing of instruments) that may be necessary to evidence transfer to the United States of title to the property interest conveyed, or in the Administrator's discretion, to that part interest to which the breach relates.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Field Manager, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: October 15, 1999.

M. Lee Douthit,

Associate Field Manager.

[FR Doc. 99–27985 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan/ Environmental Impact Statement, Navajo National Monument, Arizona

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the general management plan, Navajo National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act, the

National Park Service is preparing an environmental impact statement for the general management plan (GMP) for Navajo National Monument. The environmental impact statement will be approved by the Director, Intermountain Region.

Navajo National Monument was established by Presidential Proclamation No. 873 on March 20, 1909 (36 Stat. 2491), to preserve ''a number of prehistoric cliff dwellings and pueblo ruins, situated within the Navajo Indian Reservation, Arizona, and which are new to science and wholly unexplored, and because of their isolation and size are of the very greatest ethnological, scientific and educational interest.'' The GMP will result in a comprehensive plan that would balance protection and preservation of natural and cultural resources with the interests of American Indians, as well as provisions for visitor use and interpretation and development of necessary and appropriate facilities. In cooperation with the Navajo Nation, and other affiliated American Indian tribes, agencies and organizations, and local interests, attention will also be given to resources outside the boundaries that affect the integrity of Navajo National Monument's resources. Alternatives to be considered include no-action, the preferred alternative, and other alternatives addressing the following major issues:

- How can the important natural and cultural resources be best protected and preserved in concert with American Indian traditions and concerns?
- How can Navajo National Monument develop and maintain good relationships, as well as explore new opportunities for partnerships, with affiliated American Indian tribes?
- What level and type of use is appropriate to be consistent with Navajo National Monument's purpose, and to relate to the national monument's significance?
- What facilities are needed to meet the mission goals of Navajo National Monument regarding natural and cultural resource management, visitor use and interpretation, partnerships, and operations?

The National Park Service is planning to hold public scoping meetings regarding the GMP in January, 2000. Specific dates, times, and locations will be announced in the local media and can also be obtained by contacting the superintendent of Navajo National Monument. The purpose of the meetings is to explain the planning process and to obtain comments concerning appropriate resource management; desired visitor use, interpretation, and facilities; and issues that need to be resolved. In addition to attending the scoping meetings, people wishing to provide input to this initial phase of developing the GMP may address comments to the superintendent. Scoping comments should be received no later that 60 days from the publication of this Notice of Intent.

FOR FURTHER INFORMATION: Contact Superintendent James Charles, Navajo National Monument, HC71, Box 3, Tonalea, AZ 86044–9704; Tel: (520) 672–2366; FAX: (520) 672–2345; e-mail: james__charles@nps.gov.

Dated: October 19, 1999.

Ronald E. Everhart,

Acting Director, Intermountain Region.

[FR Doc. 99–27971 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 16, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by November 12, 1999.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Lee County

Mixon—Evans Barn, 459 S. Alabama St. and US 1 Bus. S., Marianna, 99001349

Madison County

Bunch Store, 100 Public Sq., Kingston, 99001350

Sebastian County

New Theatre, 9 N. 10th St., Fort Smith, 99001351

Sevier County

Brookes, Bishop, House, 407 N. 6th St., DeQueen, 99001352

Stone County

Sylamore Creek Bridge (Historic Bridges of Arkansas MPS) Co. Rd. 283 over Sylamore Cr., Allison vicinity, 99001353

Union County

Dual State Monument, C. Rd. 86, Aurelle vicinity, 99001354

Van Buren County

Scanlan, Art, House, Rt. 1, W. of US 65, Bee Branch, 99001355

HAWAII

Hawaii County

Nanbu, A., Hotel—Holy's Bakery, Akoni Pule Hwy., Kapa'au, 99001356

ILLINOIS

Coles County

Fifteenth Street and Oklahoma Avenue Brick Street, 500 through 1217 Fifteenth St. and 1500 through 1521 Oklahoma Ave., Mattoon, 99001357

LOUISIANA

Orleans Parish

Gentilly Terrace Historic District, Roughly bounded by Spain, Mirabeau, Eastern, and Gentilly Blvd., New Orleans, 99001358

MISSISSIPPI

Hinds County

Lebanon Presbyterian Church, Lebanon Presbyterian Church Rd., Utica, 99001359

Holmes County

Noel, Gov. Edmund F., House, 315 North St., Lexington, 99001360

Jones County

G.W.O. Site, Address Restricted, Lanham vicinity, 99001361

MISSOURI

Andrew County

Roberts, J.F., Octagonal Barn, Jct. MO B and MO 48, Rea vicinity, 99001362

NEW JERSEY

Burlington County

St. Stephens Episcopal Church, 158 Warren St., Beverly City, 99001363

NEW YORK

Steuben County

Pulteney Square Historic District, Roughly surrounds Pulteney Sq., Hammondsport, 99001364

NORTH CAROLINA

Edgecombe County

Edgemont Historic District, 500–800 blocks of Tarboro St, 600–800 blocks of Hill St. and S. side of 600–800 blocks of Sycamore St., Rocky Mount, 99001365

Mecklenburg County

Billingsville School, 3100 Leroy St., Charlotte, 99001366

Nash County

Falls Road Historic District, 500–600 Avent St., 100–200 Braswell St., 100 Earl St., 400–700 Falls Rd., 500 Peachtree St. and 100 Wilkinson St., Rocky Mount, 99001367

Villa Place Historic District, 200–300 S. Grace St., 400–600 Hammond St., 200–300 Howell St., 400–600 Nash St., 200–300 Pearl St., 200–300 Villa St., Rocky Mount, 99001368

TENNESSEE

Gibson County

Skullbone Store, 1 Shade's Bridge Rd., Skullbone, 99001369

Shelby County

Overton Parkway Historic District (Residential Resources of Memphis MPS) Roughly bounded by Cooper St., East Parkway, Poplar and Madison Sts., Memphis, 99001370

Sullivan County

King, Edward Washington, House, 308 7th St., Bristol, 99001371

Williamson County

McLemore House, 447 11th Ave. N., Franklin, 99001372

Wilson County

Lebanon Commercial Historic District, Roughly around the Public Sq., and 104–124 N. College, 105–115 N. Cumberland, 102–203 E. Main, and 103–122 E. Market St., Lebanon, 99001373

VIRGINIA

Prince William County

Thoroughfare Gap Battlefield, Jct VA 55 and I–66, Broad Run vicinity, 99001374

Roanoke Independent City

Roanoke Star, Mill Mountain, Roanoke, 99001375

[FR Doc. 99–27972 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning Land Protection

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal policy instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public review and comment. Draft Director's Order #25, ''Land Protection'' provides guidance on protecting of lands and resources within the boundaries of NPS units.

DATES: Information from interested parties will be accepted on or before November 26, 1999.

ADDRESSES: Request for copies and written comments should be sent to Donald T. King, National Park Service, P.O. Box 908, Martinsburg, WV 25402–0908, (304)263–4943. You may also email (donald__t.__king@nps.gov) your comments or requests.

FOR FURTHER INFORMATION CONTACT: Donald T. King at (304)263–4943.

Dated: October 22, 1999.

Gene Repoff,

Acting Chief, Land Resources Division, WASO.

[FR Doc. 99–28033 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable will meet on November 9, 1999 to discuss a Roundtable conflict of interest policy, an environmental water acquisition program, FY 2001 planning and other issues. 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 BDAC's Ecosystem Roundtable meeting will be held from 9:30 a.m. to 12:00 p.m. on Tuesday, November 9, 1999.

ADDRESSES: The Ecosystem Roundtable 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 Califonria's natural environment and economy. In recognition of the serious problems facing the region and 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 at 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 balance 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 advise 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, 1416 Ninth Street, Sacremanto, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 20, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99–28001 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities Proposed Collection; Comment Request

ACTION: Notice of information collection under review; petition for alien relative.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the

Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 27, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–130. Office of Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected on this form will be used to determine eligibility for benefits sought for relatives of United States citizens and lawful permanent residents.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 183,034 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 91,517 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–4–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestion regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suit 850, Washington Center Building, 1001 G Street, NW., Washington, DC 20530.

Dated: October 21, 1999.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–28014 Filed 10–26–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Interagency record of individual requesting change/adjustment to or From A or G status or requesting A, G, or NATO dependent employment authorization.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 27, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Interagency Record of Individual Requesting Change/Adjustment to or From A or G Status or Requesting A, G, or NATO Dependent Employment Authorization.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–566. Office of Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Individuals or households. This form facilities processing of applications for benefits filed by dependents of diplomats, international organizations, and NATO personnel by the Immigration and Naturalization Service and the Department of State.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,400 responses at 15 minutes (.25 hours) per response,

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,100 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestion regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center Building,

1001 G Street, NW., Washington, DC 20530.

Dated: October 21, 1999.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–28015 Filed 10–26–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 20, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) of the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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 submission of responses.

Agency: Employment and Training Administration.

Title: Study of Unemployment Insurance (UI) Exhaustees.

OMB Number: 1205–0NEW.

Frequency: Other (one-time).

Affected Public: Individuals or households; State, Local, or Tribal govt.

Active	Affected public	Respondents	Frequency	Hours per response	Total hours
State Administrative Request.	State	25	One-time	80 hrs.	2,000
UI Recipient Survey	UI Claimant	4,000	One-time	35 mins.	2,333

- Total Burden Hours: 4,333.
- Total Annualized capital/startup costs: $0.
- Total annual costs (operating/maintaining systems or purchasing services): $0.
- Description: Collection of administrative records and survey data is sought to support a study of UI exhaustees. Eighteen thousand administrative records of UI recipients would be collected from a sample of 25 States. A subsample of 4,000 recipients would be surveyed.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 99–28054 Filed 10–26–99; 8:45 am]

BILLING CODE 4510–30–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

October 20, 1999.

TIME AND DATE: 10:00 a.m., Thursday, November 4, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Black Mesa Pipeline, Inc., Docket Nos. WEST 97–49, etc. (Issues include whether the judge erred in concluding that 30 CFR § 77.103 can be reasonably interpreted to permit the Secretary to recognize two levels of persons ''qualified'' to work on electrical equipment—those qualified to work on low/medium-voltage equipment and those qualified to work on high-voltage equipment.)

TIME AND DATE: 9:30 a.m., Thursday, November 18, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Consolidation Coal Co., Docket Nos. WEVA 93–77–R, etc. (Issues include whether the judge erred in concluding that the air quality requirements of 30 CFR § 75.301 did not apply to a production shaft that had been capped but not entirely sealed, and into which a dewatering pipe was being installed from the cap; and whether the violation was significant and substantial and occurred as a result of the operator's unwarrantable failure.)

TIME AND DATE: The Commission meeting will commence following the conclusion of oral argument in Consolidation Coal Co., Docket Nos. WEVA 97–77–R, etc., which commences at 9:30 a.m. on Thursday, November 18, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of a quorum of the Commission that the Commission consider and act upon the following in closed session:

1. Consolidation Coal Co., Docket Nos. WEVA 93–77–R, etc. (*See* oral argument listing, *supra*, for issues.

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT Vol. 64, No. 189, at 52,797, September 30, 1999

PREVIOUSLY ANNOUNCED TIME AND DATE: 2:00 p.m., Thursday, October 28, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN MEETING: The Commission has postponed the meeting to consider and act upon *Pero* v. *Cyprus Plateau Mining Corp.*, Docket No. WEST 97–154–D.

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance

of those needs. Subject to 29 C.F.R. §§ 2606.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–28272 Filed 10–25–99 3:46 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.
2. *The title of the information collection:* NRC Form 396, Certification of Medical Examination by Facility Licensee.
3. *The form number if applicable:* NRC Form 396.
4. *How often the collection is required:* Upon application for an initial operator license, every six years for the renewal of operator or senior operator license, and upon notices of disability.
5. *Who will be required or asked to report:* Facility employers of applicants for operator licenses.
6. *An estimate of the number of responses:* 1116.
7. *The estimated number of annual respondents:* 141.
8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 730 (244 for reporting [.25 hours per response] and 486 hours for recordkeeping [3.4 hours per recordkeeper]).
9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.
10. *Abstract:* NRC Form 396 is used to transmit information to the NRC regarding the medical condition of applicants for initial or renewal operator licenses and for the maintenance of medical records for all licensed operators. The information is used to determine whether the physical condition and general health of applicants for operator licenses is such that the applicant would not be expected to cause operational errors endangering public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by November 26, 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.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0024), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of October, 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–28051 Filed 10–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Nucleare Regulatory Commission.

DATE: Weeks of October 25, November 1, 8, and 15, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 25

There are no meetings scheduled for the Week of October 25.

Week of November 1—Tentative

Thursday, November 4

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)

Week of November 8—Tentative

Monday, November 8

1:30 p.m. Briefing on Integrated Review of Decommissioning Requirements (Public Meeting) (Contact: Stuart Richards, 301–415–1395)

Tuesday, November 9

9:00 a.m. Meeting on NRC Interactions with Stakeholders on Nuclear Materials and Waste Activities (Public Meeting) Place: NRC Auditorium, Two White Flint North

Wednesday, November 10

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Briefing on Draft Maintenance Regulatory Guide (Public Meeting) (Contact: Richard Correia, 301–415–1009)

Week of November 15—Tentative

Friday, November 19

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 4–0 on October 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Advanced Medical Systems, Inc. Petition for Review LBP–99–28'' (PUBLIC MEETING) be held on October 20, and on less than one week's notice to the public.

ADDITIONAL INFORMATION: By a vote of 4–0 on October 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of North Atlantic Energy Service Corp. (Seabrook Station, Unit 1) and Northeast Nuclear Energy Co. (Millstone Station, Unit 3) Docket Nos 50–443–LT and 50–423–LT (Consolidated), Petitions to Intervene'' (PUBLIC MEETING) be held on October 21, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet

at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: October, 22, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–28173 Filed 10–25–99; 1:01 pm]

BILLING CODE 7590–01–M

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb note, Title I of Public Law 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 9 a.m. to 12 p.m. (PST) on Wednesday, November 17, 1999, at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purpose of this meeting is to consider the Vegetation Management Plan. Public comment on this topic will be received and memorialized in accordance with the Trust's Public Outreach Policy. A swearing in ceremony will take place for newly appointed and reappointed Board members.

TIME: The meeting will be held from 9 a.m. to 12 p.m. (PST) on Wednesday, November 17, 1999.

ADDRESSES: The meeting will be held at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: October 20, 1999.

Karen A. Cook,

General Counsel.

[FR Doc. 99–27998 Filed 10–26–99; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27092]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 21, 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 transaction(s) summarized below. The application(s) and/or declaration(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 application(s) and/or declaration(s) should submit their views in writing by November 15, 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 November 15, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Dominion Resources Inc., *et al.* (70–9477)

Dominion Resources, Inc. (''DRI''), 120 Tredegar Street, Richmond, Virginia 23219, a Virginia corporation and public utility holding company exempt from registration under section 3(a)(1) and rule 2 under the Act, and Consolidated Natural Gas Company (''CNG''), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222, have filed an application-declaration in connection with a proposed merger between the two companies under sections 6(a), 7, 10 and 13(b) of the Act and rules 54, 87, 88, 90 and 91 under the Act.

DRI and CNG have entered into an amended and restated agreement and plan of merger (''Merger'') dated as of May 11, 1999.[1] The Merger contemplates a two-step transaction. In the first step, a wholly owned subsidiary of DRI will merge (''First Merger'') with and into DRI, in which DRI will be the surviving corporation.[2] In the second step, CNG will either merge (''Second Merger'') (1) with and into another wholly owned subsidiary of DRI (''CNG Acquisition'') in a transaction in which CNG Acquisition will be surviving corporation, or (2) with and into DRI in a transaction in which DRI will be the surviving corporation. The First Merger and Second Merger, are hereinafter referred to as the ''Merger,'' are each conditioned on the other occurring. As a result of the Merger and other transactions contemplated by the Merger Agreement, either CNG Acquisition, as the successor in interest to CNG, will become a direct subsidiary of DRI or each of CNG's public utility subsidiaries will become direct subsidiaries of DRI.[3]

In the Merger, shareholders of both DRI and CNG will have the option to elect to receive either cash or DRI common stock in return for each of their DRI or CNG shares, as the case may be, subject to allocation and certain limitations. In exchange for each share of DRI common stock held, DRI shareholders will have the option to receive either $43.00 in cash or one share of DRI common stock. In either case, this option is subject to the limitation that the aggregate amount of cash to be distributed to DRI shareholders in the First Merger shall be equal to $1,251,055,526 (plus any cash paid for fractional shares).[4] In exchange for each share of CNG common stock held, CNG shareholders will have the option to receive either $66.60 in cash or shares of DRI common stock at an exchange rate, plus an amount in cash

[1] DRI, CNG, and their respective subsidiaries have also filed in S.E.C. file no. 70–9517 an application-declaration related to the financing of the proposed DRI registered holding company system and CNG's registered holding company system. A notice of that filing is being issued simultaneously with this notice.

[2] As part of their approval of the Merger, DRI shareholders approved an amendment to the DRI Articles of Incorporation to increase the authorized shares of common stock of DRI from 300 million to 500 million.

[3] CNG's public utility subsidiaries include: Virginia Natural Gas, Inc. (''VNG''), Hope Gas, Inc. (''Hope''), The Peoples Natural Gas Company (''Peoples''), and The East Ohio Gas Company (''East Ohio'').

[4] Under the terms of the Merger, DRI has the right to increase this amount to $1,668,400,000.

equal to 1.52 multiplied by the excess, if any, of $43.816 over the Average Price.[5] The CNG exchange ratio will be (1) $66.60 divided by the Average Price of DRI common stock, if the DRI Average Price is no less than $43.816 and (2) 1.52, if the DRI Average Price is less than $43.816. In either case, this option is subject to the proration so that 38,159,060 shares of CNG common stock (including any fractional shares exchanged for cash) will be converted into the right to receive cash in the Second Merger. However, DRI may reallocate the cash and shares of DRI commons stock to be received by CNG shareholders to follow more closely the actual elections of CNG shareholders as long as the reallocation does not affect the desired tax treatment of the Second Merger.

Following the proposed Merger, current DRI shareholders will own approximately 65% of the combined company and current CNG shareholders will own approximately 35% of the combined company.

As a result of the Merger, the combined company will have *pro forma* 1998 assets of $28.0 billion as of March 31, 1999 and revenues of $8.8 billion for the year ended December 31, 1998. The combined company will also have an energy portfolio of approximately 20,000 MW of domestic power generation, 2.9 trillion cubic feet equivalent in natural gas and oil reserves producing nearly 300 billion cubic feet equivalent annually. It will operate a major interstate gas pipeline system and the largest natural gas storage system in North America with approximately 900 Bcfe of storage and will have approximately 5,000 miles of electric transmission lines. The combined company will be the eleventh largest independent oil and gas producer in the United States, measured by reserves.

Following completion of the Merger, DRI will register as a holding company with the Commission under section 5 of the Act and CNG may continue to register as a holding company with the Commission.

Parties to the Merger

DRI and Its Subsidiaries

DRI seeks authorization to retain its interest in its utility and nonutility business and to acquire and retain the interests of CNG's utility and nonutility business.

DRI is a diversified utility holding company[6] whose principal subsidiary is Virginia Electric and Power Company (''Virginia Power''),[7] an electric public utility company primarily engaged in the generation, transmission, distribution and sale of electric energy within a 30,000 square-mile area in Virginia and northeastern North Carolina.[8] Virginia Power operates nuclear, fossil fuel and hydroelectric generating units with an aggregate capability of 13,635 MW. It supplies energy at retail to approximately two million customers and sells electricity at wholesale to rural electric cooperatives, power marketers and certain municipalities. The Virginia service area represents 65% of Virginia's total land area and accounts for over 80% of its population. The North Carolina service area is comprised of retail customers located in the northeastern region of the state, excluding certain municipalities. Virginia Power also engages in off-system wholesale purchases and sales of electricity and purchases and sales of natural gas. In 1998, Virginia Power accounted for $4,285 million in revenues.

DRI's other major subsidiaries are Dominion Energy, Inc. (''DEI''), an independent power and natural gas subsidiary, and Dominion Capital, Inc. (''DCI''), a financial services company.[9] DRI also owns and operates a 365 MW natural gas fired generating facility in the United Kingdom.

DEI is primarily engaged in the competitive electric power generation business and in the development, exploration and operation of natural gas and oil reserves. DEI is involved in power projects in five states in Argentina, Bolivia, Belize and Peru.[10] Domestic power projects include the Kincaid Power Station, a 1,108 MW coal fired station in central Illinois; a 600 MW gas-fired peaking facility under construction in central Illinois; two geothermal projects and one solar project in California; three small hydroelectric projects in New York; a waste coal-fueled project in West Virginia and a waste wood and coal-fueled project in Maine. Additionally, DEI has interests in various generation and small power production facilities in the United States all of which are qualifying facilities (''QFs'') as defined in the Public Utility Regulatory Policies Act of 1978, as amended (''PURPA''), or exempt wholesale generators (''EWGs'') as defined in section 32 under the Act. DEI is also involved in natural gas and oil development, exploration and production in Canada, the Appalachian Basin, the Michigan Basin, the Illinois Basin, the Black Warrior Basin, the Uinta Basin, the San Juan Basin and owns proven oil and natural gas reserves of approximately 1.2 trillion cubic feet of natural gas equivalent. DEI, through its subsidiaries, is involved in the wholesale aggregation, marketing and trading of natural gas and storage capacity positions, on behalf of DEI and third parties. In 1998, DEI accounted for $383 million in revenues.

DCI is a diversified financial services holding company with several subsidiaries in the commercial lending, merchant banking and residential lending business.[11] Its principal subsidiaries are First Source Financial, LLP, First dominion Capital LLC, Saxon Mortgage, Inc. and Stanton Associates, Inc. DCI also owns a 46% interest in Cambrian Capital LLP. First Source Financial provides cash-flow and asset-based financing to middle-market companies seeking to expand, recapitalize or undertake buyouts. First Dominion Capital is an integrated merchant banking and asset management business. Saxon Mortgage and its affiliates originate and securitize home equity and mortgage loans to individuals. Cambrian Capital provides financing to small and mid-sized independent oil and natural gas producers undertaking acquisitions, refinancings and expansions. Stanton

[5] Average Price is defined as the average market price of DRI common stock over a twenty consecutive day trading period ending on the tenth business day before the closing.

[6] At December 31, 1998, DRI and its subsidiaries had 11,033 full time employees.

[7] The term ''Virginia Power'' refers to the entirety of Virginia Electric and Power Company, including its Virginia and North Carolina operations and all of its subsidiaries. In Virginia it trades under the name ''Virginia Power'' and in North Carolina it trades under the name ''North Carolina Power.''

[8] Virginia Power has made investments in some nonutility business and supports the investment and financing needs of its subsidiaries on a stand-alone basis.

[9] DRI states that it will divest its interest in DCI and DCI's subsidiary companies within three years following completion of the Merger.

[10] International power projects include a hydroelectric and a gas-fired project in Argentina, two hydroelectric projects in Bolivia, a run-of-river hydroelectric project in Belize, and two hydroelectric and six diesel oil-fueled projects in Peru.

[11] DCI's financial activities include providing commercial finance through senior secured loans, unsecured or subordinated debt or mezzanine investments, bridge loans and equity investments. Senior secured loans have a first priority lien on all assets which includes, but is not limited to, accounts receivable, inventory, real and personal property, equipment, trademarks, and copyrights. Corporate finance activities include underwriting and syndication of debt and equity instruments and debt and equity securities, managing assets for third parties and broker-dealer operations. Consumer finance comprises origination, purchase, securitization and servicing of mortgages. Other operations include investments in real estate, a lease in a hydroelectric facility, venture capital and a portfolio of preferred and equity securities.

Associates, Inc. engages in real estate investment and management.

DRI, either directly or indirectly is also involved in the following business activities: oil and natural gas exploration and development, both domestically and internationally, transportation and processing of natural gas and the manufacture and sale of equipment used in connection therewith, energy marketing and brokering, telecommunications, real estate activities, energy lending, and debt and equity financing to commercial businesses and consumers. DRI, through DCI, also holds minority interests in various other businesses, of which the aggregate amount of investments made by DCI at March 31, 1999, was $176 million. In 1998, DCI accounted for $409 million in revenues.

CNG and Its Subsidiaries

CNG is engaged solely in the business of owning and holding all of the outstanding equity securities of nineteen directly owned subsidiary companies. CNG and its subsidiaries are engaged in all phases of the natural gas business including: distribution, transmission, storage, exploration and production.

VNG, Hope, Peoples and East Ohio are the four public utility subsidiaries of CNG. Principal cities served on a retail basis include: Cleveland, Akron, Youngstown, Canton, Warren, Lima, Ashtabula and Marietta in Ohio; Pittsburgh (a portion), Altoona and Johnstown in Pennsylvania; Norfolk, Newport News, Virginia Beach, Chesapeake, Hampton and Williamsburg in Virginia; and Clarksburg and Parkersburg in West Virginia. CNG serves approximately two million residential, commercial and industrial gas sales and transportation to retail customers.

CNG Transmission Corporation operates a regional interstate pipeline system and provides gas transportation and storage services to each of CNG's public utility subsidiaries and to non-affiliated utilities, end-users and others in the Midwest, the mid-Atlantic states and the Northeast. Through its wholly owned subsidiary, CNG Iroquois, Inc., CNG Transmission Corporation holds a 16% general partnership interest in the Iroquois Gas Transmission System, L.P., which owns and operates an interstate natural gas pipeline extending from the Canada United States border near Iroquois, Ontario, to Long island, New York. The Iroquois pipeline transports Canadian gas to utility and power generation customers in metropolitan New York and New England.

CNG Producing Company is CNG's exploration and production subsidiary. Its activities are conducted primarily in the Gulf of Mexico, the southern and western United States, the Appalachian region, and in Canada.

CNG Retail Services Corporation markets natural gas, electricity and related products and services to residential, commercial and small industrial customers. CNG Products and Services, Inc. also provides energy-related services to customers of CNG's local distribution subsidiaries and others.

CNG International Corporation invests in foreign energy activities. CNG International Corporation currently owns interests in natural gas pipeline companies in Australia, and gas and electric utility companies in Argentina.

Establishment of a Service Company and Service Agreement

DRI intends to establish a new direct subsidiary service company, DRI Services, which will assume from DRI all of the service functions currently performed for affiliates of DRI and all employees performing those functions will become employees of DRI Services.[12]

It is contemplated that as a result of the Merger, some centralization of service functions will occur. Initially, DRI and CNG proposed to commence their combined operations with two subsidiary service companies. Upon closing of the Merger, DRI Services and other DRI affiliates will enter into a new single systemwide Service Agreement with CNG, CNG Services and other subsidiaries of CNG. The new agreement will be modeled after the current service agreement in effect for the CNG system.[13] The combined company will operate with two service companies, and each DRI–CNG affiliate will have the opportunity to elect to purchase services from either company.

Over time it is anticipated that the provision of services within the combined DRI–CNG system will be rationalized. However, in the interim, DRI and CNG each seek authorization to engaged, through their respective service companies, the following service activities: accounting, auditing, legal and regulatory services, information technology, electronic transmission and computer services, software pooling, employee benefits and pension investment, employee relations, operations, executive and administrative services, business and operations services, exploration and development services, risk management, marketing, medical services, corporate planning, purchasing, rate structure analysis, research, tax services, corporate secretary services, and investor relations.

Following completion of the Merger, DRI states that all services will be provided to system companies in compliance with all applicable provisions of the Act, including section 13(b) and rules 90 and 91 under the Act. DRI does, however, request and exemption from the at-cost standard of section 13(b) of the Act and rules 90 and 91 under the Act in one or more of the following situations: (1) to permit Virginia Power to continue to provide services to exempt nonutility associate companies which are subject to the Virginia State Corporation Commission's 1986 settlement order; and (2) to permit Virginia Power to provide future service arrangements to exempt nonutility associate companies within the DRI–CNG system. Exempt nonutility associate companies are defined as: (1) FUCOs and EWGs which do not derive any part of their income either directly or indirectly, from the generation and sale of electric energy within the United States; (2) EWGs which sell electricity at market based rates that have been approved by the Federal Energy Regulatory Commission (''FERC'') or relevant state public utility commission, provided that the purchaser is not an electric utility company affiliate of DRI; (3) a QF that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing the electricity for their own use and not for resale, or to an electric utility company that is not a DRI affiliate company at the purchaser's ''avoided cost'' as determined under the regulations under PURPA; and (4) an EWG or QF that sells electricity based upon its cost of service, as approved by the FERC or any state public utility commission having jurisdiction, provided that the purchaser of the electricity is not an electric utility company affiliate of DRI.

Dominion Resources, Inc. (70–9517)

Dominion Resources, Inc. (''DRI''), 120 Tredgar Street, Richmond, Virginia 23219, a Virginia corporation and holding company exempt from registration under section 3(a)(1) of the Act and rule 2, has filed an application-declaration under sections 6(a), 7, 9,(a),

[12] Initially, DRI Services will issue 100 shares of common stock, no par value, all of which will be subscribed to DRI at $1 per share.

[13] On August 26, 1966 (Holding Co. Act Release No. 15548), the Commission authorized formation of CNG's service company. Several amendments to the service agreement have been approved by the Commission under ''60-day letter proceedings.''

10, 12(b) of the Act and rules 42, 45, 53 and 54 under the Act.

This application-declaration is submitted in connection with DRI's proposed acquisition of Consolidated Natural Gas Company (''CNG''), a Delaware corporation and registered holding company (''Merger'') (S.E.C. file No. 70–9477). As result of the Merger and other related transactions, either (1) CNG Acquisition, as the successor in interest to CNG, will become a direct subsidiary of DRI or (2) each of CNG's four public utility subsidiaries will become direct subsidiaries of DRI. Following completion of the Merger, DRI will register as a holding company with the Commission under section 5 of the Act.

To effectuate the merger,[14] shareholders of DRI will have the option to receive either $43.00 in cash or one share of DRI common stock in exchange for each share of DRI common stock held, subject to certain cash distribution limitations. Shareholders of CNG common stock will have the option to receive either $66.60 in cash or shares of DRI common stock in exchange for each share of CNG common stock held, subject to certain cash distribution limitations.

Applicants seek authority for: (1) DRI to issue common stock of DRI to shareholders of CNG in connection with the Merger; (2) DRI to issue additional equity, preferred and/or debt securities for general corporate purposes for the period from and after the Merger through the second anniversary of the effectiveness of the Merger (''Authorization Date''); (3) DRI and its subsidiaries, including CNG, to maintain in effect for the period from and after the Merger through the Authorization Date, all existing credit facilities and financing arrangements and to maintain outstanding all indebtedness and similar obligations created thereunder as of the date of the closing of the Merger (including, without limitation, any facilities, financing arrangements, indebtedness or similar obligations incurred in connection with or to finance the Merger) and to amend, renew, extend and/or replace any of these credit facilities, financing arrangements, indebtedness or similar obligations up to the aggregate dollar amounts specified below, provided that no amendment, renewal, extension and/or replacement which is effected following completion of the Merger shall provide for an increase in the aggregate amount of indebtedness which occurs after the Authorization Date, unless otherwise approved by the Commission; (4) DRI and its subsidiaries, including CNG, to incur additional indebtedness and similar obligations including guarantees and other credit support; and (5) DRI to issue up to 45.5 million shares of common stock under dividend reinvestment and stock-based management incentive and employee benefit plans.

Issuance of Securities and Incurrence of Indebtedness

Shareholders of DRI and CNG will, in connection with the Merger, be given the option to receive either cash or shares of DRI common stock in exchange for each share of DRI or CNG common stock held, subject to limitations on the aggregate amount of cash that may be distributed in connection with Merger. Accordingly, indebtedness will be incurred to finance cash payments to DRI and CNG shareholders in connection with the Merger. DRI anticipates that approximately $4.5 billion will be required to finance the cash portion of the Merger. Of this amount, $1 billion will be obtained through equity securities or securities convertible into equity securities and the remaining financing will be obtained through debt securities with a maturity not to exceed 50 years and an interest rate not in excess of 500 basis points over the comparable London Interbank Offered Rate (''LIBOR'').

DRI anticipates that cash will initially be obtained through the issuance of commercial paper under an expanded DRI commercial paper program backed by a combination of short-term and long-term credit facilities similar to the types of credit facilities that DRI currently has in place. After closing of the Merger, DRI anticipates replacing a significant portion of the commercial paper program with proceeds from (1) the issuance of debt, preferred and/or convertible securities, (2) divestiture of DRI's financial serves subsidiary, Dominion Capital, Inc. (''DCI''), and (3) the sale of other non-core assets.[15]

At present, DRI has established various financing arrangements with respect to its equity, preferred and debt securities (''Securities'').[16] DRI has entered into various credit facilities with outside lenders, has issued debt securities, and has guaranteed or otherwise supported the obligations of its nonutility subsidiaries. DRI seeks authorization to maintain its, and CNG's, existing financing arrangements and other commitments through the Authorization Date.[17]

DRI proposes through the Authorization Date to issue equity, preferred and/or debt securities including, without limitation, for the purpose of refinancing indebtedness incurred to finance the cash component of the consideration to be paid to DRI and CNG shareholders in connection with the Merger. DRI seeks authorization to issue the above-mentioned securities provided that the aggregate principal amount of the proceeds not exceed $1.5 billion and provided that the cost of money with respect to these securities shall not exceed 500 basis points over LIBOR.[18]

In addition to the Securities, DRI proposes to issue other securities (''Other Securities''). DRI currently maintains in effect the following credit and financing facilities:

(1) DRI sells commercial paper in regional and national markets. Proceeds of commercial paper issuances are used for general corporate purposes and are made available to DRI's nonutility subsidiaries under intercompany credit agreements. DRI's nonutility subsidiaries repay these financings through cash flows and proceeds of permanent financings. DRI's commercial paper is supported by bank lines of credit maintained by DRI. At December 31, 1998, the aggregate outstanding maximum face amount of DRI commercial paper was $3.1 million.

(2) DRI has entered into an Amended and Restated Credit Agreement dated April 3, 1996 and amended by the First Amendment dated April 2, 1997 (''DRI Credit Agreement''), among DRI, the lenders identified, and NationsBank,

[14] The Merger transaction is more fully described in File No. 70–9477, which has been noticed contemporaneously.

[15] DRI states that it will divest its interest in DCI and DCI's subsidiary companies within three years following completion of the Merger.

[16] DRI filed a universal shelf registration with the Commission on September 12, 1997 (Registration No. 333–35501). The shelf registration covers equity, preferred and debt securities and allows DRI to issue any one or more of the foregoing types of securities provided that the aggregate principal amount of proceeds of securities issuances that may be obtained does not exceed $950 million. As of the date of the application-declaration, DRI issued common stock under the universal shelf registration and derived $275 million of proceeds from the issuance.

[17] By order dated March 28, 1996 (Holding Co. Act Release No. 26500) (''Omnibus Order''), CNG was authorized to engage in various financing and related transactions through March 31, 2001.

[18] The dividends payable on preferred stock and the interest rate and maturity of debt securities which may be issued under this authorization will be determined at the time of issuance and will not exceed those generally obtainable at the time of issuance for securities having the same or reasonably similar maturities, terms, conditions and features issued by utility companies or utility holding companies of reasonably comparable credit quality.

N.A., as agent for the lenders, under which the lenders have agreed to make loans to DRI in an aggregate principal amount not to exceed $300 million at any one time outstanding. Proceeds of the loans may be used for general corporate purposes and to support commercial paper. The commitment of the lenders under the DRI Credit Agreement will expire on April 3, 2002 if not canceled or terminated.

(3) DRI has entered into a Second Amended and Restated Short-Term Credit Agreement dated March 31, 1999 (''DRI Short-Term Credit Agreement''), among DRI, the lenders identified, and NationsBank, N.A., as administrative agent for the lenders, under which the lenders have, subject to the terms and conditions set forth in the DRI Short-Term Credit Agreement, agreed to make loans to DRI in an aggregate principal amount not to exceed $300 million at any one time outstanding. Proceeds of loans may be used for general corporate purposes and to support commercial paper. The commitment of the lenders under the DRI Short-Term Credit Agreement will expire 364 days after the date thereof if not canceled or terminated.

(4) DRI has in place an Indenture dated as of December 1, 1997 (''DRI Indenture'') between DRI and The Chase Manhattan Bank under which DRI may, subject to the terms and conditions set forth in the DRI Indenture, issue an unlimited amount of Junior Subordinated Debentures in one or more series. As of the date of this application-declaration, DRI has entered into a First Supplemental Indenture dated December 1, 1997 with The Chase Manhattan Bank under which DRI has issued $257.7 million aggregate principal amount of 7.83% Junior Subordinated Debentures to Dominion Resources Capital Trust I, which has in turn issued $250 million aggregate principal amount of Capital Securities to investors. Proceeds of the issuance of the Capital Securities by Dominion Resources Capital Trust I are used solely to acquire Junior Subordinated Debentures. Payments on account of the Junior Subordinated Debentures are used by Dominion Resources Capital Trust I to make payments on account of the Capital Securities. Proceeds of the issuance of the Junior Subordinated Debentures are used by DRI for general corporate purposes including debt repayment. Amounts in respect of the Capital Securities are guaranteed by DRI under the Capital Securities Guarantee Agreement dated as of December 8, 1997 between DRI and The Chase Manhattan Bank, as guarantee trustee, and the New Capital Securities Guarantee Agreement dated as of June 18, 1998 between DRI and The Chase Manhattan Bank, as guarantee trustee.

(5) DRI has entered into a five-year End Loaded Lease Financing (''ELLF'') as of September 9, 1998. The ELLF is structured as an off-balance sheet financing with a single purpose grantor trust, the lessor, formed to purchase, improve and own certain assets which are then leased to DRI. The lease structure is designed to permit DRI to finance the assets on an off-balance sheet basis while allowing DRI to maintain control of the property and retain the benefits of ownership for tax purposes. The assets which are financed under the ELLF include an office building and two aircraft. Payments made by DRI under this leasing arrangement are intended to cover the periodic interest and principal payments required to be made by the lessor which has financed its acquisition of the lease assets. The estimated aggregate amount of lease payment that DRI is required to make under the lease are $12.5 million.

(6) DRI has issued a note in the face amount of $28.4 million due in 2008 which bears interest at a rate of 9.25% per year. As of December 31, 1998, the principal balance outstanding of the note was $18.6 million.

(7) DRI has also entered into a Guarantee Agreement dated as of October 30, 1998 in favor of Bayerische Landesbank Girozentrale in connection with the Pounds Sterling 33,500,000 Committed Multi-Currency Revolving Advances Facility dated as of October 30, 1998 between DR Group Holdings, a special purpose financing subsidiary company organized under the laws of the United Kingdom, and Bayerische Landesbank Girozentrale.

DRI requests Commission authorization to maintain outstanding the Other Securities which currently total approximately $955.31 million. DRI further requests authorization to issue additional other securities (''Additional Other Securities'') with financing arrangements similar to those described above in paragraphs (1) through (7), through the Authorization Date, provided that the additional aggregate principal amount of the Additional Other Securities shall not exceed $250 million, the cost of money shall not exceed 500 basis points above LIBOR and the final maturity date of the Additional Other Securities shall not exceed 50 years.

Guarantees and Other Credit Support

As of December 31, 1998, Dominion Energy, Inc. (''DEI''), a nonutility subsidiary of DRI,[19] had paid-in-capital from equity investments made by DRI of $456.4 million. DRI has entered into an Intercompany Credit Agreement dated as of August 31, 1987 between DRI and DEI under which DEI may, subject to the terms and conditions of the Intercompany Credit Agreement, borrow up to $350 million aggregate principal amount at any one time outstanding from DRI. Proceeds from borrowings may be used by DEI for general corporate and working capital purposes. As of the date of this application-declaration, DRI has guaranteed $122.312 million aggregate principal amount of payment obligations of DEI and its subsidiaries.

DEI has also entered into an engagement letter dated July 13, 1999 with Bank of America Leasing and Capital Group, an affiliate of NationsBank, with respect to a $825 million lease financing for the construction and lease of ten to fourteen new gas-fired turbines and associated equipment to be installed at various new power generation facilities currently under development by DEI.[20] The terms of the engagement letter require that DRI guarantee the obligations of the lessee under the lease financing documents.

DRI requests authorization to maintain in place the above guarantee and other credit support arrangements, which total approximately $947.312 million through the Authorization Date. In addition, DRI proposes, through the Authorization Date, to provide additional guarantees or other credit support for DEI and it subsidiaries up to an aggregate principal amount of $1.5 billion.

As of December 31, 1998, DCI had paid-in-capital from equity investments made by DRI of $593.5 million. As of the date of this application-declaration, except as described below, DRI has not entered into any capital contribution agreement or similar arrangement which expressly requires DRI to make additional cash capital contributions to DCI or any of the other DCI Companies. As of the date of this application-declaration, DRI has entered into an Intercompany Credit Agreement dated as of December 20, 1985 between DRI and DCI under which DCI may, subject

[19] DEI has interests in various generation and small power production facilities in the United States, all of which are qualifying facilities (QFs'') as defined in the Public Utility Regulatory Policies Act of 1978, as amended, or exempt wholesale generators (''EWGs'') as defined in section 32 of the Act.

[20] It is anticipated the generation facilities will be ''eligible facilities'' within the meaning of section 32(a)(2) of the Act and their owners will qualify as EWGs.

to the terms and conditions of the Intercompany Credit Agreement, borrow up to $250 million aggregate principal amount at any one time outstanding from DRI. Proceeds of borrowings by DCI may be used for general corporate and working capital purposes.

As of the date of this application-declaration, DRI has guaranteed $47.5 million aggregate principal amount of payment obligations of DCI and its subsidiaries and has provided liquidity support under the following agreements:

(1) Guaranty Agreement dated as of May 13, 1996 by DRI in favor of DYNEX Capital, Inc. (formerly Resource Mortgage Capital, Inc.). The Guaranty was given in connection with a $47.5 million promissory note made by Dominion Mortgage Services, Inc., an indirect wholly owned subsidiary of DRI.

(2) Support Agreement dated as of February 5, 1999 made by DRI in favor of DCI in connection with the implementation of a $400 million commercial paper financing program by DCI. The Support Agreement requires DRI to maintain 100% ownership of DCI voting stock, to maintain a net worth $100 million for DCI and to provide liquidity support for DCI.

DRI requests authorization to maintain in place the foregoing guarantees and other credit support arrangements for the benefit of DCI. DRI further requests through the Authorization Date, to provide additional guarantees or other credit support for DCI and its subsidiaries up to an aggregate principal amount of $1.6 billion.

Incentive Compensation Plans and Employee Benefit Plans

DRI maintains a direct stock purchase plan (''Dominion Direct'') with a dividend reinvestment feature, incentive compensation plans,[21] and other employee benefit plans. Following the Merger, Dominion Direct, DRI's incentive compensation plans, and other employee benefit plans will remain in effect.

CNG maintains a dividend reinvestment plan (''CNG DRIP''). DRI proposes, following consummation of the Merger, to terminate the CNG DRIP. CNG also maintains several stock incentive plans. Following consummation of the Merger, DRI proposes to compensate plan participants for all benefits, grants of awards, and options with an appropriate amount of cash. CNG also maintains employee benefit plans. DRI proposes that following consummation of the Merger, that the employee benefit plans be either maintained, modified to provide for the issuance of DRI common stock in lieu of CNG common stock, or terminated.

CNG and Its Subsidiaries

By Commission order dated March 28, 1996, (Holding Co. Act Release No. 26500) (''Omnibus Order''), CNG was authorized to engage in various financing and related transactions through March 31, 2001. The Omnibus Order allows CNG financing if CNG meets the following conditions: (1) CNG's long-term debt must be rated investment grade by at least one nationally recognized statistical rating organization; (2) CNG's common equity, as reflected in its most recent Form 10–K or Form 10–Q an as adjusted to reflect subsequent events that affect capitalization, will be at least 30% of consolidated capitalization; (3) the effective cost of money for debt may not exceed 300 basis points over the interest rate on United States Treasury securities of a comparable term; (4) the effective cost of money for preferred stock and other fixed securities may not exceed 500 basis points over the interest rate on 30-year United States Treasury securities; (5) the maturity of debt may not be more than 50 years; (6) issuance expenses in connection with an offering of securities, including any underwriting fees, commissions or other similar compensation, may not exceed 5% of the total amount of securities being issued; (7) proceeds of the proposed financing may not be used to invest in an EWG or a FUCO; (8) at the time of each financing transaction, CNG must be in compliance with the requirements of rule 53 under the Act; and (9) proceeds of the proposed financing by subsidiaries of CNG must be used only in connection with their respective existing businesses.

Under the Omnibus Order CNG may issue and sell common stock, preferred stock, short-term debt, long-term debt and other securities from time to time through March 31, 2001, provided that the aggregate amount of short-term and revolving debt outstanding at any one time and the aggregate amount of common stock, preferred stock, long-term debt and other securities issued during the period shall not exceed $7 billion. All sales and issuances of common stock, short-term debt and long-term debt by CNG subsequent to March 28, 1996 have occurred under the Omnibus Order.

CNG issues and sells commercial paper under the Omnibus Order to dealers at the discount rate prevailing at the date of issuance for comparable commercial paper. The dealers reoffer this commercial paper at a discount to investors. The amount of commercial paper outstanding at any one time varies according to the seasonal working capital needs of CNG. There was $558.9 million principal amount of CNG commercial paper outstanding on December 31, 1998.

Currently outstanding under the Omnibus Order is a credit agreement dated as of June 27, 1997 (''CNG Credit Agreement''), among CNG and several banks with The Chase Manhattan Bank, as agent. The CNG Credit Agreement provides a line of credit of up to $775 million as back-up for commercial paper. No loans are currently outstanding under the Credit Agreement.

As of December 31, 1998, CNG had an aggregate of $1,392,875 principal amount of senior debentures outstanding (excluding current maturities). Of this amount, $950 million principal amount were issued under an Indenture, dated as of April 1, 1995, between CNG and United States Trust Company of New York, as trustee. The remaining $442,875,000 principal amount was issued under an Indenture, dated as of May 1, 1971, between CNG and The Chase Manhattan Bank, as successor trustee.

CNG, and certain of its subsidiaries, are authorized under the Omnibus Order to enter into guarantee arrangements, obtain letters of credit and otherwise provide credit support with respect to the obligations of its subsidiaries. The aggregate amount of all these arrangements cannot exceed $2 billion. Approximately $169.3 million in guarantees is currently outstanding.

DRI proposes to make the following modifications to the Omnibus Order: (1) that the term of the Omnibus Order be extended through the Authorization Date; (2) that the amount of financing permitted under the Omnibus Order, as extended, be increased from $7 billion to $10 billion; (3) that the aggregate amount of guarantees and credit support that may be given by CNG and its subsidiaries be increased from $2 billion to $3 billion; and (4) that CNG be authorized to give guarantees and other credit support for the benefit of any of its direct and indirect subsidiaries as needed to support the subsidiary's normal course of business.

There are also several individual outstanding authorizations granted to CNG system companies under the Act in addition to the Omnibus Order.

[21] Performance grants, restricted stock awards, goal-based stock awards, stock options and stock appreciation rights may be granted under the DRI incentive compensation plans.

(1) CNG Money Pool. By orders dated June 12 and July 16, 1986 (Holding Co. Act Release Nos. 24128 and 24150, respectively), as amended by orders dated May 27, 1987 (Holding Co. Act Release No. 24399), February 14, 1990 (Holding Co. Act Release No. 25040), May 13, 1991 (Holding Co. Act Release No. 25311), April 8, 1994 (Holding Co. Act Release No. 26021), and July 18, 1997 (Holding Co. Act Release No. 26742), the Commission authorized the establishment and operation of the Consolidated System Money Pool.

(2) Iroquois Pipeline. By orders dated January 9, 1991, February 28, 1991, May 7, 1991, July 6, 1993, and September 12, 1996 (Holding Co. Act Release Nos. 25239, 25263, 25308, 25845 and 26571, respectively), the Commission authorized CNG Transmission Corporation (''CNGT'') to provide financing to its wholly owned subsidiary, CNG Iroquois, Inc. (''CNGI''), for use relating to CNGI's 16% general partnership interest in Iroquois Gas Transmission System L.P. (''Iroquois''). The interstate pipeline owned by Iroquois was completed in 1992. Financing of CNGT's interest in Iroquois was accomplished through the purchase by CNGT of common stock of CNGI. Related authorizations concerning credit support expire on June 30, 2001.

(3) Hub Market Center. By order dated October 21, 1994 (Holding Co. Act Release No. 26148), the Commission authorized CNG to provide its subsidiary, CNG Power Company (''CNG Power'') with up to $2 million in financing to be used by CNG Power to invest in its special purpose wholly owned subsidiary, CNG Market Center Services, Inc. (''CNGMC''). Financing can be provided by CNG through the purchase of CNG Power common stock, the making of open account advances, long-term loans to CNG Power, or any combination thereof. The authorization expires on July 1, 2004.

(4) Energy Related Services. By orders dated August 28, 1995 and August 27, 1997 (Holding Co. Act Release Nos. 26363 and 26757, respectively), the Commission authorized CNG Products and Services, Inc. (''CNGP&S'') to engage in the business of providing several categories of energy-related services to customers of CNG's local distribution companies and to others, primarily customers of utilities not affiliated with CNG. CNG was authorized to provide CNGP&S with up to $10 million of financing through the sale of debt and common stock to its immediate parent, or through the obtaining of open account advances from its parent. The authorization expires on December 31, 2000.

(5) Partnerships. By orders dated July 26, 1995 and December 30, 1997 (Holding Co. Act Release Nos. 26341 and 26807, respectively), the Commission authorized a former wholly owned subsidiary of CNG, CNG Energy Services Corporation (''Energy Services''), to acquire ownership interests with nonaffiliates in projects that involve gas-related activities. The dollar limit on these investments is $200 million. Under this authorization, Energy Services formed CNG Main Pass Gas Gathering Corporation and CNG Main Pass Oil Gathering System. In connection with the sale of Energy Services to an unaffiliated third party, ownership in these two companies was transferred to CNG, and the authority to form partnerships with nonaffiliates without prior Commission approval was transferred to CNG Producing Company. This authorization expires on December 31, 2002.

(6) Power Services Guarantees. By order dated August 2, 1996 (Holding Co. Act Release No. 26551), the Commission authorized CNG to issue parent guarantees up to an aggregate of $250 million on behalf of its wholly owned subsidiary, CNG Power Services Corporation (''CNG Power Services''). CNG Power Services is engaged in the purchase and sale of electricity at wholesale. The authorization expires on March 13, 2001.

(7) Energy Marketing. By order dated January 15, 1997 (Holding Co. Act Release No. 26652), the Commission authorized Energy Services to invest up to $250 million to expand its business to market electricity and other energy commodities and to engage in fuel management and other incidental related activities. Energy Services was authorized to acquire interests in other entities, including corporations, partnerships, limited liability companies, and joint ventures. CNG Retail Corporation was formed on January 30, 1997 under the order to engage in the business of selling natural gas, electricity and other products at retail. On July 29, 1998 (Holding Co. Act Release No. 26900), CNG Retail Corporation became a direct subsidiary of CNG and succeeded to the authorizations and reporting obligations under the order subsequent to the sale of Energy Services by CNG to an unaffiliated party. The authorization expires on December 31, 2001.

(8) CNG International. By order dated May 30, 1996 (Holding Co. Act Release No. 26523), the Commission authorized CNG to form CNG International Corporation (''CNG International''), to acquire directly or through intermediary companies interests in foreign EWGs and FUCOs. The order also authorized CNG to provide CNG International up to $300 million credit support with respect to its investments. Jurisdiction was retained over CNG's request to invest up to $300 million in certain foreign energy activities including foreign gas pipelines. By supplemental order dated October 25, 1996 (Holding Co. Act Release No. 26595), the Commission released jurisdiction over proposed investments of up to an aggregate of $75 million in two gas pipelines, one in Bolivia and the other in Argentina. No direct investment was made by CNG International under this authorization, and the authorization is regarded as having lapsed. By supplemental order dated November 19, 1996 (Holding Co. Act Release No. 26608), the Commission released jurisdiction over a proposed investment of up to $75 million in three gas pipelines in Australia. Approximately $38.8 million was invested in these projects in late 1996. As a result of these transactions, CNG International now indirectly holds a 30% ownership interest in Epic Energy Pty Ltd., an Australian company. By supplemental order dated February 12, 1998 (Holding Co. Act Release No. 26824), the Commission released jurisdiction over a proposed investment of up to $165 million by CNG International in the Alinta gas pipeline in Western Australia. In March 1998, CNG International paid approximately $143.2 million to acquire its 33% equity interest in the pipeline, through intermediate companies including Epic Energy Australia Trust. By supplemental order dated April 9, 1999 (Holding Co. Act Release No. 27002), the Commission released jurisdiction over a proposed investment of up to $100 million by CNG International in a gas pipeline being privatized by the state of Victoria, Australia. CNG International was not the winning bidder for the pipeline, and no investment will be made under this authorization.

DRI requests Commission authorization to maintain in effect the above described CNG financing arrangements and to extend through the Authorization Date, all of the above described authorizations which are stated to expire prior to December 31, 2002.

Energy East Corporation, *et al.* (70–9545)

Energy East Corporation (''Energy East''), a New York corporation and a public utility holding company exempt from registration under section 3(a)(1) of the Act from all provisions of the Act, except section 9(a)(2), and Merger Co.,

a Connecticut corporation wholly owned by Energy East which is not currently subject to the Act, c/o Energy East, each at P.O. Box 1196, Stamford, Connecticut 06904, seek an order under sections 9(a)(2) and 10 of the Act authorizing them to acquire all of the issued and outstanding common stock of Connecticut Energy Corporation (''Connecticut Energy''), a Connecticut corporation and a public utility holding company exempt from registration under section 3(a)(1) of the Act from all provisions of the Act, except section 9(a)(2). Energy East and Merger Co. also request exemptions under section 3(a)(1) from all provisions of the Act, except section 9(a)(2), upon consummation of the proposed transaction.

Energy East is an exempt holding company by order of the Commission.[22] Energy East's principal subsidiaries are New York State Electric & Gas Corporation (''NYSEG''), a combined gas and electric public utility company, and Energy East Enterprises, Inc. (''Enterprises''), a non utility company which is also a public utility holding company by virtue of its ownership of a majority of the voting securities of CMP Natural Gas, L.L.C. (''Maine GasCO''), a gas public utility company.

NYSEG, a New York corporation, is engaged in generating,[23] purchasing, transmitting, and distributing electricity, and purchasing, transporting, and distributing natural gas. NYSEG's electric service territory covers about 19,900 square miles and NYSEG's natural gas service territory covers about 6,594 square miles, both in the central, eastern, and western parts of the State of New York. NYSEG serves about 826,000 electric customers and about 244,000 natural gas customers. NYSEG's retail electric and gas service, among other things, is regulated by the Public Service Commission of the State of New York (''NYPSC''), and its wholesale sales of electricity are regulated by the Fedora Energy Regulatory Commission (''FERC'').

Enterprises, a wholly owned subsidiary of Energy East, is an exempt holding company by order of the Commission.[24] Enterprises owns natural gas and propane air distribution companies including a majority of the voting securities of Maine Gas Co. Enterprises' nonutility subsidiaries are: New Hampshire Gas Corporation, an energy services company in New Hampshire specializing in propane air distribution systems; Southern Vermont Natural Gas Corporation, which is developing a combined natural gas supply and distribution project that includes an extension of a pipeline from New York to Vermont and the development of natural GS distribution systems in Vermont; and Seneca Lake Storage, Inc., which proposes to own and operate a gas storage facility in New York.

Maine GasCo, a Maine corporation, is an emerging gas utility company which began providing service to retail customers in May 1999. Maine GasCo is in the process to constructing a local natural gas distribution system in the State of Maine.

Energy East also owns several non-utility subsidiaries, including: (1) Enterprises, which, besides serving as Main GasCo's parent, owns natural gas and propane air distribution companies; (2) XENERGY Enterprises; Inc., which provides energy and telecommunications services and owns several nonutility subsidiary companies; (3) Energy East Management Corporation, which invests the proceeds of the sale of NGE Generation, Inc.'s generation assets; (4) Oak Merger Co., which was formed solely for the purpose of consummating the proposed merger with COG Resources, Inc., an exempt gas utility holding company; and (5) EE Merger Corp., which was formed solely for the purpose of consummating the proposed merger with and into CMP Group, Inc., an exempt electric and gas utility holding company.

For the 12 months ended June 30, 1999, Energy East's operating revenues and total utility plant on a consolidated basis were approximately $2.5 billion and $2.2 billion, respectively. Also as of June 30, 1999, Energy East had 115,878,000 outstanding shares of common stock, $0.01 par value; 25,000,000 outstanding shares of preferred stock subject to mandatory redemption; and 10,131,000 outstanding shares of preferred stock redeemable solely at the option of the subsidiary.

Connecticut Energy claims an intrastate exemption by rule 2. Connecticut Energy wholly owns The Southern Connecticut Gas Company (''Southern Connecticut''), a gas utility company, which is Connecticut Energy's sole public utility subsidiary. Connecticut Energy also directly and indirectly owns several non utility subsidiaries, including: CNE Energy Services Group, Inc., which provides an array of energy products and services to commercial and industrial customers, including sales of bulk energy, operation of a liquefied natural gas open access storage facility, and sales of natural gas for peak-shaving and emergency deliveries; CNE Development Corporation, which is a 16.67% equity participant in East Coast Natural Gas Cooperative, LLC, which purchases and stores gas spot supplies, provides storage service utilization services and is involved in bundled sales; and CNE Venture-Tech, Inc., which invests in ventures that produce or market technologically advanced energy-related products.

Southern Connecticut, a Connecticut corporation, is engaged in the transportation and retail distribution of natural gas in a service territory along the southern Connecticut coast from Westport to Old Saybrook, including Bridgeport and New Haven. Southern Connecticut serves about 158,000 customers. Southern Connecticut is subject to retail rate regulation, among other things, by the Connecticut Department of Public Utility Control (''DPUC'').

For the 12 months ended June 30, 1999, Connecticut Energy's operating revenues and total utility plant on a consolidated basis were $230 million and $277 million, respectively. Also as of June 30, 1999, Connecticut Energy had 10,388,000 outstanding shares of common stock, $1 par value.

Energy East also states that the merged gas system will meet the standards of section 2(a)(29)(B) as the gas operations of Energy East and Connecticut Energy will be integrated. Energy East states that Connecticut Energy's gas system and Energy East's gas system will share a ''common source of supply'' and will be operated as a ''single coordinated system.'' Energy East further states that Connecticut Energy and Energy East will be able to achieve ''substantial economies'' in gas supply through the increased purchasing power and gas supply coordination that will result from being part of the larger combined gas system. Finally, Energy East states that the area or region served by NYSEG and by Southern Connecticut will not be ''so large as to impair * * * the advantages of localized management, efficient operation, and the effectiveness of regulation.''

Merger Co. was formed to facilitate the merger of Energy East and Southern Connecticut. Energy East owns all of Merger Co.'s issued and outstanding shares. Merger Co. owns no subsidiary companies.

[22] *See Energy East Corporation*. Holding Co. Act Release No. 26976 (Feb. 12, 1999).

[23] NYSEG generates electricity from its 18% share of a nuclear station and its hydroelectric stations. NYSEG has agreed to sell its share of the nuclear station, which is expected to be completed by early next year.

[24] *See Energy East Corporation*, Holding Co. Act Release No. 26976 (Feb. 12, 1999).

Under the Agreement and Plan of Merger, dated as of April 23, 1999, as amended as of July 15, 1999 (''Merger Agreement''), Energy East will acquire all of the issued and outstanding common stock of Connecticut Energy.[25] Upon completion of the proposed transaction, Merger Co. will be the surviving party, remain a wholly-owned subsidiary of Energy East, and change its name to, and operate under, the name of ''Connecticut Energy Corporation.'' Southern Connecticut will become a direct, wholly-owned subsidiary of Merger Co. and an indirect, wholly-owned subsidiary of Energy East.

For the transaction, all outstanding shares of common stock of Connecticut Energy (other than those held by Connecticut Energy shareholders who have not voted in favor of the transaction and have properly demanded dissenters' rights) will be converted into the right to receive the merger consideration. Connecticut Energy shareholders can elect to receive cash, Energy East shares, or a combination of cash and Energy East shares. The cash consideration amounts to $42 in cash, without interest, per share. The stock consideration is a number of Energy East shares that will vary depending on the ''Average Market Price,''which is defined in the Merger Agreement as the average of the closing prices of Energy East shares on the New York Stock Exchange during the 20 trading days immediately preceding the second trading day prior to the effective time of the transaction. If the Average Market Price is equal to or more than $23.10 per share and equal to or less than $29.40 per share, then a Connecticut Energy share will be exchanged for $42 worth of Energy East shares. If the Average Market Price is less than $23.10, then a Connecticut Energy share will be exchanged for 1.82 Energy East shares. If the Average Market Price is more than $29.40, then a Connecticut Energy share will be exchanged for 1.43 Energy East shares.

Subject to an adjustment for tax reasons, 50% of all outstanding Connecticut Energy shares will be converted into cash and 50% will be converted into Energy East shares. Connecticut Energy shareholders as a group may submit elections to convert more than half of the outstanding Connecticut Energy shares into cash or more than half into Energy East shares. If either cash or Energy East shares is oversubscribed, then an equitable *pro rata* adjustment will be made to ensure that half of the outstanding Connecticut Energy shares are converted into cash and half are converted into Energy East shares.

Energy East states that the transaction will produce benefits to the consumers of electricity and gas in the northeastern United States by operating more cost-effectively, increasing financial flexibility and providing strategic growth opportunities that will benefit the combined company and its shareholders and customers. Energy East also states that, after the transaction, the combined system will be better positioned to take advantage of operating economies and efficiencies through, among other measures, joint management and optimization of their respective portfolios of gas supply, transportation, and storage assets. Furthermore, Energy East states that the combination of the companies' complementary expertise and infrastructure will provide the combined system with the size and scope necessary to be an effective participant in the emerging and increasingly competitive electric and natural gas markets. Finally, Energy East states that the combined system will be financially stronger and will have a broader customer base than Connecticut Energy has as an independent entity.

The application states that, following the transaction, Energy East and Merger Co. will each meet the requirements for an exemption under section 3(a)(1) of the Act. It is stated that each of Energy East and Merger Co. and their respective public utility subsidiaries will be predominantly instrastate in character and will carry on their business substantially in New York and Connecticut, respectively, the states in which they are organized. It is also stated that Enterprises will continue to be entitled to an exemption under section 3(a)(1) of the Act as the transaction will have no impact on the status of Enterprises as a holding company.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secrertary.

[FR Doc. 99–27984 Filed 10–26–99; 8:45 am]

BILLING CODE 8010–01–M

[25] The transaction will be accounted for as an acquisition of Connecticut Energy by energy east under the purchase method of accounting in accordance with generally accepted accounting principles. A portion of the purchase price will be allocated to nonutility assets and liabilities of Connecticut Energy based on their estimated fair market values at the date of acquisition. As a regulated utility, the assets and liabilities of Southern Connecticut will not be revalued. The difference between the purchase price, representing fair value, and the recorded amounts will be shown as goodwill on the balance sheet of Connecticut Energy.

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before December 27, 1999.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Cynthia Pitts, Program Analyst, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, S.W. Suite 6050.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Program Analyst, 202–205–6734 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Governor's Request for Disaster Declaration.''

Form No: N/A.

Description of Respondents: Person's applying for Disaster Loans.

Annual Responses: 52.

Annual Burden: 1,040.

Title: ''Disaster Home/Business Loan Inquiry.''

Form No: 700.

Description of Respondents: Person's applying for Disaster Loans.

Annual Responses: 37,736.

Annual Burden: 9,434.

Dated: October 22, 1999.

Vanessa Piccioni,

Acting Chief, Administrative Information Branch.

[FR Doc. 99–28095 Filed 10–26–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before December 27, 1999.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Eunice Ricks, Business Development Specialist, Office of Business Initiatives, Small Business Administration, 409 3rd Street, S.W. Suite 6100.

FOR FURTHER INFORMATION CONTACT: Eunice Ricks, Business Development Specialist, 202–205–7422 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Counselor's Case Report.''

Form No: 641A.

Description of Respondents: SBI and Score Counselors.

Annual Responses: 300,000.

Annual Burden: 60,000.

Dated: October 22, 1999.

Vanessa Piccioni,

Acting Chief, Administrative Information Branch.

[FR Doc. 99–28096 Filed 10–26–99; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Rescission of Social Security Acquiescence Ruling 97–1(1)

AGENCY: Social Security Administration.

ACTION: Notice of rescission of Social Security Acquiescence Ruling 97–1(1)—*Parisi By Cooney* v. *Chater,* 69 F.3d 614 (1st Cir. 1995).

SUMMARY: In accordance with 20 CFR 404.985(e) and 402.35(b)(2), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 97–1(1).

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1695.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On January 13, 1997, we issued Acquiescence Ruling 97–1(1) to reflect the holding in *Parisi By Cooney* v. *Chater,* 69 F.3d 614 (1st Cir. 1995), that the Social Security Administration (SSA), when computing a family maximum reduction pursuant to section 203(a) of the Social Security Act, should not include the monthly benefit that would otherwise be payable to a spouse entitled on the earnings record of a worker if payment of that spouse's benefit is precluded by section 202(k)(3)(A) of the Act due to the spouse's entitlement to a higher benefit on the spouse's own earnings record. The court also held that the statutory language of section 203(a) requires SSA to consider the actual amount of benefits payable under the relevant benefit provisions, not purely theoretical entitlements, in calculating the total monthly benefits payable on the worker's earnings record under the family maximum.

Concurrent with the rescission of this Ruling, we are publishing our final rules amending section 404.403 of Social Security Regulations No. 4 (20 CFR 404.403) to change the method for computing the family maximum benefit reduction when a beneficiary has dual entitlement on a another earnings record. The final rules provide in paragraph 404.403(a)(5) that, when benefits are subject to reduction for both the family maximum and dual entitlement, we consider only the amount of benefits actually due or payable to the person with dual entitlement on the same earnings record when calculating the reduction under the family maximum. Because the change in the regulations adopts the Parisi court's holding on a nationwide basis, we are rescinding Acquiescence Ruling 97–1(1).

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: October 20, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 99–28018 Filed 10–26–99; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3142]

Culturally Significant Objects Imported for Exhibition Determinations: ''Dangerous Curves: The Art of the Guitar''

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition ''Dangerous Curves: The Art of the Guitar,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, Massachusetts from on or about November 5, 2000, to on or about February 24, 2001, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44; 301–4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: October 21, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 99–28090 Filed 10–26–99; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3143]

Culturally Significant Objects Imported for Exhibition Determinations: ''A Painting in Focus: Nicolas Poussin's Holy Family on the Steps''

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition ''A Painting in Focus: Nicolas Poussin's Holy Family on the Steps,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Cleveland Museum of Art, Cleveland, Ohio, from on or about November 14, 2000, to on or about January 23, 2000, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44; 301–4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: October 21, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 99–28091 Filed 10–26–99; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice No. 3134

International Telecommunication Advisory Committee; International Telecommunication Advisory Committee Telecommunication Standardization Sector (ITAC–T) National Committee and Study Group A; Meetings

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee, and International Telecommunication Advisory Committee—Telecommunication Standardization (ITAC–T) National Committee and Study Group A. The purpose of the Committees is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization. Except where noted, meetings will be held at the Department of State, 2201 ''C'' Street, NW, Washington, DC.

The ITAC will meet from 10:00 AM to noon on October 27 (rather than October 20 as previously announced), November 3, November 10, November 17, November 22, December 1, and December 8 to continue preparations for a meeting of the ITU Working Group on ITU Reform. All meetings will be at the Department of State.

The ITAC–T National Committee will meet from 9:30 to 4:00 on November 18, 1999 to review actions taken at the recent ITU Telecommunication Sector Advisory Group (TSAG) and consider further action required by the ITU Working Group on Reform and the World Telecommunication Sector Assembly. The meeting will be held at the Department of State.

US Study Group A will meet from 9:30 to noon on December 1, 1999 to prepare for the next meeting of ITU–T Study Group 3 in December. It is anticipated that the meeting will be at the Department of State.

Members of the general public may attend these meetings. Entrance to the Department of State is controlled; people intending to attend any of the ITAC meetings should send a fax to (202) 647–7407 not later than 24 hours before the meeting. This fax should display the name of the meeting (ITAC, ITAC T National Committee, or Study Group A and date of meeting), your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: US driver's license, passport, US Government identification card. Enter from the 23rd Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins. Actual room assignments may be determined at the lobby or by calling the Secretariat at 202 647–7407.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: October 18, 1999.

Marian Gordon,

Director, Telecommunication & Information Standardization, U.S. Department of State.

[FR Doc. 99–28206 Filed 10–25–99; 2:04 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

Under Secretary of State for Public Diplomacy and Public Affairs; Delegation of Authority No. 236 [Relating to Immunity from Judicial Seizure of Cultural Objects Temporarily Imported into the United States]

By virtue of the authority vested in me as the Under Secretary of State for Public Diplomacy and Public Affairs by law, including by Delegation of Authority No. 234 of October 1, 1999, and the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 et seq.), and to the extent permitted by law, I hereby delegate to the Assistant Secretary for Educational and Cultural Affairs the functions in Public Law 89–259 (79 Stat. 985) (22 U.S.C. 2459) (providing for immunity from judicial seizure for cultural objects imported into the U.S. for temporary exhibits).

Until such time as the Assistant Secretary for Educational and Cultural Affairs has been confirmed by the Senate and sworn into office, the functions delegated by this order shall be exercised by the Executive Director of the Bureau of Educational and Cultural Affairs, in consultation with the Executive Assistant to the Under Secretary of State for Public Diplomacy and Public Affairs and the Office of the Legal Adviser.

Notwithstanding any other provision of this order, the Under Secretary of State for Public Diplomacy and Public Affairs may at any time exercise any function or authority delegated or reserved by this delegation of authority.

Functions delegated by this delegation of authority may be redelegated, to the extent consistent with law.

Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

This delegation shall be published in the **Federal Register.**

Dated: October 19, 1999.

Evelyn S. Lieberman,

Under Secretary of State for Public Diplomacy and Public Affairs, U.S. Department of State.

[FR Doc. 99–28088 Filed 10–26–99; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3141]

Determination by the Department of State Regarding Shrimp Imports From the Spencer Gulf in Southern Australia

SUMMARY: The Department of State has determined that the harvesting of shrimp in the Spencer Gulf of southern Australia does not pose a threat of the incidental taking of sea turtles. Accordingly, the prohibitions on the importation of shrimp set forth in Section 609 of Public Law 101–162 do not apply to shrimp harvested in the Spencer Gulf.

EFFECTIVE DATE: October 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. David Hogan, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington DC, telephone number (202) 647–2335.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 (''Section 609'') provides that shrimp harvested with commercial fishing technology that may adversely affect certain species of sea turtles may not be imported into the United States. This import prohibition does not apply to certain categories of shrimp harvested in ways that do not harm sea turtle species.

Following the publication by the Department of State of a notice in the **Federal Register** on July 8, 1999 (Public Notice 3086, 64 FR 36946), which revised the guidelines used by the Department in implementing Section 609, the relevant provisions of those guidelines specify that:

''B. Shrimp Harvested in a Manner Not Harmful to Sea Turtles

The Department of State has determined that the import prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtle species:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in a pond prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices, such as winches, pulleys, power blocks or other devices providing mechanical advantage, or by vessels using gear that, in accordance with the U.S. program described above, would not require TEDs.

d. Shrimp harvested in any other manner or under any other circumstances that the Department of State may determine, following consultation with the National Marine Fisheries Service, does not pose a threat of the incidental taking of sea turtles. The Department of State shall publish any such determinations in the **Federal Register** *and shall notify affected foreign governments and other interested parties directly.'' (emphasis added.)*

The Department of State hereby determines, following consultation with the National Marine Fisheries Service, that the harvesting of shrimp in the Spencer Gulf in southern Australia does not pose a threat of the incidental taking of sea turtles.

In requesting such a determination, the Government of Australia submitted information, including a report compiled by the South Australian Research and Development Institute, which contained evidence, described below, that commercial shrimp trawling operations in the Spencer Gulf do not pose a threat to sea turtles. This information, which was reviewed by the Office of Marine Conservation of the Department of State and the Office of Protected Resources of the National Marine Fisheries Service, includes a wide range of scientific, biological and commercial data.

In particular, the information submitted by the Government of Australia reflects diverse sources of data from long-term surveys—fishery dependent and independent observer records, logbooks and records of sea turtle strandings. The data on sea turtle distribution and migrations are based on the credible research of scientists. The lack of nesting sites along the entire coast of southern Australia, as well as the near absence of stranded sea turtles, near-shore sea turtle sightings, and trawl-captured sea turtles since 1968 indicate that sea turtle abundance in the area is extremely low.

Accordingly, shrimp harvested in the Spencer Gulf are not subject to the import prohibitions imposed pursuant to Section 609. The Department of State has notified the U.S. Customs Service and other interested parties of this determination.

Dated: October 20, 1999.

R. Tucker Scully,

Deputy Assistant Secretary for Oceans, Fisheries and Space.

[FR Doc. 99–28089 Filed 10–26–99; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service (ANM–110), 1601 Lind Avenue, SW., Renton, WA 98055; phone (425) 227–2109; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. this includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is transport airplane and engine issues. These issues involve the airworthiness standards for transport category airplanes and engines in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

Task: Implementation of International Civil Aviation Organization (ICAO) Rules From Amendment 97 to Annex 8 Concerning Design for Security

ICAO provisions for annex 8 ''Airworthiness of Aircraft'' concerning design for security were submitted to states for comment in 1994. The following were adopted by the ICAO Air Navigation Council by Amendment 97 on March 12, 1997 and will be effective on March 12, 2000.

- Survivability of systems

- Fire suppression
- Cabin smoke extraction
- Direction of smoke from the cockpit
- Least risk bomb location (identification)
- Least risk bomb location (design)
- Pilot compartment (penetration resistance)
- Interior design to facilitate searches

Review the adopted rules and recommend changes to the JAR and FAR and develop associated advisory material. Phase I of the task should define the scope and extent to which the ICAO Amendment 97 rules should be implemented and a strategy for implementation. Phase II should develop recommendations for practical airworthiness requirements for specific FAR paragraphs and prepare any associated advisory material. The recommended design criteria should be consistent with the security threat taking into account the operation and function of the airplane and the current and future aviation security systems.

For Phase I, the FAA requests that ARAC provide a report detailing the implementation strategy. The FAA expects ARAC to submit this report by February 1, 2000.

For Phase II, the FAA requests that ARAC draft appropriate regulatory documents with supporting economic and other required analyses, and any other related guidance material or collateral documents to support its recommendations. If the resulting recommendation is one or more notices of proposed rulemaking (NPRM) published by the FAA, the FAA may ask ARAC to recommend disposition of any substantive comments the FAA receives. The FAA expects ARAC to submit its recommendation(s) under Phase II to the FAA within 26 months of tasking.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a new Design for Security Harmonization Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Design for Security Harmonization Work Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider transport airplane and engine issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. Draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Design for Security Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to participate must be reviewed by the assistant chair, the assistant executive director, and the working group co-chairs, and the individuals will be advised whether or not the request can be accommodated.

Individuals chosen for membership on the working group will be expected to represent their aviation community segment and participate actively in the working group (*e.g.*, attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to ensure the ability of the working group to meet any assigned deadline(s). Members are expected to keep their management chain advised of working group activities and decisions to ensure that the agreed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for a vote.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group chair.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the Design for Security Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on October 20, 1999.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–28011 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Draft Environmental Impact Statement/ Section 4(f) Evaluation for Proposal Development at Cleveland Hopkins International Airport, Cleveland, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of a draft environmental impact statement/4(f) evaluation.

SUMMARY: The Federal Aviation Administration (FAA) is making available the Draft Environmental Impact Statement (DEIS) which includes a Section 4(f) Evaluation for proposed development at Cleveland Hopkins International Airport, Cleveland, Ohio.

DATES AND ADDRESSES: Written comments will be accepted prior to Wednesday, December 29, 1999. Written comments may be sent to: Mr. Ernest Gubry, Community Planner, FAA Great Lakes Region, Detroit Airports District Office, Willow Run Airport, 8820 Beck Road, Belleville, MI 48111. Oral or written comments may also be given at a public hearing that will be held on Tuesday, November 30, 1999, 6 p.m. to 9 p.m. at the Olmsted Falls High School, Cafeteria, 26939 Bagley Road, Olmsted Falls, OH; and Wednesday, December 1, 1999, 6 p.m. to 9 p.m. at the Cleveland Airport Marriott Hotel, Grand Ballroom, 4277 West 150th St, Cleveland, OH.

POINT OF CONTACT: Mr. Ernest Gubry, Community Planner, FAA Great Lakes Region, Detroit Airports District Office, Willow Run Airport, 8820 Beck Road, Belleville, MI 48111.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) is making available the Draft Environment Impact Statement (DEIS) for the following proposed development: (a) The construction of a replacement 9,000-foot Runway 5L/23R with associated taxiway improvements; (b) the development of a 2,250-foot extension and shift to existing Runway 5R/23L to a length of 11,250 feet; (c) the Federal actions regarding installation of navigational aides, airspace use, and approach and departure procedures associated with the proposed development; (d) airport support facilities improvements to the terminal area; (e) airport support facilities improvements to the landside area (f) on- and off-airport roadway improvement projects; and (g) implementation of noise abatement measures recommended in the 1999 Part 150 Noise Compatibility Plan Update. A Draft Environmental Impact Statement (DEIS) and 4(f) Evaluation has been prepared and will be available for public review and comment. Section 4(f) of the Department of Transportation Act of 1966 has been recodified at 49 U.S.C., Subtitle I, Section 303 dated January 12, 1983. This document will be available 30 days prior to the Hearing during normal business hours at the following locations:

Eastman Branch Library, 11602 Lorain Avenue, Cleveland, OH 44111

Fairview Park Regional Library, 21255 Lorain Road, Cleveland, OH 44126

Parma Heights Library, 6206 Pearl Road, Cleveland, OH 44130

Bay Village Library, 502 Cahoon Road, Bay Village, OH 44140

Parma-Ridge Library, 5850 Ridge Road, Parma, OH 44129

West Park Branch Library 3805 W. 157th Street Cleveland, OH 44111

Berea Library, 7 Berea Commons, Berea, OH 44017

North Olmsted Library, 27425 Butternut Ridge Road, North Olmstead, OH 44070

Brook Park Library, 6155 Engle Road, Brook Park, OH 44142

Lakewood Branch, 15425 Detroit Avenue, Lakewood, OH 44107

Rockport Branch Library, 4421 W. 140th Street, Cleveland, OH 44135

Brooklyn Library, 4480 Ridge Road, Brooklyn, OH 44144

Rocky River Library, 1600 Hampton Road, Rocky River, OH 44116

Olmsted Falls Library, 7850 Main Street, Olmstead Falls, OH 44138

Westlake Library, 27333 Center Ridge Road, Westlake, OH 44145

The purpose of the Hearing is to consider the social, economic, and environmental effects of the proposed actions. During the hearing the public will be given an opportunity to present oral and/or written comments for the public record. This hearing is being held pursuant to the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91–190) and other laws as applicable. Additionally, prior to Wednesday, December 29, 1999 written comments may be addressed to Mr. Ernest Gubry, Community Planner, FAA Great Lakes Region, Detroit Airports District Office, Willow Run Airport, and 8820 Beck Road, Belleville, MI 48111.

Issued in Detroit Michigan October 19, 1999.

Robert H Allen,

Acting Manager, Detroit Airport District Office.

[FR Doc. 99–28012 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99–04–C–00–CPR) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Natrona County International Airport, Submitted by the County of Natrona, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Natrona County International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before November 26, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dan E. Mann, Airport Manager, at the following address: Natrona County International Airport, 8500 Airport Parkway, Casper, Wyoming 82604. Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Natrona County International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. 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 (99–04–C–00–CPR) to impose and use the revenue from a PFC at Natrona County International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On October 20, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Natrona, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 20, 2000.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 2000.

Proposed charge expiration date: June 1, 2004.

Total requested for use approval: $539,352.00.

Brief description of proposed projects: Purchase snow removal equipment, Purchase 14 ft. loader/backhoe, Rehabilitate Runway 3/21, Airport terminal building assessment, Purchase 20 ft. runway sweeper.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington on October 20, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–28013 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lebanon County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the City of Lebanon, Lebanon County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

David W. Cough P.E., Director of Operations, Federal Highway Administration, Pennsylvania Division Office, 228 Walnut Street, Room 536, Harrisburg, Pennsylvania 17101–1720, Telephone: 717–221–3411,

or

Mark Malhenzie, Project Manager, Pennsylvania Department of Transportation, Engineering District 8–0, 2140 Herr Street, Harrisburg, Pennsylvania, 17103, Telephone: 717–783–5080.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will conduct a project Needs Analysis and Design Location Studies and will prepare an Environmental Impact Statement to evaluate alternatives which provide grade-separated access over a railroad corridor located in the City of Lebanon. The study area will extend from 12th Street to Lincoln Avenue. The railroad corridor is an active lien recently acquired by Norfolk Southern.

The railroad line is a high-density rail line with eight at-grade crossings through the City of Lebanon. There are no grade-separated crossing through the City causing long queues at the crossings which result in congestion and unacceptable delays for emergency service providers. The study offers the opportunity to provide grade-separated motorist, bicycle and pedestrian crossings and eliminate some at-grade crossings. Potential impacts to the environment include cultural resources and residential and business displacements.

The initial stage of this process is for scoping, documentation of the project need, and development of conceptual alignment corridors. This stage of the study will culminate in a Needs Analysis Report.

A range of conceptual alignment corridors will be developed and examined within the context of the identified project needs, environmental and socioeconomic constraints, and public input, as well as their consistency with County and municipal plans and policies. Alternatives to be examined will include the No-Build Alternative. This analysis will be used to refine the alternatives or eliminate a particular alternative from further consideration due to the potential for socio-economic, environmental, or engineering impacts. This stage of the study will result in a Preliminary Alternatives Analysis Report.

Following the preliminary analysis, the alternatives which are recommended for further study will be developed in greater detail and the environmental impacts for each will be assessed and described in the Environmental Impact Statement.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who express an interest in the proposal. Agency scoping and public meetings will be initiated in Fall 1999. Public involvement and inter-agency coordination will be maintained throughout the development of the study. Public notices of the time and place of the public meetings and any required public hearings will be provided.

To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or PennDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 19, 1999.

David W. Cough,

Director of Operations, Harrisburg, Pennsylvania.

[FR Doc. 99–28052 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–99–6397]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Walter Culbreath, NHTSA 400 Seventh Street, SW, Room 6132, NSC–01,Washington, DC 20590. Mr. Culbreath's telephone number is (202) 366–1566. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in

such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond,

including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) Title: Designation of Agent.

OMB Control Number: 2127–0040.

Type of Request: Extension of a previously approved collection.

Affected Public: Business.

Abstract: The U.S. agent is used to advise foreign manufacturers of safety related defects where laws vary from country to country. In turn, the manufacturer can notify U.S. purchasers and correct the defect.

Estimated Annual Burden: 1470.

Number of Respondents: 70.

(2) Title: 49 CFR part 575 Consumer Information Regulations (Sections 103 and 105).

OMB Control Number: 2127–0049.

Type of Request: Extension of a previously approved collection.

Affected Public: Individuals or households and business.

Abstract: In order to ensure that motor vehicle manufacturers are complying with 49 CFR Part 575, NHTSA needs consumer information from manufacturers of new light trucks and utility vehicles before this information is distributed to prospective purchasers and first purchasers of a vehicle. The manufacturers will provide technical information related to performance and safety of light trucks and utility vehicles.

Estimated Annual Burden: 225.

Number of Respondents: 15.

(3) Title: Motor Vehicle Importation.

OMB Control Number: 2127–0002.

Type of Request: Extension of a previously approved collection.

Form Number: Form HS–7 and Form HS–474.

Affected Public: Business.

Abstract: These forms are required to implement 49 CFR parts 591 and 592, Regulations for Motor Vehicle Importation which require an imported vehicle to conform to applicable Federal Motor Vehicle Safety Standards, or to be brought into compliance within 120 days of importation.

Estimated Annual Burden: 72,500.

Number of Respondents: 838,000.

(4) Title: National Accident Sampling System (NASS) Crashworthiness Data System (CDS).

OMB Control Number: 2127–0021.

Type of Request: Extension of a previously approved collection.

Affected Public: Individuals or households.

Abstract: NASS investigates high severity crashes. This includes interviewing occupants and witness, inspecting crash scenes and vehicles, and obtaining medical records. The data is used in programs to prevent accidents and to reduce injuries when crashes occur.

Estimated Annual Burden: 0.

Number of Respondents: 13,500.

(5) Title: Nationwide Survey Regarding Speeding and Other Unsafe Driving Actions.

OMB Control Number: 2127–0587.

Type of Request: Extension of a previously approved collection.

Affected Public: Individuals or households.

Abstract: NHTSA is committed to the development of effective programs to reduce the number of deaths and injuries related to speeding and other unsafe driving. The objective of this study is to develop and implement a nationwide survey of the driving public to determine: the characteristics of drivers who speed and do not obey traffic signals or stop signs; the situations and driver motivations that accompany these unsafe behaviors; the public's attitudes regarding speed limits, including the NMSL, and the enforcement of these limits; and countermeasures the public would support to reduce the occurrence of these unsafe driving actions.

Estimated Annual Burden: 0.

Number of Respondents: 6,000.

(6) Title: 23 CFR part 1313 Certification Requirements for State Grants for Drunk Driving Prevention Programs.

OMB Control Number: 2127–0501.

Type of Request: Extension of a previously approved collection.

Affected Public: State, Local or Government.

Abstract: Title 23 of the U.S. Code established a Federal alcohol incentive grant program designed to encourage States to enact strong, effective anti-drunk driving legislation and improve the enforcement of these laws. Section 410 also promotes the development and implementation of innovative programs to combat impaired driving. The program is administered by the NHTSA. Grants are awarded to the states through their designated Highway Safety offices.

Estimated Annual Burden: 2340.

Number of Respondents: 52.

(7) Title: 49 CFR 571.213, '' Child Restraint Systems''.

OMB Control Number: 2127–0511.

Type of Request: Extension of a previously approved collection.

Affected Public: Business.

Abstract: Manufacturers are required to provide each child restraint with a permanently attached label, an instruction brochure which gives the model, manufacturer's name, date of manufacture, certification that the seat conforms to FVSS No. 213, and owner's name and address for registration of child restraints and use in case of a recall.

Estimated Annual Burden: 63,000.

Number of Respondents: 15.

Issued on October 22, 1999.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 99–28055 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33812]

Arizona & California Railroad Company Limited Partnership d/b/a Puget Sound & Pacific Railroad—Modified Rail Certificate

On October 12, 1999, Arizona & California Railroad Company Limited Partnership (ARZC) d/b/a Puget Sound & Pacific Railroad (PS&P) (collectively, ARZC d/b/a PS&P) [1] filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate 10 miles of a rail line extending from milepost 0.0 in Chehalis to milepost 10.0 in Curtis, in Lewis County, WA.

An exemption to abandon the line was granted to Curtis Milburn & Eastern Railroad Company (CMER) in *Curtis Milburn & Eastern Railroad Company—Abandonment Exemption—In Lewis County, WA*, Docket No. AB–378X (ICC

[1] ARZC is an existing Class III rail carrier, and PS&P is an operating division of ARZC.

served Jan. 19, 1993).[2] The Port of Chehalis (the Port), a municipal corporation of the State of Washington, subsequently acquired the line. On October 1, 1999, ARZC d/b/a PS&P and the Port executed the Agreement, which governs the rail operations to be conducted by ARZC d/b/a PS&P in Lewis County. Rail freight operations over the line were to commence on or after October 18, 1999.

The line's only interline connection is with Tacoma & Eastern Railway Co. (Tacoma), at milepost 0.0 (Tacoma milepost 67.0). ARZC d/b/a PS&P anticipates acquiring reciprocal overhead trackage rights over 1 mile of Tacoma's line so that it can connect with The Burlington Northern and Santa Fe Railroad Company (BNSF)[3] in Chehalis.[4]

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

ARZC d/b/a PS&P indicates that no subsidy is involved and that there are no preconditions for shippers to meet in order to receive rail service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, NW, Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 1120 G Street, NW, Suite 520, Washington, DC 20005.

Decided: October 19, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–27779 Filed 10–26–99; 8:45 am]

BILLING CODE 4915–00–P

[2] Based on CMER's petition for exemption, the decision describes the line as an 11-mile line of railroad between milepost 0.0 at CM&E Junction, WA, and milepost 10.0 near Curtis, WA. According to the instant notice, milepost 0.0 at CM&E Junction and milepost 0.0 in Chehalis refer to the same location. The Railroad Right of Way Use and Track Agreement (the Agreement), attached to the notice as Exhibit A, describes the line as approximately 10 miles of rail line. The mileage discrepancy is not explained, but the line description as a whole is unambiguous.

[3] Although the Agreement indicates that ARZC d/b/a PS&P will use these trackage rights to connect with the Union Pacific Railway Company in addition to BNSF, ARZC d/b/a PS&P anticipates that the trackage rights agreement it negotiates with Tacoma will provide ARZC d/b/a PS&P only with access to BNSF.

[4] Prior to operating over Tacoma's line via the overhead trackage rights, ARZC d/b/a PS&P states that it will obtain any necessary regulatory authority from the Board.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 155X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Oconee County, SC

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 1.26 miles of its line of railroad between milepost Z–42.6 at West Union and milepost Z–43.86 at Walhalla, in Oconee County, SC. The lines traverses United States Postal Service Zip Code 29691.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past 2 years and any overhead traffic could be rerouted over other lines; (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 November 26, 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 November 8, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 16, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 1, 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), NS 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 NS's filing of a notice of consummation by October 27, 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: October 18, 1999.

[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.(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–27780 Filed 10–26–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–57 (Sub-No. 49X)]

Soo Line Railroad Company—Abandonment Exemption—in MacIntosh County, ND

Soo Line Railroad Company (Soo) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 19.0+/−mile portion of its line of railroad known as the Pollack Line between milepost 342.0+/−near Wishek and milepost 361.0+/−at the end of track near Ashley, in MacIntosh County, ND. The line traverses United States Postal Service Zip Codes 58495 and 58413.

Soo has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (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 November 26, 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 November 8, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 16, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Diane P. Gerth, Esq., Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Soo has filed an environmental report which addresses the effects of the abandonment, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 1, 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), Soo 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 Soo's filing of a notice of consummation by October 27, 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: October 19, 1999.

[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).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–27778 Filed 10–26–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Bureau of Transportation Statistics, 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 June 10, 1999 (FR 64, pages 31345–31346).

DATES: Comments must be submitted on or before November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Reporting Required for International Civil Aviation Organization.

Type of Request: Extension of a currently approved Collection.

OMB Control Number: 2138–0039.

Form(s): BTS Form EF.

Affected Public: Large Certificated Air Carriers.

Abstract: BTS collects aviation data for the International Civil Aviation Organization (ICAO) to fulfill a United States treaty obligation. Most of the data supplied to ICAO is extracted by the Office of Airline Information from its Form 41 data base. However, carriers that provide international service are required to submit a couple of additional cost items which are not reported on the carriers Form 41 Report.

Estimated Annual Burden Hours: 16 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and

Budget, 725–17th Street, NW. Washington, DC 20503, Attention BTS 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 October 21, 1999.

Timothy E. Carmody,

Director, Office of Airline Information.

[FR Doc. 99–28003 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Bureau of Transportation Statistics, 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 June 10, 1999 (64 FR 31345).

DATES: Comments must be submitted on or before November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Submission of Audit Reports, Part 248.

Type of Request: Extension of a currently approved Collection.

OMB Control Number: 2138–0004.

Form(s): None.

Affected Public: Certificated Air Carriers.

Abstract: BTS collects independent audited financial reports from U.S. certificated air carriers. Carriers not having an annual audit must file a statement that no such audit has been performed. In lieu of the audit report, the Department will accept the annual report submitted to the stockholders. The audited reports are needed by DOT as (a) a means to monitor an air carrier's continuing fitness to operate, (b) reference material used by analysts in examining foreign route cases, (c) reference material used by analysts in examining proposed acquisitions, mergers, and consolidations, (d) a means whereby the Department sends a copy of the report to International Civil Aviation Organization (ICAO) in fulfillment of a U.S. treaty obligation, and (e) corroboration of carriers' Form 41 filings.

Estimated Annual Burden Hours: 21 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention BTS 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 October 21, 1999.

Timothy E. Carmody,

Director, Office of Airline Information.

[FR Doc. 99–28005 Filed 10–26–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on two information collections that are due for renewed approval by the Office of Management and Budget. The Office of Program Services within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BL–2/BL–2(SA), Custody Liabilities of Reporting Banks, Brokers and Dealers to Foreigners, Denominated in Dollars; and Treasury International Capital Form BQ–2, Part 1: Liabilities to, and Claims on, Foreigners of Reporting Bank, Broker or Dealer, and Part 2: Domestic Customers' Claims on Foreigners Held by Reporting Bank, Broker or Dealer, Denominated in Foreign Currencies.

DATES: Written comments should be received on or before December 27, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, Administrator, International Portfolio Investment Data Systems, Department of the Treasury, Room 5205 MT, 1500 Pennsylvania Avenue NW, Washington DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Dwight Wolkow, Administrator, International Portfolio Investment Data Systems, Department of the Treasury, Room 5205 MT, 1500 Pennsylvania Avenue NW, Washington DC 20220, (202) 622–1276, Fax (202) 622–7448.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BL–2/BL–2(SA), Custody Liabilities of Reporting Banks, Brokers and Dealers to Foreigners, Denominated in Dollars; and Treasury International Capital Form BQ–2, Part 1: Liabilities to, and Claims on, Foreigners of Reporting Bank, Broker or Dealer, and Part 2: Domestic Customers' Claims on Foreigners Held by Reporting Bank, Broker or Dealer, Denominated in Foreign Currencies.

OMB Numbers: 1505–0018 and 1505–0020.

Abstracts: Forms BL–2/BL–2(SA) and BQ–2 are required by law (22 U.S.C. 286f; 22 U.S.C. 3103; EO 10033; 31 CFR 128) and are designed to collect timely information on international portfolio capital movements. Form BL–2 is a monthly report (with a semiannual supplement) that covers the U.S. dollar custody liabilities of banks, other depository institutions, brokers and dealers, *vis-à-vis* foreign residents. Form BQ–2 is a quarterly report that covers the liabilities to and claims on foreigners of banks, brokers and dealers, and the custody claims on foreigners of banks, brokers and dealers, that are denominated in foreign currencies. This information is necessary for compiling

the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: No changes to reporting requirements for either form are proposed at this time.

Type of Review: Extensions.

Affected Public: Business or other for-profit.

Form BL–2/BL–2(SA) (1505–0018)

Estimated Number of Respondents: 125.

Estimated Average Time per Respondent: Five (5) hours per respondent per filing.

Estimated Total Annual Burden Hours: 7,500 hours, based on twelve reporting periods per year.

Form BQ–2 (1505–0020)

Estimated Number of Respondents: 200.

Estimated Average Time per Respondent: Four (4) hours per respondent per filing.

Estimated Total Annual Burden Hours: 3,200 hours, based on four reporting periods per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether Forms BL–2/BL–2(SA) and BQ–2 are necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; ways to enhance the quality, usefulness, and clarity of the information to be collected; ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and estimates of capital or start-up costs of operation, maintenance, and purchases of services to provide information.

Dated: October 21, 1999.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 99–27994 Filed 10–26–99; 8:45 am]

BILLING CODE 4810–25–M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Notice; Notice of Meeting

The Board of Trustees of the Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation will hold a meeting beginning at 8:00 a.m. on Wednesday, November 10, 1999 at the offices of the U.S. Institute for Environmental Conflict Resolution, 110 South Church, Ste. 3350, Tucson, AZ 85701.

The matters to be considered will include (1) A report on the U.S. Institute of Environmental Conflict Resolution; and (2) A report from the Udall Center for Studies and Public Policy; (3) Fiscal Year 2000 Budget Approval; and (4) Program Reports. The meeting is open to the public.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, 110 South Church, Ste. 3350, Tucson, Arizona 85701. Telephone: (520) 670–5608.

Dated this 20th day of October, 1999.

Christopher L. Helms,

Contact Person.

[FR Doc 99–28141 Filed 10–25–99; 12:55 pm]

BILLING CODE 6820–FN–M

federal register

Wednesday
October 27, 1999

Part II

Emergency Steel Guarantee Loan Board

13 CFR Chapter IV

Emergency Steel Guarantee Loan Program; Final Rule

EMERGENCY STEEL GUARANTEE LOAN BOARD

13 CFR Chapter IV

RIN 3004–ZA00

Emergency Steel Guarantee Loan Program

AGENCY: Emergency Steel Guarantee Loan Board.

ACTION: Final rule.

SUMMARY: On August 17, 1999, President Clinton signed into law an act providing authority for guarantees of loans to qualified steel and iron ore companies and to qualified oil and gas companies. Chapter 1 of the Emergency Steel Loan Guarantee Act of 1999 (''Act''), established the Emergency Steel Guarantee Loan Program (''Program'') for guaranteeing loans made by private sector lending institutions to qualified steel and iron ore companies. The Act established the Emergency Steel Guarantee Loan Board (''Board''), composed of the Chairman of the Board of Governors of the Federal Reserve System, as Chairman of the Board, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission. The Board has certain responsibilities under the law, including the issuance of necessary rules. The Department of Commerce was appropriated funds to implement and administer the Program. These regulations have been approved by the Board, and are being issued to implement the Program.

DATES: This rule is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Executive Director, Steel Guarantee Loan Board, U.S. Department of Commerce, Washington DC 20230, (202) 482–6151.

SUPPLEMENTARY INFORMATION:

Background

The Program will provide guarantees for up to $1 billion in loans to qualified steel and iron ore companies. These loans will be made by private sector lenders, with the Federal Government providing a guarantee for up to 85 percent of the amount of the principal of the loan. The Board, composed of the Chairman of the Board of Governors of the Federal Reserve System, who will serve as Chairman of the Board, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission, will oversee the Program. The Board will select an Executive Director, a Secretary, and a General Counsel to oversee day-to-day operations of the Program.

A loan guarantee may be issued upon application to the Board by a private banking or investment institution which has committed to enter into an agreement to provide a loan to a qualified steel company. A qualified steel company is defined in the Act to mean any company that: (A) Is incorporated under the laws of any State; (B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and (C) has experienced layoffs, production losses, or financial losses since January 1998 or that operates substantial assets of a company that meets these qualifications. An iron ore company incorporated under the laws of any State will be treated as a qualified steel company for purposes of the Program.

In order to guarantee a loan to a qualified steel company, the Board must make certain determinations. The Board must determine that credit is not otherwise available to a qualified steel company under reasonable terms or conditions sufficient to meet its financing needs. Next, the prospective earning power of that company, together with the character and value of the security pledged, must furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms. In addition, the loan to be guaranteed must bear interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan. Further the company must agree to an audit by the General Accounting Office, or its designee, and an independent auditor acceptable to the Board, prior to the issuance of the Guarantee and annually thereafter while such guarantee is outstanding. In addition, audited financial statements are required to be submitted with an application. Finally, in the case of a purchaser of substantial assets of a qualified steel company, the Board must find that the company is unable to reorganize itself.

The Act established several conditions applicable to each loan guarantee issued by the Board. All loans guaranteed under this Program must be paid in full not later than December 31, 2005. The guarantee level may not exceed 85 percent of the amount of principal of the loan. The aggregate amount of loans guaranteed and outstanding at any one time under this Program may not exceed $1 billion, and the aggregate amount of loans guaranteed under this Program with respect to a single qualified steel company may not exceed $250 million. Of the $1 billion aggregate amount of loans authorized to be guaranteed and outstanding at any one time under the Program, not more than $30 million will be loans made to iron ore companies. A qualified steel company receiving a guarantee under this section will be required to pay a fee in the amount of 0.5 percent of the principal of the loan to the Department of the Treasury to cover the costs of the Program payable within one year from the issuance of the guarantee. Finally, the terms and conditions of each guaranteed loan must provide that the loan may not be amended, and that no provision of the loan documents or the guarantee agreement can be waived, without the prior written consent of the Board.

In the Act, Congress appropriated $140 million for the cost of the loans guaranteed. The Board will consider applications and award guarantees under the Program in accordance with the appropriated funding.

Public Meeting

To receive public input regarding operation of the Program, the Board held a public meeting on September 22, 1999, at the Department of Commerce. The meeting consisted of parties presenting oral statements to staff of the Department of Commerce, the Federal Reserve Board, and the Securities and Exchange Commission. Oral statements addressed issues and made suggestions regarding implementation of the Program. Thirteen parties, representing steel companies, presented oral testimony at the meeting. In addition to oral statements presented at the meeting, written comments were submitted by interested parties. All comments were considered in promulgating these rules.

Description of Regulation

The Board's regulations are divided into three subparts. Subpart A sets out the purpose of the rules and contains definitions of terms used in the other subparts. Subpart B contains rules regarding the Board's organization, staffing, rules of procedure, and procedures for public access to the Board's records. The Board will establish an official staff consisting of an Executive Director, General Counsel, and Secretary, with the respective responsibilities set out in Subpart B.

The Board may delegate to its official staff authority to take certain actions, subject to such terms and conditions as the Board deems appropriate. The Board may employ additional staff or outside consultants as it deems necessary to carry out its functions in accordance with the Act.

Subpart C sets out the eligibility requirements for lenders and borrowers under the Program, general loan terms, fees, and restrictions on assignment and transfer of loans guaranteed under the Program. In addition, Subpart C describes the process by which eligible lenders can submit applications for loan guarantees to the Board and the Board's procedures for processing and evaluating the applications in order to select the loans that will be granted guarantees. Finally, Subpart C sets out some of the Lender's responsibilities in originating and administering a guaranteed loan and the events and conditions that could cause the Board to terminate the guarantee in whole or in part.

The Act directs the Board to act on applications for loan guarantees as soon as possible. In addition, the Board must implement the Program within the appropriated funding provided by the Act and, thus, must ensure that it grants guarantees to the loans that it determines best meet the Program's evaluation criteria. In view of these and other considerations, the Board has determined to create an application ''window'' during which applicants must submit their loan guarantee applications. The window will run from the date these rules are published in the **Federal Register** until December 30, 1999.

Each application package received by the Board during this window will be screened to confirm that it meets all of the Program's eligibility requirements as set out in the applicable regulations and application forms. Application packages that do not meet the Program's eligibility requirements will not be considered for a loan guarantee. The Board will compare the eligible applications on a competitive basis and offer guarantees to those applications that it determines best meet the Program's evaluation criteria. As discussed in more detail in Subpart C, the Program's evaluation criteria include the ability of the Borrower to repay the loan according to its terms, the protection provided by the proposal to the Government in the event of default (including sufficiency of collateral, lien position, and percentage of guarantee requested), and the adequacy of the Lender's loan underwriting analysis. Since the accelerated schedule does not provide time for the Board to negotiate with individual applicants and the Board's selection process will be on a competitive basis, it is in each applicant's best interest to provide, at the outset, a thorough proposal that ranks as high as possible on each of the Program's evaluation criteria. For example, applicants should request the lowest guarantee percentage practicable for their proposals at the outset. In addition, applications giving the government a higher security position on higher quality collateral will be given preference over those that provide a lesser level of security. Failure to do so could reduce the likelihood that the application will be selected to receive a guarantee.

Administrative Law Requirements

Executive Order 12866

This final rule has been determined to be a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

Administrative Procedure Act

This rule is exempt from the rulemaking requirements contained in 5 U.S.C. 553 pursuant to authority contained in 5 U.S.C. 553(a)(2) as it involves a matter relating to loans. As such, prior notice and an opportunity for public comment and a delay in effective date otherwise required under 5 U.S.C. 553 are inapplicable to this rule.

Paperwork Reduction Act

The Board will submit to the Office of Management and Budget, for clearance under the Paperwork Reduction Act, a package containing the necessary forms and documentation for participation in this Program.

Regulatory Flexibility Act

Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Congressional Review Act

This rule has been determined to be a major rule for purposes of the Congressional Review Act, 5 U.S.C. 801 *et seq.* The Congressional Review Act requires that major rules have their effective date delayed 60 days while Congress has the opportunity to review the rule. While there are certain exemptions to this delayed effective date requirement, the Board has determined that none are applicable to this rule.

Intergovernmental Review

No intergovernmental consultation with state and local officials is required because the rule is not subject to the provisions of Executive Order 12372 or Executive Order 12875.

National Environmental Policy Act

The Board determined that this Program does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, Public Law 91–190 (NEPA), an Environmental Impact Statement is not required. Loans sought to be guaranteed under the Program will be assessed individually to determine appropriate compliance with NEPA.

Unfunded Mandate Reform Act of 1995

This rule contains no Federal mandates, as that term is defined in the Unfunded Mandates Reform Act, on State, local and tribal governments or the private sector.

Executive Order 12612

This rule does not contain policies having federalism implications requiring preparation of a Federalism Assessment.

Executive Order 12630

This rule does not contain policies that have takings implications.

Programs Affected

There is no Catalog of Federal Domestic Assistance listing for the Emergency Steel Loan Guarantee Program.

List of Subjects in 13 CFR Part 400

Administrative practice and procedure, Freedom of Information, Loan programs—Steel, Reporting and recordkeeping requirements.

Dated: October 18, 1999.

Jonathan Orszag,

Acting Executive Director, Emergency Steel Loan Guarantee Board.

For the reasons set out in the preamble, 13 CFR Chapter IV is established to read as follows:

CHAPTER IV—EMERGENCY STEEL GUARANTEE LOAN BOARD

PART 400—EMERGENCY STEEL GUARANTEE LOAN PROGRAM

Sec.

Subpart A—General

400.1 Purpose.
400.2 Definitions.

Subpart B—Board Procedures

400.100 Purpose and scope.
400.101 Composition of the Board.
400.102 Authority of the Board.
400.103 Offices.
400.104 Meetings and actions of the Board.
400.105 Staff.
400.106 Ex parte communications.
400.107 Freedom of Information Act.
400.108 Restrictions on lobbying.
400.109 Government-wide debarment and suspension (nonprocurement).
400.110 Amendments.

Subpart C—Steel Guarantee Loans

400.200 Eligible Borrower.
400.201 Eligible Lender.
400.202 Loan amount.
400.203 Guarantee percentage.
400.204 Loan terms.
400.205 Application process.
400.206 Environmental requirements.
400.207 Application evaluation.
400.208 Issuance of the Guarantee.
400.209 Funding for the Program.
400.210 Assignment or transfer of loans.
400.211 Lender responsibilities.
400.212 Liquidation.
400.213 Termination of Guarantee.
400.214 OMB control number.

Authority: Pub. L. 106–51, 113 Stat. 252 (15 U.S.C. 1841 note).

Subpart A—General

§ 400.1 Purpose.

This part is issued by the Emergency Steel Guarantee Loan Board pursuant to section 552 of title 5 of the United States Code and the Emergency Steel Loan Guarantee Act of 1999, Chapter 1 of Public Law 106–51. This part contains rules for making and servicing loans to qualified steel and iron ore companies guaranteed by the Board.

§ 400.2 Definitions.

(a) *Act* means the Emergency Steel Loan Guarantee Act of 1999, Chapter 1 of Public Law 106–51.

(b) *Administer, administering and administration*, mean the Lender's actions in making, disbursing, servicing (including, but not limited to care, preservation and maintenance of collateral), collecting and liquidating a loan and security.

(c) *Applicant* means the private banking or investment institution applying for a loan guarantee under this part.

(d) *Board* means the Emergency Steel Guarantee Loan Board.

(e) *Borrower* means a Qualified Steel Company which could receive a loan guaranteed by the Board under this Program.

(f) *Guarantee* means the written agreement between the Board and the Lender, and approved by the Borrower, pursuant to which the Board guarantees repayment of a specified percentage of the principal of the loan, including the Special Terms and Conditions, the General Terms and Conditions, and all exhibits thereto.

(g) *Lender* means a private banking or investment institution that is eligible pursuant to § 400.201.

(h) *Loan Documents* mean the loan agreement and all other instruments, and all documentation between the Lender and the Borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of the loan.

(i) *Program* means the Emergency Steel Guarantee Loan Program established by the Act.

(j) *Security* means all property, real or personal, required by the provisions of the Guarantee or by the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents or Guarantee.

(k) *Qualified Steel Company* means a company that is incorporated under the laws of any State; is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and has experienced layoffs, production losses, or financial losses since January 1, 1998. An iron ore company incorporated under the law of any state is considered a Qualified Steel Company for purposes of the Program.

Subpart B—Board Procedures

§ 400.100 Purpose and scope.

This subpart describes the Board's authorities and organizational structure, the means and rules by which the Board takes actions, and procedures for public access to Board records.

§ 400.101 Composition of the Board.

The Board consists of the Chairman of the Board of Governors of the Federal Reserve System, who acts as Chairman of the Board, the Chairman of the Securities and Exchange Commission, and the Secretary of Commerce.

§ 400.102 Authority of the Board.

Pursuant to the provisions of the Act, the Board is authorized to guarantee loans provided to Qualified Steel Companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board, to make the determinations authorized by the Act, and to take such other actions as necessary to carry out its functions in accordance with the Act.

§ 400.103 Offices.

The principal offices of the Board are in the U.S. Department of Commerce, Washington, DC 20230.

§ 400.104 Meetings and actions of the Board.

(a) *Place and frequency.* The Board meets, on the call of the Chairman, in order to consider matters requiring action by the Board. Time and place for any such meeting shall be determined by the members of the Board.

(b) *Quorum and voting.* Two voting members of the Board constitute a quorum for the transaction of business. All decisions and determinations of the Board shall be made by a majority vote of the voting members. All votes on determinations of the Board required by the Act shall be recorded in the minutes. A Board member may request that any vote be recorded according to individual Board members.

(c) *Agenda of meetings.* To the extent practicable, an agenda for each meeting shall be distributed to members of the Board at least two days in advance of the date of the meeting, together with copies of materials relevant to the agenda items.

(d) *Minutes.* The Secretary of the Board shall keep minutes of each Board meeting and of action taken without a meeting, a draft of which is to be distributed to each member of the Board as soon as practicable after each meeting or action. To the extent practicable, the minutes of a Board meeting shall be corrected and approved at the next meeting of the Board.

(e) *Use of conference call communications equipment.* Any member may participate in a meeting of the Board through the use of conference call, telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously speak to and hear each other. Any member so participating in a meeting shall be deemed present for all purposes. Actions taken by the Board at meetings conducted through the use of such equipment, including the votes of each member, shall be recorded in the usual manner in the minutes of the meetings of the Board.

(f) *Actions between meetings.* When, in the judgment of the Chairman, circumstances occur making it desirable for the Board to consider action when it is not feasible to call a meeting, the relevant information and recommendations for action may be transmitted to the members by the Secretary of the Board and the voting members may communicate their votes to the Chairman in writing (including an

action signed in counterpart by each Board member), electronically, or orally (including telephone communication). Any action taken under this paragraph has the same effect as an action taken at a meeting. Any such action shall be recorded in the minutes.

(g) *Delegations of authority.* The Board may delegate authority, subject to such terms and conditions as the Board deems appropriate, to the Executive Director, the General Counsel, or the Secretary of the Board, to take certain actions not required by the Act to be taken by the Board. All delegations shall be made pursuant to resolutions of the Board and recorded in writing, whether in the minutes of a meeting or otherwise. Any action taken pursuant to delegated authority has the effect of an action taken by the Board.

§ 400.105 Staff.

(a) *Executive Director.* The Executive Director of the Board advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's actions, directs the activities of the staff, and performs such other duties as the Board may require.

(b) *General Counsel.* The General Counsel of the Board provides legal advice relating to the responsibilities of the Board and performs such other duties as the Board may require.

(c) *Secretary of the Board.* The Secretary of the Board sends notice of all meetings, prepares minutes of all meetings, maintains a complete record of all votes and actions taken by the Board, has custody of all records of the Board and performs such other duties as the Board may require.

§ 400.106 Ex parte communications.

Oral or written communication, not on the public record, between the Board, or any member of the Board, and any party or parties interested in any matter pending before the Board concerning the substance of that matter is prohibited. This section also applies to the Board's staff and employees of the constituent agencies who are or reasonably may be expected to be involved in the decisional process of the matter pending before the Board.

§ 400.107 Freedom of Information Act.

(a) *Definitions.* All terms used in this section which are defined in 5 U.S.C. 551 or 5 U.S.C. 552 shall have the same meaning in this section. In addition the following definitions apply to this section:

(1) *FOIA,* as used in this section, means the ''Freedom of Information Act,'' as amended, 5 U.S.C. 552.

(2) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(3) *Direct costs* mean those expenditures that the Board actually incurs in searching for, reviewing, and duplicating documents in response to a request made under paragraph (c) of this section. Direct costs include, for example, the labor costs of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits). Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(4) *Duplication* means the process of making a copy of a document in response to a request for disclosure of records or for inspection of original records that contain exempt material or that otherwise cannot be inspected directly. Among others, such copies may take the form of paper, microfilm, audiovisual materials, or machine-readable documentation (*e.g.,* magnetic tape or disk).

(5) *Educational institution* means a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, graduate higher education, professional education, or an institution of vocational education that operates a program of scholarly research.

(6) *Noncommercial scientific institution* refers to an institution that is not operated on a ''commercial'' basis (as that term is used in this section) and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(7) *News* means information about current events or that would be of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of newspapers and other periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. ''Freelance'' journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(8) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the general public.

(9) *Review* means the process of examining documents, located in response to a request for access, to determine whether any portion of a document is exempt information. It includes doing all that is necessary to excise the documents and otherwise to prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(10) *Search* means the process of looking for material that is responsive to a request, including page-by-page or line-by-line identification within documents. Searches may be done manually or by computer.

(b) *Records available for public inspection and copying.*—(1) *Types of records made available.* The information in this section is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information FOIA, as amended (5 U.S.C. 552)(FOIA). This section sets forth the procedures the Board follows to make publicly available the materials specified in 5 U.S.C. 552(a)(2). These materials shall be made available for inspection and copying at the Board's Freedom of Information Office pursuant to 5 U.S.C. 552(a)(2). Information routinely provided to the public as part of a regular Board activity (for example, press releases) may be provided to the public without following this section.

(2) *Reading room procedures.* Information available under this section is available for inspection and copying, from 9:00 a.m. to 5:00 p.m. weekdays, at the Freedom of Information Office of the Board, Steel Guarantee Loan Board, U.S. Department of Commerce, Washington, DC 20230.

(3) *Electronic records.* Information available under this section that was created on or after November 1, 1996, shall also be available on the Board's website, found at www.doc.gov

(c) *Records available to the public on request.*—(1) *Types of records made available.* All records of the Board that are not available under paragraph (b) of this section shall be made available upon request, pursuant to the procedures in this section and the exceptions set forth in the FOIA. The Board's policy is to make discretionary disclosures of records or information exempt from disclosure under the FOIA whenever disclosure would not

foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(2) *Procedures for requesting records.* A request for records shall reasonably describe the records in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or significantly interfering with any of the Board's operations. The request shall be submitted in writing to the Secretary of the Board, Steel Guarantee Loan Board, U.S. Department of Commerce, Washington, DC 20230; or sent by facsimile to the Secretary of the Board. The request shall be clearly marked *FREEDOM OF INFORMATION ACT REQUEST*.

(3) *Contents of request.* The request shall contain the following information:

(i) The name and address of the requester, and the telephone number at which the requester can be reached during normal business hours;

(ii) Whether the requested information is intended for commercial use, or whether the requester represents an educational or noncommercial scientific institution, or news media;

(iii) A statement agreeing to pay the applicable fees, or a statement identifying any fee limitation desired, or a request for a waiver or reduction of fees that satisfies paragraph (f) of this section.

(d) *Processing requests.*—(1) *Priority of responses.* The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency, is the date the Secretary of the Board actually receives the request. The Secretary of the Board shall normally process requests in the order they are received. However, in the Secretary of the Board's discretion, the Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (d)(2), of this section. When using multitrack processing, the Secretary of the Board may provide requesters in the slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. The Secretary of the Board shall contact the requester by telephone or by letter, whichever is most efficient in each case.

(2) *Expedited processing.* (i) A person may request expedited access to records by submitting a statement, certified to be true and correct to the best of that person's knowledge and belief, that demonstrates a compelling need for the records, as defined in 5 U.S.C. 552(a)(6)(E)(v).

(ii) The Secretary of the Board shall notify a requester of the determination whether to grant or deny a request for expedited processing within ten working days of receipt of the request. If the Secretary of the Board grants the request for expedited processing, the Board shall process the request for access to information as soon as practicable. If the Secretary of the Board denies a request for expedited processing, the requester may file an appeal pursuant to the procedures set forth in paragraph (e) of this section, and the Board shall respond to the appeal within twenty days after the appeal was received by the Board.

(3) *Time limits.* The time for response to requests shall be 20 working days, except:

(i) In the case of expedited treatment under paragraph (d)(2) of this section;

(ii) Where the running of such time is suspended for payment of fees pursuant to paragraph (f)(2)(ii) of this section;

(iii) Where the estimated charge is less than $250, and the requester does not guarantee payment pursuant to paragraph (f)(2)(i) of this section; or

(iv) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B)(iii), the time limit may be extended for a period of time not to exceed 10 working days as provided by written notice to the requester, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; or such alternative time period as mutually agreed to by the Secretary of the Board and the requester when the Secretary of the Board notifies the requester that the request cannot be processed in the specified time limit.

(4) *Response to request.* In response to a request that satisfies paragraph (c) of this section, an appropriate search shall be conducted of records in the custody and control of the Board on the date of receipt of the request, and a review made of any responsive information located. The Secretary of the Board shall notify the requester of:

(i) The Secretary of the Board's determination of the request and the reasons therefor;

(ii) The information withheld, and the basis for withholding; and

(iii) The right to appeal any denial or partial denial, pursuant to paragraph (e) of this section.

(5) *Referral to another agency.* To the extent a request covers documents that were created by, obtained from, classified by, or is in the primary interest of another agency, the Secretary of the Board may refer the request to that agency for a direct response by that agency and inform the requester promptly of the referral. The Secretary of the Board shall consult with another Federal agency before responding to a requester if the Board receives a request for a record in which:

(i) Another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or

(ii) Another Federal agency not subject to the FOIA has the primary interest or a significant interest. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it.

(6) *Providing responsive records.* (i) A copy of records or portions of records responsive to the request shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the requester elects to take delivery of the documents at the Board's Freedom of Information Office or makes other acceptable arrangements, or the Secretary of the Board deems it appropriate to send the documents by another means. The Secretary of the Board shall provide a copy of the record in any form or format requested if the record is readily reproducible in that form or format, but the Secretary of the Board need not provide more than one copy of any record to a requester.

(ii) The Secretary of the Board shall provide any reasonably segregable portion of a record that is responsive to the request after deleting those portions that are exempt under the FOIA or this section.

(iii) Except where disclosure is expressly prohibited by statute, regulation, or order, the Secretary of the Board may authorize the release of records that are exempt from mandatory disclosure whenever the Board or designated Board members determine that there would be no foreseeable harm in such disclosure.

(iv) The Board is not required in response to the request to create records or otherwise to prepare new records.

(7) *Prohibition against disclosure.* Except as provided in this part, no officer, employee, or agent of the Board shall disclose or permit the disclosure of any unpublished information of the Board to any person (other than Board officers, employees, or agents properly entitled to such information for the performance of official duties), unless required by law.

(e) *Appeals.* (1) Any person denied access to Board records requested under paragraph (c) of this section, denied expedited processing under paragraph (d) of this section, or denied a waiver of fees under paragraph (f) of this section

may file a written appeal within 30 calendar days after the date of such denial with the Board. The written appeal shall prominently display the phrase *FREEDOM OF INFORMATION ACT APPEAL* on the first page, and shall be addressed to the General Counsel of the Board, Steel Guarantee Loan Board, U.S. Department of Commerce, Washington, DC 20230; or sent by facsimile to the General Counsel of the Board. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the requested records should be made available and why the initial denial was in error.

(2) The General Counsel of the Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal, and the determination letter shall notify the appealing party of the right to seek judicial review in event of denial.

(f) *Fee schedules; waiver of fees.*—

(1) *Fee schedule.* The fees applicable to a request for records pursuant to paragraph (c) of this section are set forth in the uniform fee schedule at the end of this paragraph (f).

(i) *Search.* (A) Search fees shall be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (f)(1)(iv) of this section. The Secretary of the Board shall charge for time spent searching even if no responsive record is located or if the Secretary of the Board withholds the record(s) located as entirely exempt from disclosure.

Search fees shall be the direct costs of conducting the search by the involved employees.

(B) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (f)(3) of this section will be charged no search fee and certain other requesters (as provided in paragraph (f)(3)) are entitled to the cost equivalent of two hours of manual search time without charge. These direct costs include the costs, attributable to the search, of operating a central processing unit and operator/programmer salary.

(ii) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (f)(1)(iv) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be 15 cents per page. For copies produced by computer, such as tapes or printouts, the Secretary of the Board shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, the Secretary of the Board will charge the direct costs of that duplication.

(iii) *Review.* Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review—the review done when the Secretary of the Board determines whether an exemption applies to a particular record at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(iv) *Limitations on charging fees.* (A) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(B) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(C) Whenever a total fee calculated under this paragraph is $25 or less for any request, no fee will be charged.

(D) For requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $25.

(2) *Payment procedures.* All persons requesting records pursuant to paragraph (c) of this section shall pay the applicable fees before the Secretary of the Board sends copies of the requested records, unless a fee waiver has been granted pursuant to paragraph (f)(6) of this section. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(i) *Advance notification of fees.* If the estimated charges are likely to exceed $25, the Secretary of the Board shall notify the requester of the estimated amount, unless the requester has indicated a willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Secretary of the Board to reformulate the request to lower the costs. The processing of the request shall be suspended until the requester provides the Secretary of the Board with a written guarantee that payment will be made upon completion of the processing.

(ii) *Advance payment.* The Secretary of the Board shall require advance payment of any fee estimated to exceed $250. The Secretary of the Board shall also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. If an advance payment of an estimated fee exceeds the actual total fee by $1 or more, the difference shall be refunded to the requester. The time period for responding to requests under paragraph (d)(4) of this section, and the processing of the request shall be suspended until the Secretary of the Board receives the required payment.

(iii) *Late charges.* The Secretary of the Board may assess interest charges when fee payment is not made within 30 days of the date on which the billing was sent. Assessment of such interest will commence on the 31st day following the day on which the billing was sent. Interest is at the rate prescribed in 31 U.S.C. 3717.

(3) *Categories of uses.* The fees assessed depend upon the fee category. In determining which category is appropriate, the Secretary of the Board shall look to the identity of the requester and the intended use set forth in the request for records. Where a requester's description of the use is insufficient to make a determination, the Secretary of the Board may seek additional clarification before categorizing the request.

(i) *Commercial use requester.* The fees for search, duplication, and review apply when records are requested for commercial use.

(ii) *Educational, non-commercial scientific institutions, or representatives of the news media requesters.* The fees for duplication apply when records are not sought for commercial use, and the requester is a representative of the news media or an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research. The first 100 pages of duplication, however, will be provided free.

(iii) *All other requesters.* For all other requests, the fees for search and duplication apply. The first two hours of search time and the first 100 pages of duplication, however, will be provided free.

(4) *Nonproductive search.* Fees for search may be charged even if no responsive documents are found. Fees for search and review may be charged even if the request is denied.

(5) *Aggregated requests.* A requester may not file multiple requests at the same time, solely in order to avoid payment of fees. If the Secretary of the Board reasonably believes that a

requester is separating a request into a series of requests for the purpose of evading the assessment of fees or that several requesters appear to be acting together to submit multiple requests solely in order to avoid payment of fees, the Secretary of the Board may aggregate such requests and charge accordingly. It is considered reasonable for the Secretary of the Board to presume that multiple requests by one requester on the same topic made within a 30-day period have been made to avoid fees.

(6) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in under paragraph (d)(4) of this section, shall not begin until a determination has been made on the request for a waiver or reduction of fees.

(i) *Standards for determining waiver or reduction.* The Secretary of the Board may grant a waiver or reduction of fees where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government, and that the disclosure of information is not primarily in the commercial interest of the requester. In making this determination, the following factors shall be considered:

(A) Whether the subject of the records concerns the operations or activities of the government;

(B) Whether disclosure of the information is likely to contribute significantly to public understanding of government operations or activities;

(C) Whether the requester has the intention and ability to disseminate the information to the public;

(D) Whether the information is already in the public domain;

(E) Whether the requester has a commercial interest that would be furthered by the disclosure; and, if so,

(F) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(ii) *Contents of request for waiver.* A request for a waiver or reduction of fees shall include a clear statement of how the request satisfies the criteria set forth in paragraph (f)(6)(i) of this section.

(iii) *Burden of proof.* The burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(iv) *Determination by Secretary of the Board.* The Secretary of the Board shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Board in accordance with paragraph (e) of this section.

(7) *Uniform fee schedule.*

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search.	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction.	$.15 per page
(B) Other reproduction (*e.g.,* computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (includes preparation for release, *i.e.* excising).	Actual salary rate of employee conducting review, plus 16 percent of salary rate.

(g) *Reuest for confidential treatment of business information.*—(1) *Submission of request.* Any submitter of information to the Board who desires confidential treatment of business information pursuant to 5 U.S.C. 552(b)(4) shall file a request for confidential treatment with the Board at the time the information is submitted or a reasonable time after submission.

(2) *Form of request.* Each request for confidential treatment of business information shall state in reasonable detail the facts supporting the commercial or financial nature of the business information and the legal justification under which the business information should be protected. Conclusory statements that release of the information would cause competitive harm generally will not be considered sufficient to justify confidential treatment.

(3) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated *''PROPRIETARY''* or *''BUSINESS CONFIDENTIAL''* in the submission and separated from information for which confidential treatment is not requested. Failure to segregate confidential commercial or financial information from other material may result in release of the nonsegregated material to the public without notice to the submitter.

(h) *Request for access to confidential commercial or financial information.*—(1) *Request for confidential commercial or financial information.* A request by a submitter for confidential treatment of any business information shall be considered in connection with a request for access to that information.

(2) *Notice to the submitter.* (i) The Secretary of the Board shall notify a submitter who requested confidential treatment of information pursuant to 5 U.S.C. 552(b)(4), of the request for access.

(ii) Absent a request for confidential treatment, the Secretary of the Board may notify a submitter of a request for access to submitter's business information if the Secretary of the Board reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(iii) The notice given to the submitter by mail, return receipt requested, shall be given as soon as practicable after receipt of the request for access, and shall describe the request and provide the submitter seven working days from the date of notice, to submit written objections to disclosure of the information. Such statement shall specify all grounds for withholding any of the information and shall demonstrate why the information which is considered to be commercial or financial information, and that the information is a trade secret, is privileged or confidential, or that its disclosure is likely to cause substantial competitive harm to the submitter. If the submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to the release of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(3) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(i) The Secretary of the Board determines that the request for access should be denied;

(ii) The requested information lawfully has been made available to the public;

(iii) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(iv) The submitter's claim of confidentiality under 5 U.S.C. 552(b)(4) appears obviously frivolous or has already been denied by the Secretary of the Board, except that in this last

instance the Secretary of the Board shall give the submitter written notice of the determination to disclose the information at least seven working days prior to disclosure.

(4) *Notice to requester.* At the same time the Secretary of the Board notifies the submitter, the Secretary of the Board also shall notify the requester that the request is subject to the provisions of this section.

(5) *Determination by Secretary of the Board.* The Secretary of the Board's determination whether or not to disclose any information for which confidential treatment has been requested pursuant to this section shall be communicated to the submitter and the requester immediately. If the Secretary of the Board determines to disclose the business information over the objection of a submitter, the Secretary of the Board shall give the submitter written notice via mail, return receipt requested, or similar means, which shall include:

(i) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(6) *Notice of lawsuit.* The Secretary of the Board shall promptly notify any submitter of information covered by this section of the filing of any suit against the Board to compel disclosure of such information, and shall promptly notify a requester of any suit filed against the Board to enjoin the disclosure of requested documents.

§ 400.108 Restrictions on lobbying.

(a) No funds received through a loan guaranteed under this Program may be expended by the recipient of a Federal contract, grant, loan, loan Guarantee, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan or loan Guarantee, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, loan Guarantee, or cooperative agreement.

(b) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in the application form, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(c) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a Standard Form–LLL if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(d) Each person shall file a certification, contained in the application form, and a disclosure form (Standard Form–LLL), if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(e) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or Guarantee a loan exceeding $150,000, unless such person previously filed a certification, and a disclosure form, if required, under paragraph (c) of this section.

(f) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (d) or (e) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

§ 400.109 Government-wide debarment and suspension (nonprocurement).

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have governmentwide effect. The Board shall review the List of Debarred entities prior to making final loan Guarantee decisions. Suspension or debarment may be a basis for denying a loan Guarantee.

(b) This section applies to all persons who have participated, are currently participating or may reasonably be expected to participate in transactions under Federal nonprocurement programs. For purposes of this section such transactions will be referred to as ''covered transactions''.

(1) *Covered transaction.* For purposes of this section, a covered transaction is a primary covered transaction or a lower tier covered transaction. Covered transactions at any tier need not involve the transfer of Federal funds.

(i) Primary covered transaction. Except as noted in paragraph (b)(2) of this section, a primary covered transaction is any nonprocurement transaction between an agency and a person, regardless of type, including: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan Guarantees, subsidies, insurance, payments for specified use, donation agreements and any other nonprocurement transactions between a Federal agency and a person.

(ii) Lower tier covered transaction. A lower tier covered transaction is:

(A) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction;

(B) Any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently $100,000) under a primary covered transaction;

(C) Any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction. Such persons may include loan officers or chief executive officers acting as principal investigators and providers of federally-required audit services.

(2) *Exceptions.* The following transactions are not covered:

(i) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(ii) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, entities consisting wholly or partially of foreign governments or foreign governmental entities;

(iii) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(iv) Federal employment;

(v) Transactions pursuant to national or agency-recognized emergencies or disasters;

(vi) Incidental benefits derived from ordinary governmental operations; and

(vii) Other transactions where the application of this section would be prohibited by law.

(3) *Board covered transactions.* This section applies to the Board's loan Guarantees, subcontracts and transactions at any tier that are charges as direct or indirect costs, regardless of type.

(c) *Primary covered transactions.* Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for the period of their debarment, suspension, or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, no agency shall enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to paragraph (l) of this section.

(d) *Lower tier covered transactions.* Except to the extent prohibited by law, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (see paragraph (b)(1)(ii) of this section for the period of their exclusion.

(e) *Exceptions.* Debarment or suspension does not affect a person's eligibility for—

(1) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(2) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities;

(3) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(4) Federal employment;

(5) Transactions pursuant to national or agency-recognized emergencies or disasters;

(6) Incidental benefits derived from ordinary governmental operations; and

(7) Other transactions where the application of this section would be prohibited by law.

(f) Persons who are ineligible are excluded in accordance with the applicable statutory, executive order, or regulatory authority.

(g) Persons who accept voluntary exclusions are excluded in accordance with the terms of their settlements. The Board shall, and participants may, contact the original action agency to ascertain the extent of the exclusion.

(h) The Board may grant an exception permitting a debarred, suspended, or voluntarily excluded person, or a person proposed for debarment under 48 CFR part 9, subpart 9.4, to participate in a particular covered transaction upon a written determination by the agency head or an authorized designee stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549. However, in accordance with the President's stated intention in the Executive Order, exceptions shall be granted only infrequently. Exceptions shall be reported in accordance with the Executive Order.

(i) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(j) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntary excluded, except as provided in paragraph (h) of this section.

(k) Except as permitted under paragraphs (h) or (i) of this section, a participant shall not knowingly do business under a covered transaction with a person who is—

(1) Debarred or suspended;

(2) Proposed for debarment under 48 CFR part 9, subpart 9.4; or

(3) Ineligible for or voluntarily excluded from the covered transaction.

(l) Violation of the restriction under paragraph (k) of this section may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate.

(m) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An agency has the burden of proof that a participant did knowingly do business with a person that filed an erroneous certification.

§ 400.110 Amendments.

The Board's rules in this chapter may be adopted or amended, or new rules may be adopted, only by majority vote of the Board. Authority to adopt or amend these rules may not be delegated.

Subpart C—Steel Guarantee Loans

§ 400.200 Eligible Borrower.

(a) An eligible Borrower must be a Qualified Steel Company that can demonstrate:

(1) Credit is not otherwise available to it under reasonable terms or conditions

sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

(2) The prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) The company has agreed to permit audits by the General Accounting Office and an independent auditor acceptable to the Board prior to the issuance of the guarantee and while any such guaranteed loan is outstanding;

(4) It has experienced layoffs, production losses, or financial losses between January 1, 1998, and the date of application for the Guarantee, demonstrated as a comparison between employment, production, or net income existing on January 1, 1998 and on the date of application; and

(5) In the case of a purchaser of substantial assets of a Qualified Steel Company; the Qualified Steel Company is unable to re-organize itself.

(b) For purposes of this section, a company will be considered a purchaser of substantial assets of a Qualified Steel Company if the company's identifiable assets purchased from a Qualified Steel Company are 50 percent or more of the consolidated assets of that Qualified Steel Company and its subsidiaries.

(c) The Lender must provide with its application a letter from at least one lending institution other than the Lender to which the Borrower has applied for financial assistance, since January 1, 1998, indicating that the Borrower was denied for substantially the same loan they are now applying for, and the reasons the Borrower was unable to obtain the financing for which it applied. In addition, the Lender applying for a guarantee under this Program must certify that it would not make the loan without the Board's guarantee.

§ 400.201 Eligible Lender.

(a) A lender eligible to apply to the Board for a Guarantee of a loan must be:

(1) A banking institution, such as a commercial bank or trust company, subject to regulation by the Federal banking agencies enumerated in 12 U.S.C. 1813; or

(2) An investment institution, such as an investment bank, commercial finance company, or insurance company that is currently engaged in commercial lending in the normal course of its business.

(b) Status as a Lender under paragraph (a) of this section does not assure that the Board will issue the Guarantee sought, or otherwise preclude the Board from declining to issue a Guarantee. In addition to evaluating an application pursuant to § 400.207, in making a determination to issue a Guarantee to a Lender, the Board will assess:

(1) The Lender's level of regulatory capital, in the case of banking institutions, or net worth, in the case of investment institutions;

(2) Whether the Lender possesses the ability to administer the loan, as required by § 400.211(b), including its experience with loans to steel companies;

(3) The scope, volume and duration of the Lender's activity in administering loans;

(4) The performance of the Lender's loan portfolio, including its current delinquency rate;

(5) The Lender's loss rate as a percentage of loan amounts for its current fiscal year; and

(6) Any other matter the Board deems material to its assessment of the Lender.

(c) In the case of the refinancing of an existing credit, the applicant must be a different lender than the holder of the existing credit.

§ 400.202 Loan amount.

(a) The aggregate amount of loan principal guaranteed under this Program to a single Qualified Steel Company may not exceed $ 250 million.

(b) Of the aggregate amount of loans authorized to be guaranteed and outstanding at any one time, not more than $30 million shall be loans to iron ore companies.

§ 400.203 Guarantee percentage.

A guarantee issued by the Board may not exceed 85 percent of the amount of the principal of a loan to a Qualified Steel Company.

§ 400.204 Loan terms.

(a) All loans guaranteed under the Program shall be due and payable in full no later than December 31, 2005.

(b) Loans guaranteed under the Program must bear a rate of interest determined by the Board to be reasonable. The reasonableness of an interest rate will be determined with respect to current average yields on outstanding obligations of the United States with remaining periods of maturity comparable to the term of the loan sought to be guaranteed. The Board may reject an application to guarantee a loan if it determines the interest rate of such loan to be unreasonable.

(c)(1) The performance of all of the Borrower's obligations under the Loan Documents shall be secured by, and shall have the priority in, such Security as provided for within the terms and conditions of the Guarantee.

(2) Without limiting the Lender's and Borrower's obligations under paragraph (c)(1) of this section, at a minimum, the loan shall be secured by—

(i) A fully perfected and enforceable security interest and/or lien, with first priority over conflicting security interests or other liens in all property, both real and personal, tangible or intangible, including accessions, replacements and proceeds thereof, which are acquired, improved, or derived from the loan funds; and

(ii) A fully perfected and enforceable security interest and/or lien in all other property of the Borrower, including accessions, replacements and proceeds thereof, or which may be given by a third-party as Security for the loan, the priority of which shall be on the same and equal status with the highest voluntarily granted or acquired security interest or lien then existing therein;

(3) The entire loan will be secured by the same Security with equal lien priority for the guaranteed and the unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference over the guaranteed portion.

(4) An Applicant's compliance with paragraph (c)(2) of this section does not assure a finding of reasonable assurance of repayment, or assure the Board's Guarantee of the loan.

(d) An eligible Lender may assess and collect from the Borrower such other fees and costs associated with the application and origination of the loan as are reasonable and customary, taking into consideration the amount and complexity of the credit. The Board may take such other fees and costs into consideration when determining whether to offer a Guarantee to the Lender.

§ 400.205 Application process.

(a) *Application deadline.* An original application and three copies must be received by the Board no later than 8 p.m. EST, December 30, 1999 in U.S. Department of Commerce, Washington DC 20230. Applications which have been provided to a delivery service on or before December 29, 1999, with ''delivery guaranteed'' before 8 p.m. on December 30, 1999, will be accepted for review if the Applicant can document that the application was provided to the delivery service with delivery to the address listed above guaranteed prior to the closing date and time. A postmark of December 30, 1999, is not sufficient to meet this deadline as the application must be received by the required date and time. Applications will not be

accepted via facsimile machine transmission or electronic mail.

(b) Applications shall contain the following:

(1) A completed Form ''Application for Steel Guarantee Loan'';

(2) The information required for the completion of Form ''Environmental Assessment and Compliance Findings for Related Environmental Laws'' and attachments, as required by § 400.206(a)(2)(i)(D), unless the project is categorically excluded under § 400.206(b);

(3) All Loan Documents that will be signed by the Lender and the Borrower, if the application is approved, including all terms and conditions of, and Security or additional Security to assure the Borrower's performance under, the loan;

(4) Certification by the chairman of the board and the chief executive officer of the Borrower acknowledging that the Borrower is aware that the Lender is applying to the Board for a Guarantee of a loan under the Program, as described in the Loan Documents; and agreeing to permit audits by the General Accounting Office, its designee, and an independent auditor acceptable to the Board prior to the issuance of the Guarantee and annually thereafter while such guarantee is outstanding;

(5) The Lender's full written underwriting analysis of the loan to be guaranteed by the Board;

(6) A certification that the Lender has followed the same loan underwriting analysis with the loan to be guaranteed as it would follow for a loan not guaranteed by the Government; and a certification by the Lender, that the loan, Lender, and Borrower meet each of the requirements of the Program as set forth in the Act and the Board's rules in this part;

(7) A description of all Security for the loan, including, as applicable, current appraisal of real and personal property, copies of any appropriate environmental site assessments, and current personal and corporate financial statements of any guarantors for the same period as required for the Borrower. Appraisals of real property shall be prepared by State licensed or certified appraisers, and be consistent with the ''Uniform Standards of Professional Appraisal Practice,'' promulgated by the Appraisal Standards Board of the Appraisal Foundation. Financial statements of guarantors shall be prepared by independent Certified Public Accountants;

(8) Consolidated financial statements of the Borrower for the previous three years that have been audited by an independent certified public accountant, including any associated notes, as well as any interim financial statements and associated notes for the current fiscal year;

(9) A five year history and five year projection for revenue, cash flow, average realized prices and average realized production costs. If the loan funds are to be used to purchase substantial assets of an existing firm, a pro forma balance sheet at startup, and five years projected year end balance sheets and income statement at start-up;

(10) Documentation that credit is not otherwise available to the borrower under reasonable terms or conditions sufficient to meet its financial needs, as reflected in the financial or business plan of that company. The Lender must provide with its application those items required by § 400.200(c); and

(11) Documentation sufficient to demonstrate that the Lender is eligible under § 400.201(a) and to allow the Board to make a determination to issue a Guarantee to such Lender as set forth in § 400.201(b).

(c) No Guarantee will be made if either the Borrower or Lender has an outstanding, delinquent Federal debt until:

(1) The delinquent account has been paid in full;

(2) A negotiated repayment schedule is established and at least one payment has been received; or

(3) Other arrangements, satisfactory to the agency responsible for collecting the debt, are made.

§ 400.206 Environmental requirements.

(a)(1) *General.* Environmental assessments of the Board's actions will be conducted in accordance with applicable statutes, regulations, and Executive Orders. Therefore, except as provided in paragraph (b) of this section, and subject to paragraph (c) of this section, each application for a Guarantee under the Program must be accompanied by information necessary for the Board to meet the requirements of applicable law.

(2) *Environmental information required from the Lender.* (i) Environmental data or documentation concerning the use of the proceeds of any loan guaranteed under this Program must be provided by the Lender to the Board to assist the Board in meeting its legal responsibilities. The Lender may obtain this information from the Borrower. Such information includes:

(A) Documentation for an environmental threshold review from qualified data sources, such as a Federal, State or local agency with expertise and experience in environmental protection, or other sources, qualified to provide reliable environmental information;

(B) Any previously prepared environmental reports or data relevant to the loan at issue;

(C) Any environmental review prepared by Federal, State, or local agencies relevant to the loan at issue;

(D) The information required for the completion of Form ''Environmental Assessment and Compliance Findings for Related Environmental Laws;'' and

(E) Any other information that can be used by the Board to ensure compliance with environmental laws.

(ii) All information supplied by the Lender is subject to verification by the Board.

(b) *Categorical exclusions from National Environmental Policy Act (NEPA) reviews.* The actions described in this paragraph have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They are categorically excluded from the need to prepare an environmental assessment or impact statement under NEPA. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from compliance with other applicable local, State, or Federal environmental laws.

(1) Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities, structures or businesses, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of utilities such as water or sewer lines and appurtenances, reconstruction of curbs and sidewalks, street repaving, and building modifications, renovations, and improvements);

(2) Project management actions relating to invitation for bids, contract award, and the actual physical commencement of construction activities;

(3) Projects that solely involve the purchase and installation of office equipment, public safety equipment, or motor vehicles;

(4) Projects that solely involve the acquisition of working capital; and

(5) Projects that solely involve a combination of activities under paragraphs (b)(1) through (4) of this section.

(c) Actions listed in paragraph (b) that otherwise are categorically excluded from NEPA review are not necessarily excluded from review if they would be located within, or in other cases, potentially affect:

(1) A floodplain;
(2) A wetland;
(3) Important farmlands, or prime forestlands or rangelands;
(4) A listed species or critical habitat for an endangered species;
(5) A property that is listed on or may be eligible for listing on the National Register of Historic Places;
(6) An area within an approved State coastal zone management Program;
(7) A coastal barrier or a portion of a barrier within the Coastal Barrier Resources System;
(8) A river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System;
(9) A sole source aquifer recharge area;
(10) A State water quality standard (including designated and/or existing beneficial uses and anti-degradation requirements); or
(11) Federal lands.

(d) The regulations of the Council on Environmental Quality implementing NEPA require the Board to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public. See 40 CFR 1506.6(b). Environmental information concerning specific projects can be obtained from the Board by contacting: Executive Director, Emergency Steel Guarantee Loan Board, U.S. Department of Commerce, Washington, DC 20230.

§ 400.207 Application evaluation.

(a) *Eligibility screening.* Applications will be reviewed to determine whether the Lender and Borrower are eligible, the information required under § 400.205(b) is complete, and the proposed loan complies with applicable statutes and regulations. The Board can at any time reject an application that does not meet these requirements.

(b) *Evaluation criteria.* Applications that are determined to be eligible pursuant to paragraph (a) of this section shall be subject to a substantive review, on a competitive basis, by the Board based upon the following evaluation factors, in order of importance:

(1) The ability of the Borrower to repay the loan by the date specified in the Loan Document, which shall be no later than December 31, 2005;

(2) The adequacy of the proposed provisions to protect the Government, including sufficiency of Security, the priority of the lien position in the Security, and the percentage of Guarantee requested; and

(3) Adequacy of the underwriting analysis performed by the Lender in preparing the application and the ability of the Lender to administer the loan in full compliance with the requisite standard of care set forth in § 400.211(b).

(c) *Decisions by the Board.* Upon completion of the evaluation of the application and as soon as possible after the due date, the Board will approve or deny all eligible applications timely received under this Program. The Board shall notify all Applicants in writing of the approval or denial of the Guarantee applications as soon as possible. Approvals for loan Guarantees shall be conditioned upon compliance with § 400.208.

§ 400.208 Issuance of the Guarantee.

(a) The Board's decisions to approve any application for, and extend an offer of, guarantee under § 400.207 is conditioned upon:

(1) The Lender and Borrower obtaining any required regulatory or judicial approvals;

(2) The Lender and Borrower being legally authorized to enter into the loan under the terms and conditions submitted to the Board in the application;

(3) The Board's receipt of the Loan Documents, Guarantee, and any related instruments, properly executed by the Lender, Borrower, and any other required party other than the Board; and

(4) No material adverse change in the Borrower's ability to repay the loan between the date of the Board's approval and the date the Guarantee is to be issued.

(b) The Board may withdraw its approval of an application and rescind its offer of Guarantee if the Board determines that the Lender or the Borrower cannot, or is unwilling to, provide adequate documentation and proof of compliance with paragraph (a) of this section within the time provided for in the offer.

(c) Only after receipt of all the documentation, required by this section, will the Board sign and deliver the Guarantee.

(d) A Borrower receiving a loan guaranteed by the Board under this Program shall pay a one-time guarantee fee of 0.5 percent of the amount of the principal of the loan. This fee must be paid no later than one year from the issuance of the Guarantee.

§ 400.209 Funding for the Program.

The Act provides funding for the costs incurred by the Government as a result of granting Guarantees under the Program. While pursuing the goals of the Act, it is the intent of the Board to minimize the cost of the Program to the Government. The Board will estimate the risk posed by the guaranteed loans to the funds appropriated for the costs of the Guarantees under the Program and operate the Program accordingly.

§ 400.210 Assignment or transfer of loans.

(a) Neither the Loan Documents nor the Guarantee of the Board, or any interest therein, may be modified, assigned, conveyed, sold or otherwise transferred by the Lender, in whole or in part, without the prior written approval of the Board.

(b) Under no circumstances will the Board permit an assignment or transfer of less than 100 percent of the Loan Documents and Guarantee, nor will it permit an assignment or transfer to be made to an entity which the Board determines not to be an Eligible Lender pursuant to § 400.201.

(c) The proscription under paragraph (a) of this section shall not apply to:

(1) Transfers which occur by operation of law, unless a primary purpose of the transaction leading to such a transfer was to assign, convey or sell the loan note or Guarantee without the necessity of securing the Board's prior written approval; or

(2) An action or agreement by the Lender which has the effect of distributing the risks of the credit among other Lenders if:

(i) Neither the loan note nor the Guarantee is assigned, conveyed, sold, or transferred in whole or in part;

(ii) Both the unguaranteed and guaranteed portions of the loan are treated in the same manner;

(iii) The Lender remains solely responsible for the administration of the loan; and

(iv) The Board's ability to assert any and all defenses available to it under the Guarantee and the law is not adversely affected.

§ 400.211 Lender responsibilities.

(a) *General.* Lender shall comply with all provisions of the Guarantee.

(b) *Standard of care.* The Lender shall exercise due care and diligence in administering the loan as would be exercised by a responsible and prudent banking institution when administering a secured loan of such banking institution's own funds without a Federal guaranty. Such standard shall also apply to any and all approvals, determinations, permissions, acceptances, requirements, or opinion made, given, imposed or reached by Lender.

(c) *Representation to the Board.* In addition to any other representations

required by the Guarantee, the Lender shall represent to the Board that it has the ability to, and will, administer the loan, as well as to exercise the Lender's rights and pursue its remedies, including conducting any liquidation of the Security or additional Security in full compliance with the standard of care, without the need for any advice, opinion, determination, recommendation, approval, disapproval, assistance (financial or other) or participation by the Board, except where the Board's consent is expressly required by the Guarantee, or where the Board, in its sole discretion and pursuant to the Guarantee, elects to provide same.

(d) *Covenants.* With respect to any loan guaranteed by the Board pursuant to the Act and this part, the Lender shall require the Loan Documents to contain such affirmative and negative covenants by the Borrower as are required by the terms and conditions of the Guarantee, such as the prohibition on the payment of dividends.

(e) *Monitoring.* In accordance with the Guarantee, the Lender shall monitor Borrower's performance under the Loan Documents to detect any noncompliance by the Borrower with any provision thereof, and will use its best efforts to cause Borrower's timely correction of any such noncompliance and Borrower's compliance with such provision thereafter.

(f) *Reporting.* With respect to any loan guaranteed by the Board pursuant to the Act and this part the Lender shall provide the Board with the following information:

(1) Audited financial statements for the Borrower for the prior fiscal year;

(2) Projected balance sheet, income statement, and cash flows for the Borrower for each year remaining on the term of the loan within 60 days of the Borrower's fiscal year end; and

(3) A completed signed copy of Form ''Quarterly Compliance Statement'' that includes information on the recent performance of the loan, within 15 days of the end of each calendar quarter.

(g) *Notices.* All written notices, requests, or demands made to the Board shall be mailed to the Board at the U.S. Department of Commerce, Washington, DC 20230, except as otherwise specified by the Guarantee or as directed by the Board. Lender shall notify the Board in writing without delay of:

(1) Deterioration in the internal risk rating of a loan guaranteed under this Program within 3 business days of such action by the Lender;

(2) The occurrence of each event of default under the Loan Documents or Guarantee promptly, but not later than 3 business days, of the Lender's learning of such occurrence; and

(3) Any other notification requirements as provided by law, or by the terms of the Guarantee or Loan Documents.

§ 400.212 Liquidation.

(a) The Board may take, or direct to be taken, any action in liquidating the Security which the Board determines to be necessary or proper, consistent with Federal law and regulations.

(b) Pursuant to the Guarantee, upon written demand by the Lender and whether or not the Board has made any payment under the Guarantee, the Board, at the Board's sole option shall have the right to require that the Lender, solely or jointly with the Board, conduct to completion the liquidation of any or all of the Security. The Board may choose to conduct the liquidation itself.

§ 400.213 Termination of Guarantee.

(a) The Board, in its discretion, shall be entitled to terminate all of the Board's obligations under the Guarantee, without further cause, by giving written notice to the Lender of such termination, in the event that:

(1) The closing of the loan shall not have occurred in accordance with the terms and conditions of the Guarantee;

(2) The Guarantee fee required by § 400.208(d) shall not have been paid;

(3) The Lender shall have released or covenanted not to sue the Borrower or any other guarantor, or agreed to the modification of any obligation of any party to any agreement related to the loan, without the prior written consent of the Board;

(4) Lender has released the Board from its liability and obligations under the Guarantee;

(5) Lender has been repaid in full on the loan;

(6) Lender shall have made any incorrect or incomplete representation to the Board in any material respect in connection with the Application, the Guarantee or the Loan Documents; or

(7) Lender failed to comply with any material provision of the Loan Documents or the Guarantee.

(b) Upon receipt of a written demand for payment made pursuant to the Guarantee, the Board shall be entitled to seek such certifications from the Lender, undertake such audits or investigations, or take such other action as is provided for by law or the Guarantee so as to determine whether the Lender has complied with all of the Lender's obligations under the Guarantee.

§ 400.214 OMB control number.

[Reserved].

[FR Doc. 99–27581 Filed 10–22–99; 2:19 pm]

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October 27, 1999

Part III

Emergency Oil and Gas Guaranteed Loan Board

13 CFR Chapter V

Emergency Oil and Gas Guaranteed Loan Program; Final Rule

EMERGENCY OIL AND GAS GUARANTEED LOAN BOARD

13 CFR Chapter V

RIN 3003–ZA00

Emergency Oil and Gas Guaranteed Loan Program

AGENCY: Emergency Oil and Gas Guaranteed Loan Board.

ACTION: Final rule.

SUMMARY: On August 17, 1999, President Clinton signed into law an act providing authority for guarantees of loans to qualified steel and iron ore companies and to qualified oil and gas companies. Chapter 2 of the Emergency Oil and Gas Guaranteed Loan Program Act (''Act''), established the Emergency Oil and Gas Guaranteed Loan Program (''Program'') for guaranteeing loans made by private sector lending institutions to qualified oil and gas companies. The Act established the Guarantee Loan Board (''Board''), composed of the Chairman of the Board of Governors of the Federal Reserve System, as Chairman of the Board, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission. The Board has certain responsibilities under the law, including the issuance of necessary rules. The Department of Commerce was appropriated funds to implement and administer the Program. These regulations have been approved by the Board, and are being issued to implement the Program.

DATES: This rule is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Executive Director, Oil and Gas Guaranteed Loan Board, U.S. Department of Commerce, Washington D.C. 20230, (202) 482–6151.

SUPPLEMENTARY INFORMATION:

Background

The Program will provide guarantees for up to $500 million in loans to qualified oil and gas companies. These loans will be made by private sector lenders, with the Federal Government providing a guarantee for up to 85 percent of the amount of the principal of the loan. The Board, composed of the Chairman of the Board of Governors of the Federal Reserve System, who will serve as Chairman of the Board, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission, will oversee the Program. The Board will select an Executive Director, a Secretary, and a General Counsel to oversee day-to-day operations of the Program. A loan guarantee may be issued upon application to the Board by a private banking or investment institution which has committed to enter into an agreement to provide a loan to a qualified oil and gas company. A qualified oil and gas company is defined in the Act to mean any company that (A) is: (i) An independent oil and gas company (within the meaning of section 57(a)(2)(B)(i) of the Internal Revenue Code of 1986); or (ii) A small business concern under section 3 of the Small Business Act, 15 U.S.C. 632, (or a company based in Alaska, including an Alaska Native Corporation created pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*) that is an oil field service company whose main business is providing tools, products, personnel, and technical solutions on a contractual basis to exploration and production operators that drill, complete wells, and produce, transport, refine, and sell hydrocarbons and their byproducts as the main commercial business of the concern or company; and (B) has experienced financial losses since January 1997.

In order to guarantee a loan to a qualified oil and gas company, the Board must make certain determinations. The Board must determine that credit is not otherwise available to a qualified oil and gas company under reasonable terms or conditions sufficient to meet its financing needs. Next, the prospective earning power of that company, together with the character and value of the security pledged, must furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms. In addition, the loan to be guaranteed must bear interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan. Further the company must agree to an audit by the General Accounting Office, or its designee, and an independent auditor acceptable to the Board, prior to the issuance of the Guarantee and annually thereafter while such guarantee is outstanding. In addition, audited financial statements are required to be submitted with an application.

The Act established several conditions applicable to each loan guarantee issued by the Board. All loans guaranteed under this Program must be paid in full not later than December 31, 2010. The guarantee level may not exceed 85 percent of the amount of principal of the loan. The aggregate amount of loans guaranteed and outstanding at any one time under this Program may not exceed $500 million, and the aggregate amount of loans guaranteed under this Program with respect to a single qualified oil and gas company may not exceed $10 million. A qualified oil and gas company receiving a guarantee under this section will be required to pay a fee in the amount of 0.5 percent of the principal of the loan to the Department of the Treasury to cover the costs of the Program payable within one year from the issuance of the guarantee. Finally, the terms and conditions of each guaranteed loan must provide that the loan may not be amended, and that no provision of the loan documents or the guarantee agreement can be waived, without the prior written consent of the Board.

In the Act, Congress appropriated $122.5 million for the cost of the loans guaranteed. The Board will consider applications and award guarantees under the Program in accordance with the appropriated funding.

Public Meeting

To receive public input regarding operation of the Program, the Board held a public meeting on September 22, 1999, at the Department of Commerce. The meeting consisted of parties presenting oral statements to staff of the Department of Commerce, the Federal Reserve Board, and the Securities and Exchange Commission. Oral statements addressed issues and made suggestions regarding implementation of the Program. Four parties, representing oil and gas companies, presented oral testimony at the meeting. In addition to oral statements presented at the meeting, written comments were submitted by interested parties. All comments were considered in promulgating these rules.

Description of Regulation

The Board's regulations are divided into three subparts. Subpart A sets out the purpose of the rules and contains definitions of terms used in the other subparts. Subpart B contains rules regarding the Board's organization, staffing, rules of procedure, and procedures for public access to the Board's records. The Board will establish an official staff consisting of an Executive Director, General Counsel, and Secretary, with the respective responsibilities set out in Subpart B. The Board may delegate to its official staff authority to take certain actions, subject to such terms and conditions as the Board deems appropriate. The Board may employ additional staff or outside

consultants as it deems necessary to carry out its functions in accordance with the Act.

Subpart C sets out the eligibility requirements for lenders and borrowers under the Program, general loan terms, fees, and restrictions on assignment and transfer of loans guaranteed under the Program. In addition, Subpart C describes the process by which eligible lenders can submit applications for loan guarantees to the Board and the Board's procedures for processing and evaluating the applications in order to select the loans that will be granted guarantees. Finally, Subpart C sets out some of the Lender's responsibilities in originating and administering a guaranteed loan and the events and conditions that could cause the Board to terminate the guarantee in whole or in part.

The Act directs the Board to act on applications for loan guarantees as soon as possible. In addition, the Board must implement the Program within the appropriated funding provided by the Act and, thus, must ensure that it grants guarantees to the loans that it determines best meet the Program's evaluation criteria. In view of these and other considerations, the Board has determined to create an application ''window'' during which applicants must submit their loan guarantee applications. The window will run from the date these rules are published in the **Federal Register** until December 30, 1999.

Each application package received by the Board during this window will be screened to confirm that it meets all of the Program's eligibility requirements as set out in the applicable regulations and application forms. Application packages that do not meet the Program's eligibility requirements will not be considered for a loan guarantee. The Board will compare the eligible applications on a competitive basis and offer guarantees to those applications that it determines best meet the Program's evaluation criteria. As discussed in more detail in Subpart C, the Program's evaluation criteria include the ability of the Borrower to repay the loan according to its terms, the protection provided by the proposal to the Government in the event of default (including sufficiency of collateral, lien position, and percentage of guarantee requested), and the adequacy of the Lender's loan underwriting analysis. Since the accelerated schedule does not provide time for the Board to negotiate with individual applicants and the Board's selection process will be on a competitive basis, it is in each applicant's best interest to provide, at the outset, a thorough proposal that ranks as high as possible on each of the Program's evaluation criteria. For example, applicants should request the lowest guarantee percentage practicable for their proposals at the outset. In addition, applications giving the government a higher security position on higher quality collateral will be given preference over those that provide a lesser level of security. Failure to do so could reduce the likelihood that the application will be selected to receive a guarantee.

Administrative Law Requirements

Executive Order 12866

This final rule has been determined to be a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

Administrative Procedure Act

This rule is exempt from the rulemaking requirements contained in 5 U.S.C. 553 pursuant to authority contained in 5 U.S.C. 553(a)(2) as it involves a matter relating to loans. As such, prior notice and an opportunity for public comment and a delay in effective date otherwise required under 5 U.S.C. 553 are inapplicable to this rule.

List of Subjects in 13 CFR Part 500

Administrative practice and procedures, Freedom of Information, Loan programs—Natural resources, Reporting and recordkeeping requirements.

Paperwork Reduction Act

The Board will submit to the Office of Management and Budget, for clearance under the Paperwork Reduction Act, a package containing the necessary forms and documentation for participation in this Program.

Regulatory Flexibility Act

Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Congressional Review Act

This rule has been determined to be a major rule for purposes of the Congressional Review Act, 5 U.S.C. 801 *et seq.* The Congressional Review Act requires that major rules have their effective date delayed 60 days while Congress has the opportunity to review the rule. While there are certain exemptions to this delayed effective date requirement, the Board has determined that none are applicable to this rule.

List of Subjects in 13 CFR Part 500

Administrative practice and procedure, Freedom of Information; Loan programs—Natural resources, Reporting and recordkeeping requirements.

Intergovernmental Review

No intergovernmental consultation with state and local officials is required because the rule is not subject to the provisions of Executive Order 12372 or Executive Order 12875.

National Environmental Policy Act

The Board determined that this Program does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, Public Law 91–190 (NEPA), an Environmental Impact Statement is not required. Loans sought to be guaranteed under the Program will be assessed individually to determine appropriate compliance with NEPA.

Unfunded Mandate Reform Act of 1995

This rule contains no Federal mandates, as that term is defined in the Unfunded Mandates Reform Act, on State, local and tribal governments or the private sector.

Executive Order 12612

This rule does not contain policies having federalism implications requiring preparation of a Federalism Assessment.

Executive Order 12630

This rule does not contain policies that have takings implications.

Programs Affected

There is no Catalog of Federal Domestic Assistance listing for the Emergency Oil and Gas Guaranteed Loan Program.

Dated: October 18, 1999.

Jonathan Orszag,

Acting Executive Director, Emergency Oil and Gas Guaranteed Loan Board.

For the reasons set out in the preamble, 13 CFR Chapter V is established to read as follows:

CHAPTER V—EMERGENCY OIL AND GAS GUARANTEED LOAN BOARD

PART 500—EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM

Subpart A—General

500.1 Purpose.
500.2 Definitions.

Subpart B—Board Procedures

500.100 Purpose and scope.
500.101 Composition of the Board.
500.102 Authority of the Board.
500.103 Offices.

500.104 Meetings and actions of the Board.
500.105 Staff.
500.106 Ex parte communications.
500.107 Freedom of Information Act.
500.108 Restrictions on lobbying.
500.109 Government-wide debarment and suspension (nonprocurement).
500.110 Amendments.

Subpart C—Oil and Gas Guaranteed Loans

500.200 Eligible Borrower.
500.201 Eligible Lender.
500.202 Loan amount.
500.203 Guarantee percentage.
500.204 Loan terms.
500.205 Application process.
500.206 Environmental requirements.
500.207 Application evaluation.
500.208 Issuance of the Guarantee.
500.209 Funding for the Program.
500.210 Assignment or transfer of loans.
500.211 Lender responsibilities.
500.212 Liquidation.
500.213 Termination of Guarantee.
500.214 OMB control number.

Authority: Pub. L. 106–51, 113 Stat. 255 (15 U.S.C. 1841 note).

Subpart A—General

§ 500.1 Purpose.

This part is issued by the Emergency Oil and Gas Guaranteed Loan Board pursuant to section 552 of title 5 of the United States Code and the Emergency Oil and Gas Guaranteed Loan Act, Chapter 2 of Public Law 106–51. This part contains rules for making and servicing loans to qualified oil and gas guaranteed by the Board.

§ 500.2 Definitions.

(a) *Act* means the Emergency Oil and Gas Guaranteed Loan Program Act, Chapter 2 of Public Law 106–51.

(b) *Administer, administering and administration*, mean the Lender's actions in making, disbursing, servicing (including, but not limited to care, preservation and maintenance of collateral), collecting and liquidating a loan and security.

(c) *Applicant* means the private banking or investment institution applying for a loan guarantee under this part.

(d) *Board* means the Emergency Oil and Gas Guaranteed Loan Board.

(e) *Borrower* means a Qualified Oil and Gas Company which could receive a loan guaranteed by the Board under this Program.

(f) *Guarantee* means the written agreement between the Board and the Lender, and approved by the Borrower, pursuant to which the Board guarantees repayment of a specified percentage of the principal of the loan, including the Special Terms and Conditions, the General Terms and Conditions, and all exhibits thereto.

(g) *Lender* means a private banking or investment institution that is eligible pursuant to § 500.201.

(h) *Loan Documents* mean the loan agreement and all other instruments, and all documentation between the Lender and the Borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of the loan.

(i) *Program* means the Emergency Oil and Gas Guaranteed Loan Program established by the Act.

(j) *Security* means all property, real or personal, required by the provisions of the Guarantee or by the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents or Guarantee.

(k) *Qualified Oil and Gas Company* means any company that: (A) is (i) an independent oil and gas company (within the meaning of section 57(a)(2)(B)(i) of the Internal Revenue Code of 1986) or; (ii) a small business concern under section 3 of the Small Business Act, 15 U.S.C. 632, (or a company based in Alaska, including an Alaska Native Corporation created pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*) that is an oil field service company whose main business is providing tools, products, personnel, and technical solutions on a contractual basis to exploration and production operators that drill, complete wells, and produce, transport, refine, and sell hydrocarbons and their byproducts as the main commercial business of the concern or company; and (B) has experienced layoffs, production losses, or financial losses since January 1997.

Subpart B—Board Procedures

§ 500.100 Purpose and scope.

This subpart describes the Board's authorities and organizational structure, the means and rules by which the Board takes actions, and procedures for public access to Board records.

§ 500.101 Composition of the Board.

The Board consists of the Chairman of the Board of Governors of the Federal Reserve System, who acts as Chairman of the Board, the Chairman of the Securities and Exchange Commission, and the Secretary of Commerce.

§ 500.102 Authority of the Board.

Pursuant to the provisions of the Act, the Board is authorized to guarantee loans provided to Qualified Oil and Gas companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board, to make the determinations authorized by the Act, and to take such other actions as necessary to carry out its functions in accordance with the Act.

§ 500.103 Offices.

The principal offices of the Board are in the U.S. Department of Commerce, Washington, D.C. 20230.

§ 500.104 Meetings and actions of the Board.

(a) *Place and frequency.* The Board meets, on the call of the Chairman, in order to consider matters requiring action by the Board. Time and place for any such meeting shall be determined by the members of the Board.

(b) *Quorum and voting.* Two voting members of the Board constitute a quorum for the transaction of business. All decisions and determinations of the Board shall be made by a majority vote of the voting members. All votes on determinations of the Board required by the Act shall be recorded in the minutes. A Board member may request that any vote be recorded according to individual Board members.

(c) *Agenda of meetings.* To the extent practicable, an agenda for each meeting shall be distributed to members of the Board at least two days in advance of the date of the meeting, together with copies of materials relevant to the agenda items.

(d) *Minutes.* The Secretary of the Board shall keep minutes of each Board meeting and of action taken without a meeting, a draft of which is to be distributed to each member of the Board as soon as practicable after each meeting or action. To the extent practicable, the minutes of a Board meeting shall be corrected and approved at the next meeting of the Board.

(e) *Use of conference call communications equipment.* Any member may participate in a meeting of the Board through the use of conference call, telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously speak to and hear each other. Any member so participating in a meeting shall be deemed present for all purposes. Actions taken by the Board at meetings conducted through the use of such equipment, including the votes of each member, shall be recorded in the usual manner in the minutes of the meetings of the Board.

(f) *Actions between meetings.* When, in the judgment of the Chairman, circumstances occur making it desirable for the Board to consider action when it is not feasible to call a meeting, the relevant information and recommendations for action may be

transmitted to the members by the Secretary of the Board and the voting members may communicate their votes to the Chairman in writing (including an action signed in counterpart by each Board member), electronically, or orally (including telephone communication). Any action taken under this paragraph has the same effect as an action taken at a meeting. Any such action shall be recorded in the minutes.

(g) *Delegations of authority.* The Board may delegate authority, subject to such terms and conditions as the Board deems appropriate, to the Executive Director, the General Counsel, or the Secretary of the Board, to take certain actions not required by the Act to be taken by the Board. All delegations shall be made pursuant to resolutions of the Board and recorded in writing, whether in the minutes of a meeting or otherwise. Any action taken pursuant to delegated authority has the effect of an action taken by the Board.

§ 500.105 Staff.

(a) *Executive Director.* The Executive Director of the Board advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's actions, directs the activities of the staff, and performs such other duties as the Board may require.

(b) *General Counsel.* The General Counsel of the Board provides legal advice relating to the responsibilities of the Board and performs such other duties as the Board may require.

(c) *Secretary of the Board.* The Secretary of the Board sends notice of all meetings, prepares minutes of all meetings, maintains a complete record of all votes and actions taken by the Board, has custody of all records of the Board and performs such other duties as the Board may require.

§ 500.106 Ex parte communications.

Oral or written communication, not on the public record, between the Board, or any member of the Board, and any party or parties interested in any matter pending before the Board concerning the substance of that matter is prohibited. This section also applies to the Board's staff and employees of the constituent agencies who are or reasonably may be expected to be involved in the decisional process of the matter pending before the Board.

§ 500.107 Freedom of Information Act.

(a) *Definitions.* All terms used in this section which are defined in 5 U.S.C. 551 or 5 U.S.C. 552 shall have the same meaning in this section. In addition the following definitions apply to this section:

(1) *FOIA,* as used in this section, means the ''Freedom of Information Act,'' as amended, 5 U.S.C. 552.

(2) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(3) *Direct costs* mean those expenditures that the Board actually incurs in searching for, reviewing, and duplicating documents in response to a request made under paragraph (c) of this section. Direct costs include, for example, the labor costs of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits). Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(4) *Duplication* means the process of making a copy of a document in response to a request for disclosure of records or for inspection of original records that contain exempt material or that otherwise cannot be inspected directly. Among others, such copies may take the form of paper, microfilm, audiovisual materials, or machine-readable documentation (*e.g.,* magnetic tape or disk).

(5) *Educational institution* means a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, graduate higher education, professional education, or an institution of vocational education that operates a program of scholarly research.

(6) *Noncommercial scientific institution* refers to an institution that is not operated on a ''commercial'' basis (as that term is used in this section) and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(7) *News* means information about current events or that would be of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of newspapers and other periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. ''Freelance'' journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(8) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the general public.

(9) *Review* means the process of examining documents, located in response to a request for access, to determine whether any portion of a document is exempt information. It includes doing all that is necessary to excise the documents and otherwise to prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(10) *Search* means the process of looking for material that is responsive to a request, including page-by-page or line-by-line identification within documents. Searches may be done manually or by computer.

(b) *Records available for public inspection and copying.*—(1) *Types of records made available.* The information in this section is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act, as amended (5 U.S.C. 552) (FOIA). This section sets forth the procedures the Board follows to make publicly available the materials specified in 5 U.S.C. 552(a)(2). These materials shall be made available for inspection and copying at the Board's Freedom of Information Office pursuant to 5 U.S.C. 552(a)(2). Information routinely provided to the public as part of a regular Board activity (for example, press releases) may be provided to the public without following this section.

(2) *Reading room procedures.* Information available under this section is available for inspection and copying, from 9:00 a.m. to 5:00 p.m. weekdays, at the Freedom of Information Office of the Board, Oil and Gas Guarantee Loan Board, U.S. Department of Commerce, Washington, D.C. 20230.

(3) *Electronic records.* Information available under this section that was created on or after November 1, 1996, shall also be available on the Board's website, found at www.doc.gov.

(c) *Records available to the public on request.*—(1) *Types of records made available.* All records of the Board that are not available under paragraph (b) of this section shall be made available upon request, pursuant to the procedures in this section and the exceptions set forth in the FOIA. The Board's policy is to make discretionary disclosures of records or information exempt from disclosure under the FOIA

whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(2) *Procedures for requesting records.* A request for records shall reasonably describe the records in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or significantly interfering with any of the Board's operations. The request shall be submitted in writing to the Secretary of the Board, Oil and Gas Guarantee Loan Board, U.S. Department of Commerce, Washington, D.C. 20230; or sent by facsimile to the Secretary of the Board. The request shall be clearly marked *FREEDOM OF INFORMATION ACT REQUEST.*

(3) *Contents of request.* The request shall contain the following information:

(i) The name and address of the requester, and the telephone number at which the requester can be reached during normal business hours;

(ii) Whether the requested information is intended for commercial use, or whether the requester represents an educational or noncommercial scientific institution, or news media;

(iii) A statement agreeing to pay the applicable fees, or a statement identifying any fee limitation desired, or a request for a waiver or reduction of fees that satisfies paragraph (f) of this section.

(d) *Processing requests.*—(1) *Priority of responses.* The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency, is the date the Secretary of the Board actually receives the request. The Secretary of the Board shall normally process requests in the order they are received. However, in the Secretary of the Board's discretion, the Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (d)(2) of this section. When using multitrack processing, the Secretary of the Board may provide requesters in the slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. The Secretary of the Board shall contact the requester by telephone or by letter, whichever is most efficient in each case.

(2) *Expedited processing.* (i) A person may request expedited access to records by submitting a statement, certified to be true and correct to the best of that person's knowledge and belief, that demonstrates a compelling need for the records, as defined in 5 U.S.C. 552(a)(6)(E)(v).

(ii) The Secretary of the Board shall notify a requester of the determination whether to grant or deny a request for expedited processing within ten working days of receipt of the request. If the Secretary of the Board grants the request for expedited processing, the Board shall process the request for access to information as soon as practicable. If the Secretary of the Board denies a request for expedited processing, the requester may file an appeal pursuant to the procedures set forth in paragraph (e) of this section, and the Board shall respond to the appeal within twenty days after the appeal was received by the Board.

(3) *Time limits.* The time for response to requests shall be 20 working days, except:

(i) In the case of expedited treatment under paragraph (d)(2) of this section;

(ii) Where the running of such time is suspended for payment of fees pursuant to paragraph (f)(2)(ii) of this section;

(iii) Where the estimated charge is less than $250, and the requester does not guarantee payment pursuant to paragraph (f)(2)(i) of this section; or

(iv) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B)(iii), the time limit may be extended for a period of time not to exceed 10 working days as provided by written notice to the requester, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; or such alternative time period as mutually agreed to by the Secretary of the Board and the requester when the Secretary of the Board notifies the requester that the request cannot be processed in the specified time limit.

(4) *Response to request.* In response to a request that satisfies paragraph (c) of this paragraph, an appropriate search shall be conducted of records in the custody and control of the Board on the date of receipt of the request, and a review made of any responsive information located. The Secretary of the Board shall notify the requester of:

(i) The Secretary of the Board's determination of the request and the reasons therefor;

(ii) The information withheld, and the basis for withholding; and

(iii) The right to appeal any denial or partial denial, pursuant to paragraph (e) of this section.

(5) *Referral to another agency.* To the extent a request covers documents that were created by, obtained from, classified by, or is in the primary interest of another agency, the Secretary of the Board may refer the request to that agency for a direct response by that agency and inform the requester promptly of the referral. The Secretary of the Board shall consult with another Federal agency before responding to a requester if the Board receives a request for a record in which:

(i) Another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or

(ii) Another Federal agency not subject to the FOIA has the primary interest or a significant interest. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it.

(6) *Providing responsive records.* (i) A copy of records or portions of records responsive to the request shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the requester elects to take delivery of the documents at the Board's Freedom of Information Office or makes other acceptable arrangements, or the Secretary of the Board deems it appropriate to send the documents by another means. The Secretary of the Board shall provide a copy of the record in any form or format requested if the record is readily reproducible in that form or format, but the Secretary of the Board need not provide more than one copy of any record to a requester.

(ii) The Secretary of the Board shall provide any reasonably segregable portion of a record that is responsive to the request after deleting those portions that are exempt under the FOIA or this section.

(iii) Except where disclosure is expressly prohibited by statute, regulation, or order, the Secretary of the Board may authorize the release of records that are exempt from mandatory disclosure whenever the Board or designated Board members determine that there would be no foreseeable harm in such disclosure.

(iv) The Board is not required in response to the request to create records or otherwise to prepare new records.

(7) *Prohibition against disclosure.* Except as provided in this part, no officer, employee, or agent of the Board shall disclose or permit the disclosure of any unpublished information of the Board to any person (other than Board officers, employees, or agents properly entitled to such information for the performance of official duties), unless required by law.

(e) *Appeals.* (1) Any person denied access to Board records requested under paragraph (c) of this section, denied expedited processing under paragraph (d) of this section, or denied a waiver of

fees under paragraph (f) of this section may file a written appeal within 30 calendar days after the date of such denial with the Board. The written appeal shall prominently display the phrase *FREEDOM OF INFORMATION ACT APPEAL* on the first page, and shall be addressed to the General Counsel of the Board, Oil and Gas Guaranteed Loan Board, U.S. Department of Commerce, Washington, D.C. 20230; or sent by facsimile to the General Counsel of the Board. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the requested records should be made available and why the initial denial was in error.

(2) The General Counsel of the Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal, and the determination letter shall notify the appealing party of the right to seek judicial review in event of denial.

(f) *Fee schedules; waiver of fees.*—(1) *Fee schedule.* The fees applicable to a request for records pursuant to paragraph (c) of this section are set forth in the uniform fee schedule at the end of this paragraph (b).

(i) *Search.* (A) Search fees shall be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (f)(1)(iv) of this section. The Secretary of the Board shall charge for time spent searching even if no responsive record is located or if the Secretary of the Board withholds the record(s) located as entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by the involved employees.

(B) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (f)(3) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (f)(3)) are entitled to the cost equivalent of two hours of manual search time without charge. These direct costs include the costs, attributable to the search, of operating a central processing unit and operator/programmer salary.

(ii) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (f)(1)(iv) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be 15 cents per page. For copies produced by computer, such as tapes or printouts, the Secretary of the Board shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, the Secretary of the Board will charge the direct costs of that duplication.

(iii) *Review.* Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review—the review done when the Secretary of the Board determines whether an exemption applies to a particular record at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(iv) *Limitations on charging fees.* (A) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(B) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(C) Whenever a total fee calculated under this paragraph is $25 or less for any request, no fee will be charged.

(D) For requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $25.

(2) *Payment procedures.* All persons requesting records pursuant to paragraph (c) of this section shall pay the applicable fees before the Secretary of the Board sends copies of the requested records, unless a fee waiver has been granted pursuant to paragraph (f)(6) of this section. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(i) *Advance notification of fees.* If the estimated charges are likely to exceed $25, the Secretary of the Board shall notify the requester of the estimated amount, unless the requester has indicated a willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Secretary of the Board to reformulate the request to lower the costs. The processing of the request shall be suspended until the requester provides the Secretary of the Board with a written guarantee that payment will be made upon completion of the processing.

(ii) *Advance payment.* The Secretary of the Board shall require advance payment of any fee estimated to exceed $250. The Secretary of the Board shall also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. If an advance payment of an estimated fee exceeds the actual total fee by $1 or more, the difference shall be refunded to the requester. The time period for responding to requests under paragraph (d)(4) of this section, and the processing of the request shall be suspended until the Secretary of the Board receives the required payment.

(iii) *Late charges.* The Secretary of the Board may assess interest charges when fee payment is not made within 30 days of the date on which the billing was sent. Assessment of such interest will commence on the 31st day following the day on which the billing was sent. Interest is at the rate prescribed in 31 U.S.C. 3717.

(3) *Categories of uses.* The fees assessed depend upon the fee category. In determining which category is appropriate, the Secretary of the Board shall look to the identity of the requester and the intended use set forth in the request for records. Where a requester's description of the use is insufficient to make a determination, the Secretary of the Board may seek additional clarification before categorizing the request.

(i) *Commercial use requester.* The fees for search, duplication, and review apply when records are requested for commercial use.

(ii) *Educational, non-commercial scientific institutions, or representatives of the news media requesters.* The fees for duplication apply when records are not sought for commercial use, and the requester is a representative of the news media or an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research. The first 100 pages of duplication, however, will be provided free.

(iii) *All other requesters.* For all other requests, the fees for search and duplication apply. The first two hours of search time and the first 100 pages of duplication, however, will be provided free.

(4) *Nonproductive search.* Fees for search may be charged even if no responsive documents are found. Fees for search and review may be charged even if the request is denied.

(5) *Aggregated requests.* A requester may not file multiple requests at the same time, solely in order to avoid

payment of fees. If the Secretary of the Board reasonably believes that a requester is separating a request into a series of requests for the purpose of evading the assessment of fees or that several requesters appear to be acting together to submit multiple requests solely in order to avoid payment of fees, the Secretary of the Board may aggregate such requests and charge accordingly. It is considered reasonable for the Secretary of the Board to presume that multiple requests by one requester on the same topic made within a 30-day period have been made to avoid fees.

(6) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in paragraph (4)(d) of this section, shall not begin until a determination has been made on the request for a waiver or reduction of fees.

(i) *Standards for determining waiver or reduction.* The Secretary of the Board may grant a waiver or reduction of fees where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government, and that the disclosure of information is not primarily in the commercial interest of the requester. In making this determination, the following factors shall be considered:

(A) Whether the subject of the records concerns the operations or activities of the government;

(B) Whether disclosure of the information is likely to contribute significantly to public understanding of government operations or activities;

(C) Whether the requester has the intention and ability to disseminate the information to the public;

(D) Whether the information is already in the public domain;

(E) Whether the requester has a commercial interest that would be furthered by the disclosure; and, if so,

(F) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(ii) *Contents of request for waiver.* A request for a waiver or reduction of fees shall include a clear statement of how the request satisfies the criteria set forth in paragraph (f)(6)(i) of this section.

(iii) *Burden of proof.* The burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(iv) *Determination by Secretary of the Board.* The Secretary of the Board shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Board in accordance with paragraph (e) of this section.

(7) *Uniform fee schedule.*

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search.	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction.	$.15 per page.
(B) Other reproduction (*e.g.,* computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (includes preparation for release, *i.e.* excising).	Actual salary rate of employee conducting review, plus 16 percent of salary rate.

(g) *Request for confidential treatment of business information.*—(1) *Submission of request.* Any submitter of information to the Board who desires confidential treatment of business information pursuant to 5 U.S.C. 552(b)(4) shall file a request for confidential treatment with the Board at the time the information is submitted or a reasonable time after submission.

(2) *Form of request.* Each request for confidential treatment of business information shall state in reasonable detail the facts supporting the commercial or financial nature of the business information and the legal justification under which the business information should be protected. Conclusory statements that release of the information would cause competitive harm generally will not be considered sufficient to justify confidential treatment.

(3) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated ''*PROPRIETARY*'' or ''*BUSINESS CONFIDENTIAL*'' in the submission and separated from information for which confidential treatment is not requested. Failure to segregate confidential commercial or financial information from other material may result in release of the nonsegregated material to the public without notice to the submitter.

(h) *Request for access to confidential commercial or financial information.*—(1) *Request for confidential commercial or financial information.* A request by a submitter for confidential treatment of any business information shall be considered in connection with a request for access to that information.

(2) *Notice to the submitter.* (i) The Secretary of the Board shall notify a submitter who requested confidential treatment of information pursuant to 5 U.S.C. 552(b)(4), of the request for access.

(ii) Absent a request for confidential treatment, the Secretary of the Board may notify a submitter of a request for access to submitter's business information if the Secretary of the Board reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(iii) The notice given to the submitter by mail, return receipt requested, shall be given as soon as practicable after receipt of the request for access, and shall describe the request and provide the submitter seven working days from the date of notice, to submit written objections to disclosure of the information. Such statement shall specify all grounds for withholding any of the information and shall demonstrate why the information which is considered to be commercial or financial information, and that the information is a trade secret, is privileged or confidential, or that its disclosure is likely to cause substantial competitive harm to the submitter. If the submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to the release of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(3) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(i) The Secretary of the Board determines that the request for access should be denied;

(ii) The requested information lawfully has been made available to the public;

(iii) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(iv) The submitter's claim of confidentiality under 5 U.S.C. 552(b)(4) appears obviously frivolous or has already been denied by the Secretary of the Board, except that in this last

instance the Secretary of the Board shall give the submitter written notice of the determination to disclose the information at least seven working days prior to disclosure.

(4) *Notice to requester.* At the same time the Secretary of the Board notifies the submitter, the Secretary of the Board also shall notify the requester that the request is subject to the provisions of this section.

(5) *Determination by Secretary of the Board.* The Secretary of the Board's determination whether or not to disclose any information for which confidential treatment has been requested pursuant to this section shall be communicated to the submitter and the requester immediately. If the Secretary of the Board determines to disclose the business information over the objection of a submitter, the Secretary of the Board shall give the submitter written notice via mail, return receipt requested, or similar means, which shall include:

(i) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(6) *Notice of lawsuit.* The Secretary of the Board shall promptly notify any submitter of information covered by this section of the filing of any suit against the Board to compel disclosure of such information, and shall promptly notify a requester of any suit filed against the Board to enjoin the disclosure of requested documents.

§ 500.108 Restrictions on lobbying.

(a) No funds received through a loan guaranteed under this Program may be expended by the recipient of a Federal contract, grant, loan, loan Guarantee, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan or loan Guarantee, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, loan Guarantee, or cooperative agreement.

(b) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in the application form, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(c) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a Standard Form-LLL if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(d) Each person shall file a certification, contained in the application form, and a disclosure form (Standard Form-LLL), if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(e) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or Guarantee a loan exceeding $150,000, unless such person previously filed a certification, and a disclosure form, if required, under paragraph (c) of this section.

(f) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (d) or (e) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

§ 500.109 Government-wide debarment and suspension (nonprocurement).

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have governmentwide effect. The Board shall review the List of Debarred entities prior to making final loan Guarantee decisions. Suspension or debarment may be a basis for denying a loan Guarantee.

(b) This section applies to all persons who have participated, are currently participating or may reasonably be expected to participate in transactions under Federal nonprocurement programs. For purposes of this section such transactions will be referred to as ''covered transactions''.

(1) *Covered transaction.* For purposes of this section, a covered transaction is a primary covered transaction or a lower tier covered transaction. Covered transactions at any tier need not involve the transfer of Federal funds.

(i) Primary covered transaction. Except as noted in paragraph (b)(2) of this section, a primary covered transaction is any nonprocurement transaction between an agency and a person, regardless of type, including: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan Guarantees, subsidies, insurance, payments for specified use, donation agreements and any other nonprocurement transactions between a Federal agency and a person.

(ii) Lower tier covered transaction. A lower tier covered transaction is:

(A) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction;

(B) Any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently $100,000) under a primary covered transaction;

(C) Any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction. Such persons may include loan officers or chief executive officers acting as principal investigators and providers of federally-required audit services.

(2) *Exceptions.* The following transactions are not covered:

(i) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(ii) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, entities consisting wholly or partially of foreign governments or foreign governmental entities;

(iii) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(iv) Federal employment;

(v) Transactions pursuant to national or agency-recognized emergencies or disasters;

(vi) Incidental benefits derived from ordinary governmental operations; and

(vii) Other transactions where the application of this section would be prohibited by law.

(3) *Board covered transactions.* This section applies to the Board's loan Guarantees, subcontracts and transactions at any tier that are charges as direct or indirect costs, regardless of type.

(c) *Primary covered transactions.* Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for the period of their debarment, suspension, or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, no agency shall enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to paragraph (l) of this section.

(d) *Lower tier covered transactions.* Except to the extent prohibited by law, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (see paragraph (b)(1)(ii) of this section) for the period of their exclusion.

(e) *Exceptions.* Debarment or suspension does not affect a person's eligibility for—

(1) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(2) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities;

(3) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(4) Federal employment;

(5) Transactions pursuant to national or agency-recognized emergencies or disasters;

(6) Incidental benefits derived from ordinary governmental operations; and

(7) Other transactions where the application of this section would be prohibited by law.

(f) Persons who are ineligible are excluded in accordance with the applicable statutory, executive order, or regulatory authority.

(g) Persons who accept voluntary exclusions are excluded in accordance with the terms of their settlements. The Board shall, and participants may, contact the original action agency to ascertain the extent of the exclusion.

(h) The Board may grant an exception permitting a debarred, suspended, or voluntarily excluded person, or a person proposed for debarment under 48 CFR part 9, subpart 9.4, to participate in a particular covered transaction upon a written determination by the agency head or an authorized designee stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549. However, in accordance with the President's stated intention in the Executive Order, exceptions shall be granted only infrequently. Exceptions shall be reported in accordance with the Executive Order.

(i) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(j) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntary excluded, except as provided in paragraph (h) of this section.

(k) Except as permitted paragraphs (h) or (i) of this section, a participant shall not knowingly do business under a covered transaction with a person who is—

(1) Debarred or suspended;

(2) Proposed for debarment under 48 CFR part 9, subpart 9.4; or

(3) Ineligible for or voluntarily excluded from the covered transaction.

(l) Violation of the restriction under paragraph (k) of this section may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate.

(m) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An agency has the burden of proof that a participant did knowingly do business with a person that filed an erroneous certification.

§ 500.110 Amendments.

The Board's rules in this chapter may be adopted or amended, or new rules may be adopted, only by majority vote of the Board. Authority to adopt or amend these rules may not be delegated.

Subpart C—Oil and Gas Guaranteed Loans

§ 500.200 Eligible Borrower.

(a) An eligible Borrower must be a Qualified Oil and Gas Company that can demonstrate:

(1) Credit is not otherwise available to it under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

(2) The prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) The company has agreed to permit audits by the General Accounting Office and an independent auditor acceptable to the Board prior to the issuance of the guarantee and while any such guaranteed loan is outstanding; and

(4) It has experienced layoffs, production losses, or financial losses between January 1, 1997, and the date of application for the Guarantee, demonstrated as a comparison between employment, production, or net income existing on January 1, 1997 and on the date of application.

(b) The Lender must provide with its application a letter from at least one lending institution other than the Lender to which the Borrower has applied for financial assistance, since January 1, 1997, indicating that the Borrower was denied for substantially the same loan they are now applying for, and the reasons the Borrower was unable to obtain the financing for which it applied. In addition, the Lender applying for a guarantee under this Program must certify that it would not make the loan without the Board's guarantee.

§ 500.201 Eligible Lender.

(a) A lender eligible to apply to the Board for a Guarantee of a loan must be:

(1) A banking institution, such as a commercial bank or trust company, subject to regulation by the Federal banking agencies enumerated in 12 U.S.C. § 1813; or

(2) An investment institution, such as an investment bank, commercial finance company, or insurance company, that is currently engaged in commercial lending in the normal course of its business.

(b) Status as a Lender under paragraph (a) of this section does not assure that the Board will issue the Guarantee sought, or otherwise preclude the Board from declining to issue a Guarantee. In addition to evaluating an application pursuant to § 500.207, in making a determination to issue a Guarantee to a Lender, the Board will assess:

(1) The Lender's level of regulatory capital, in the case of banking institutions, or net worth, in the case of investment institutions;

(2) Whether the Lender possesses the ability to administer the loan, as required by § 500.211(b), including its experience with loans to oil and gas companies;

(3) The scope, volume and duration of the Lender's activity in administering loans;

(4) The performance of the Lender's loan portfolio, including its current delinquency rate;

(5) The Lender's loss rate as a percentage of loan amounts for its current fiscal year; and

(6) Any other matter the Board deems material to its assessment of the Lender.

(c) In the case of the refinancing of an existing credit, the applicant must be a different lender than the holder of the existing credit.

§ 500.202 Loan amount.

The aggregate amount of loan principal guaranteed under this Program to a single Qualified Oil and Gas Company may not exceed $10 million.

§ 500.203 Guarantee percentage.

A guarantee issued by the Board may not exceed 85 percent of the amount of the principal of a loan to a Qualified Oil and Gas Company.

§ 500.204 Loan terms.

(a) All loans guaranteed under the Program shall be due and payable in full no later than December 31, 2010.

(b) Loans guaranteed under the Program must bear a rate of interest determined by the Board to be reasonable. The reasonableness of an interest rate will be determined with respect to current average yields on outstanding obligations of the United States with remaining periods of maturity comparable to the term of the loan sought to be guaranteed. The Board may reject an application to guarantee a loan if it determines the interest rate of such loan to be unreasonable.

(c)(1) The performance of all of the Borrower's obligations under the Loan Documents shall be secured by, and shall have the priority in, such Security as provided for within the terms and conditions of the Guarantee.

(2) Without limiting the Lender's and Borrower's obligations under paragraph (c)(1) of this section, at a minimum, the loan shall be secured by—

(i) A fully perfected and enforceable security interest and/or lien, with first priority over conflicting security interests or other liens in all property, both real and personal, tangible or intangible, including accessions, replacements and proceeds thereof, which are acquired, improved, or derived from the loan funds; and

(ii) A fully perfected and enforceable security interest and/or lien in all other property of the Borrower, including accessions, replacements and proceeds thereof, or which may be given by a third-party as Security for the loan, the priority of which shall be on the same and equal status with the highest voluntarily granted or acquired security interest or lien then existing therein;

(3) The entire loan will be secured by the same Security with equal lien priority for the guaranteed and the unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference over the guaranteed portion.

(4) An Applicant's compliance with paragraph (c)(2) of this section does not assure a finding of reasonable assurance of repayment, or assure the Board's Guarantee of the loan.

(d) An eligible Lender may assess and collect from the Borrower such other fees and costs associated with the application and origination of the loan as are reasonable and customary, taking into consideration the amount and complexity of the credit. The Board may take such other fees and costs into consideration when determining whether to offer a Guarantee to the Lender.

§ 500.205 Application process.

(a) *Application deadline.* An original application and three copies must be received by the Board no later than 8 p.m. EST, December 30, 1999 in U.S. Department of Commerce, Washington D.C. 20230. Applications which have been provided to a delivery service on or before December 29, 1999, with ''delivery guaranteed'' before 8 p.m. on December 30, 1999, will be accepted for review if the Applicant can document that the application was provided to the delivery service with delivery to the address listed above guaranteed prior to the closing date and time. A postmark of December 30, 1999, is not sufficient to meet this deadline as the application must be received by the required date and time. Applications will not be accepted via facsimile machine transmission or electronic mail.

(b) Applications shall contain the following:

(1) A completed Form, ''Application for Oil and Gas Guarantee Loan'';

(2) The information required for the completion of Form ''Environmental Assessment and Compliance Findings for Related Environmental Laws'' and attachments, as required by § 500.206(a)(2)(i)(D), unless the project is categorically excluded under § 500.206(b);

(3) All Loan Documents that will be signed by the Lender and the Borrower, if the application is approved, including all terms and conditions of, and Security or additional Security to assure the Borrower's performance under, the loan;

(4) Certification by the chairman of the board and the chief executive officer of the Borrower acknowledging that the Borrower is aware that the Lender is applying to the Board for a Guarantee of a loan under the Program, as described in the Loan Documents, and agreeing to permit audits by the General Accounting Office, its designee, an independent auditor acceptable to the Board prior to the issuance of the Guarantee and annually thereafter while such guarantee is outstanding;

(5) The Lender's full written underwriting analysis of the loan to be guaranteed by the Board;

(6) A certification that the Lender has followed the same loan underwriting analysis with the loan to be guaranteed as it would follow for a loan not guaranteed by the Government; and a certification by the Lender, that the loan, Lender, and Borrower meet each of the requirements of the Program as set forth in the Act and the Board's rules in this part;

(7) A description of all Security for the loan, including, as applicable, current appraisal of real and personal property, copies of any appropriate environmental site assessments, and current personal and corporate financial statements of any guarantors for the same periods as required for the Borrower. Appraisals of real property shall be prepared by State licensed or certified appraisers, and be consistent with the ''Uniform Standards of Professional Appraisal Practice,'' promulgated by the Appraisal Standards Board of the Appraisal Foundation. Financial statements of guarantors shall be prepared by independent Certified Public Accountants;

(8) Consolidated financial statements of the Borrower for the previous three years that have been audited by an independent certified public accountant, including any associated notes, as well as any interim financial statements and associated notes for the current fiscal year;

(9) A five year history and five year projection for revenue, cash flow, average realized prices and average realized production costs. If the loan funds are to be used to purchase substantial assets of an existing firm, a pro forma balance sheet at startup, and five years projected year end balance sheets and income statement at start-up;

(10) Documentation that credit is not otherwise available to the borrower under reasonable terms or conditions sufficient to meet its financial needs, as reflected in the financial or business plan of that company. The Lender must provide with its application those items required by § 500.200(b);

(11) Documentation sufficient to demonstrate that the Lender is eligible under § 500.201(a) and to allow the Board to make a determination to issue a Guarantee to such Lender as set forth in § 500.201(b); and

(12) A report as to the Borrower's designation of the nature and value of project reserves from an independent petroleum engineer acceptable to the Board.

(c) No Guarantee will be made if either the Borrower or Lender has an outstanding, delinquent Federal debt until:

(1) The delinquent account has been paid in full;

(2) A negotiated repayment schedule is established and at least one payment has been received; or

(3) Other arrangements, satisfactory to the agency responsible for collecting the debt, are made.

§ 500.206 Environmental requirements.

(a)(1) *General.* Environmental assessments of the Board's actions will be conducted in accordance with applicable statutes, regulations, and Executive Orders. Therefore, except as provided in paragraph (b) of this section, and subject to paragraph (c) of this section, each application for a Guarantee under the Program must be accompanied by information necessary for the Board to meet the requirements of applicable law.

(2) *Environmental information required from the Lender.* (i) Environmental data or documentation concerning the use of the proceeds of any loan guaranteed under this Program must be provided by the Lender to the Board to assist the Board in meeting its legal responsibilities. The Lender may obtain this information from the Borrower. Such information includes:

(A) Documentation for an environmental threshold review from qualified data sources, such as a Federal, State or local agency with expertise and experience in environmental protection, or other sources, qualified to provide reliable environmental information;

(B) Any previously prepared environmental reports or data relevant to the loan at issue;

(C) Any environmental review prepared by Federal, State, or local agencies relevant to the loan at issue;

(D) The information required for the completion of Form ''Environmental Assessment and Compliance Findings for Related Environmental Laws;'' and

(E) Any other information that can be used by the Board to ensure compliance with environmental laws.

(ii) All information supplied by the Lender is subject to verification by the Board.

(b) *Categorical exclusions from National Environmental Policy Act (NEPA) reviews.* The actions described in this paragraph have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They are categorically excluded from the need to prepare an environmental assessment or impact statement under NEPA. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from compliance with other applicable local, State, or Federal environmental laws.

(1) Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities, structures or businesses, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of utilities such as water or sewer lines and appurtenances, reconstruction of curbs and sidewalks, street repaving, and building modifications, renovations, and improvements);

(2) Project management actions relating to invitation for bids, contract award, and the actual physical commencement of construction activities;

(3) Projects that solely involve the purchase and installation of office equipment, public safety equipment, or motor vehicles;

(4) Projects that solely involve the acquisition of working capital; and

(5) Projects that solely involve a combination of activities under paragraphs (B)(1) through (4) of this section.

(c) Actions listed in paragraph (b) that otherwise are categorically excluded from NEPA review are not necessarily excluded from review if they would be located within, or in other cases, potentially affect:

(1) A floodplain;

(2) A wetland;

(3) Important farmlands, or prime forestlands or rangelands;

(4) A listed species or critical habitat for an endangered species;

(5) A property that is listed on or may be eligible for listing on the National Register of Historic Places;

(6) An area within an approved State coastal zone management Program;

(7) A coastal barrier or a portion of a barrier within the Coastal Barrier Resources System;

(8) A river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System;

(9) A sole source aquifer recharge area;

(10) A State water quality standard (including designated and/or existing beneficial uses and anti-degradation requirements); or

(11) Federal lands.

(d) The regulations of the Council on Environmental Quality implementing NEPA require the Board to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public. See 40 CFR 1506.6(b). Environmental information concerning specific projects can be obtained from the Board by contacting: Executive Director, Emergency Oil and Gas Guaranteed Loan Board, U.S. Department of Commerce, Washington, DC 20230.

§ 500.207 Application evaluation.

(a) *Eligibility screening.* Applications will be reviewed to determine whether the Lender and Borrower are eligible, the information required under § 500.205(b) is complete, and the proposed loan complies with applicable statutes and regulations. The Board can at any time reject an application that does not meet these requirements.

(b) *Evaluation criteria.* Applications that are determined to be eligible pursuant to paragraph (a) of this section shall be subject to a substantive review, on a competitive basis, by the Board based upon the following evaluation factors, in order of importance:

(1) The ability of the Borrower to repay the loan by the date specified in the Loan Document, which shall be no later than December 31, 2010;

(2) The adequacy of the proposed provisions to protect the Government, including sufficiency of Security, the priority of the lien position in the Security, and the percentage of Guarantee requested; and

(3) Adequacy of the underwriting analysis performed by the Lender in preparing the application and the ability of the Lender to administer the loan in full compliance with the requisite standard of care set forth in § 500.211(b).

(c) *Decisions by the Board.* Upon completion of the evaluation of the application and as soon as possible after the due date, the Board will approve or deny all eligible applications timely received under this Program. The Board shall notify all Applicants in writing of the approval or denial of the Guarantee applications as soon as possible. Approvals for loan Guarantees shall be conditioned upon compliance with § 500.208.

§ 500.208 Issuance of the Guarantee.

(a) The Board's decisions to approve any application for, and extend an offer of, guarantee under § 500.207 is conditioned upon:

(1) The Lender and Borrower obtaining any required regulatory or judicial approvals;

(2) The Lender and Borrower being legally authorized to enter into the loan under the terms and conditions submitted to the Board in the application;

(3) The Board's receipt of the Loan Documents, Guarantee, and any related instruments, properly executed by the Lender, Borrower, and any other required party other than the Board; and

(4) No material adverse change in the Borrower's ability to repay the loan between the date of the Board's approval and the date the Guarantee is to be issued.

(b) The Board may withdraw its approval of an application and rescind its offer of Guarantee if the Board determines that the Lender or the Borrower cannot, or is unwilling to, provide adequate documentation and proof of compliance with paragraph (a) of this section within the time provided for in the offer.

(c) Only after receipt of all the documentation, required by this section, will the Board sign and deliver the Guarantee.

(d) A Borrower receiving a loan guaranteed by the Board under this Program shall pay a one-time guarantee fee of 0.5 percent of the amount of the principal of the loan. This fee must be paid no later than one year from the issuance of the Guarantee.

§ 500.209 Funding for the Program.

The Act provides funding for the costs incurred by the Government as a result of granting Guarantees under the Program. While pursuing the goals of the Act, it is the intent of the Board to minimize the cost of the Program to the Government. The Board will estimate the risk posed by the guaranteed loans to the funds appropriated for the costs of the Guarantees under the Program and operate the Program accordingly.

§ 500.210 Assignment or transfer of loans.

(a) Neither the Loan Documents nor the Guarantee of the Board, or any interest therein, may be modified, assigned, conveyed, sold or otherwise transferred by the Lender, in whole or in part, without the prior written approval of the Board.

(b) Under no circumstances will the Board permit an assignment or transfer of less than 100 percent of the Loan Documents and Guarantee, nor will it permit an assignment or transfer to be made to an entity which the Board determines not to be an Eligible Lender pursuant to § 500.201.

(c) The proscription under paragraph (a) of this section shall not apply to:

(1) Transfers which occur by operation of law, unless a primary purpose of the transaction leading to such a transfer was to assign, convey or sell the loan note or Guarantee without the necessity of securing the Board's prior written approval; or

(2) An action or agreement by the Lender which has the effect of distributing the risks of the credit among other Lenders if:

(i) Neither the loan note nor the Guarantee is assigned, conveyed, sold, or transferred in whole or in part;

(ii) Both the unguaranteed and guaranteed portions of the loan are treated in the same manner;

(iii) The Lender remains solely responsible for the administration of the loan; and

(iv) The Board's ability to assert any and all defenses available to it under the Guarantee and the law is not adversely affected.

§ 500.211 Lender responsibilities.

(a) *General.* Lender shall comply with all provisions of the Guarantee.

(b) *Standard of care.* The Lender shall exercise due care and diligence in administering the loan as would be exercised by a responsible and prudent banking institution when administering a secured loan of such banking institution's own funds without a Federal guaranty. Such standard shall also apply to any and all approvals, determinations, permissions, acceptances, requirements, or opinion made, given, imposed or reached by Lender.

(c) *Representation to the Board.* In addition to any other representations required by the Guarantee, the Lender shall represent to the Board that it has the ability to, and will, administer the loan, as well as to exercise the Lender's rights and pursue its remedies,

including conducting any liquidation of the Security or additional Security in full compliance with the standard of care, without the need for any advice, opinion, determination, recommendation, approval, disapproval, assistance (financial or other) or participation by the Board, except where the Board's consent is expressly required by the Guarantee, or where the Board, in its sole discretion and pursuant to the Guarantee, elects to provide same.

(d) *Covenants.* With respect to any loan guaranteed by the Board pursuant to the Act and this part, the Lender shall require the Loan Documents to contain such affirmative and negative covenants by the Borrower as are required by the terms and conditions of the Guarantee, such as the prohibition on the payment of dividends.

(e) *Monitoring.* In accordance with the Guarantee, the Lender shall monitor Borrower's performance under the Loan Documents to detect any noncompliance by the Borrower with any provision thereof, and will use its best efforts to cause Borrower's timely correction of any such noncompliance and Borrower's compliance with such provision thereafter.

(f) *Reporting.* With respect to any loan guaranteed by the Board pursuant to the Act and this part, the Lender shall provide the Board with the following information:

(1) Audited financial statements for the Borrower for the prior fiscal year;

(2) Projected balance sheet, income statement, and cash flows for the Borrower for each year remaining on the term of the loan within 60 days of the Borrower's fiscal year end; and

(3) A completed signed copy of Form ''Quarterly Compliance Statement,'' that includes information on the recent performance of the loan, within 15 days of the end of each calendar quarter.

(g) *Notices.* All written notices, requests, or demands made to the Board shall be mailed to the Board at the U.S. Department of Commerce, Washington, D.C. 20230, except as otherwise specified by the Guarantee or as directed by the Board. Lender shall notify the Board in writing without delay of:

(1) Deterioration in the internal risk rating of a loan guaranteed under this Program within 3 business days of such action by the Lender;

(2) The occurrence of each event of default under the Loan Documents or Guarantee promptly, but not later than 3 business days, of the Lender's learning of such occurrence; and

(3) Any other notification requirements as provided by law, or by the terms of the Guarantee or Loan Documents.

§ 500.212 Liquidation.

(a) The Board may take, or direct to be taken, any action in liquidating the Security which the Board determines to be necessary or proper, consistent with Federal law and regulations.

(b) Pursuant to the Guarantee, upon written demand by the Lender and whether or not the Board has made any payment under the Guarantee, the Board, at the Board's sole option shall have the right to require that the Lender, solely or jointly with the Board, conduct to completion the liquidation of any or all of the Security. The Board may choose to conduct the liquidation itself.

§ 500.213 Termination of Guarantee.

(a) The Board, in its discretion, shall be entitled to terminate all of the Board's obligations under the Guarantee, without further cause, by giving written notice to the Lender of such termination, in the event that:

(1) The closing of the loan shall not have occurred in accordance with the terms and conditions of the Guarantee;

(2) The Guarantee fee required by § 500.208(d) shall not have been paid;

(3) The Lender shall have released or covenanted not to sue the Borrower or any other guarantor, or agreed to the modification of any obligation of any party to any agreement related to the loan, without the prior written consent of the Board;

(4) Lender has released the Board from its liability and obligations under the Guarantee;

(5) Lender has been repaid in full on the loan;

(6) Lender shall have made any incorrect or incomplete representation to the Board in any material respect in connection with the Application, the Guarantee or the Loan Documents; or

(7) Lender failed to comply with any material provision of the Loan Documents or the Guarantee.

(b) Upon receipt of a written demand for payment made pursuant to the Guarantee, the Board shall be entitled to seek such certifications from the Lender, undertake such audits or investigations, or take such other action as is provided for by law or the Guarantee so as to determine whether the Lender has complied with all of the Lender's obligations under the Guarantee.

§ 500.214 OMB control number.

[Reserved.]

[FR Doc. 99–27582 Filed 10–22–99; 2:19 pm]

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federal register

Wednesday
October 27, 1999

Part IV

Department of Education

34 CFR Part 685

William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1845–AA10

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the William D. Ford Federal Direct Loan (Direct Loan) Program. The amendment is a result of a recently enacted change made to the Higher Education Act of 1965, as amended (HEA) by the Higher Education Amendments of 1998 (1998 Amendments). These final regulations reflect the Secretary's authority to charge reduced interest rates on Direct Loan Program loans to encourage on-time loan repayment.

DATES: *Effective Date:* These regulations are effective July 1, 2000.

Implementation Date: The Secretary has determined, in accordance with section 482(c)(2)(A) of the HEA (20 U.S.C. 1089(c)(2)(A)), that Direct Loan Program borrowers may, at their discretion, choose to implement the provisions of § 685.211(b) on or after November 1, 1999. For further information see ''Implementation Date of These Regulations'' under the **SUPPLEMENTARY INFORMATION** section of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Nicki Meoli, U.S. Department of Education, 400 Maryland Avenue, SW., ROB–3, Room 3045, Washington, DC 20202–5346. Telephone: (202) 708–8242. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

These regulations address a change made to the HEA by the 1998 Amendments (Pub. L. 105–244) that affects the Direct Loan Program. On June 16, 1999, the Secretary published a notice of proposed rulemaking (NPRM) for the Direct Loan Program in the **Federal Register** (64 FR 32358). On August 24, 1999, the Secretary published final regulations in the **Federal Register** (64 FR 46252) for all of the proposed amendments in the NPRM except for the amendment to § 685.211 that would reflect the Secretary's authority to charge borrowers reduced interest rates to encourage on-time loan repayment. Before publishing final regulations on repayment incentives, the Secretary met certain reporting procedures in section 455(b)(7) of the HEA. This final regulation is the same as the proposed amendment to § 685.211 published in the NPRM.

Implementation Date of These Regulations

Section 482(c) of the HEA requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1 prior to the start of the award year in which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulation may choose to implement earlier. If the Secretary designates a regulation for early implementation, he may specify when and under what conditions the entity may implement it. Under this authority, the Secretary has designated the following regulations for early implementation:

§ 685.211(b)—On or after November 1, 1999, these regulations may be implemented by Direct Loan Program borrowers at their discretion. This means that Direct Loan Program borrowers may receive a reduced interest rate by choosing to repay their loans under a system or on a schedule that meets requirements specified by the Secretary.

Analysis of Comments and Changes

The regulations in this document were developed through the use of negotiated rulemaking. Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs under Title IV of the HEA, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless the Secretary reopens that process or explains any departure from the agreements to the negotiated rulemaking participants.

These regulations were published in proposed form on June 16, 1999 in conformance with the consensus of the negotiated rulemaking committee. Under the committee's protocols, consensus meant that no member of the committee dissented from the agreed-upon language. The Secretary invited comments on the proposed regulations by July 30, 1999 and several comments were received. An analysis of the comments received on the proposed regulations for all of the provisions in the NPRM except § 685.211 was included in the preamble to the final regulations the Secretary published on August 24, 1999. An analysis of the comments received on the proposed changes to § 685.211 follows.

Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize the Secretary to make.

Repayment Incentives (§ 685.211(b))

Comments: A number of commenters representing individual schools and associations of schools supported the proposed rule that would reflect the Secretary's authority to charge reduced interest rates to encourage on-time loan repayment. The commenters endorsed the proposed regulation as a means of reducing costs to Direct Loan Program borrowers in a way that previously had been available only to Federal Family Education Loan (FFEL) Program borrowers.

Discussion: We appreciate the support expressed by the commmenters for the proposed change to § 685.211(b).

As the first step in implementing this regulation, the Secretary will reduce the interest rate charged on Direct Loan Program loans for borrowers repaying by means of automated account debiting. Beginning on November 1, 1999, borrowers repaying their Direct Loan Program loans via automated debiting of their personal checking, savings, or other type of account at a financial institution will receive a .25 percent reduction in the interest being charged on their loans.

Change: None.

Executive Order 12866

We have reviewed these final regulations in accordance with Executive Order 12866. Under the terms of this order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, we have determined that the benefits of the regulations would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local, and tribal

governments in the exercise of their governmental functions.

We summarized the potential costs and benefits of these final regulations in the preamble to the NPRM on June 16, 1999 (64 FR 32360).

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

In the NPRM, we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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http://ocfo.ed.gov/fedreg.htm
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http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number: 84.268 William D. Ford Federal Direct Loan Program.)

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Student aid, Vocational education.

Dated: October 15, 1999.

Richard W. Riley,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by amending Part 685 as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087 *et seq.*, unless otherwise noted.

2. Section 685.211 is amended by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively; by adding a new paragraph (b); by removing the reference to ''(d)(1)'' in the first sentence of newly redesignated paragraph (e)(2), and by adding, in its place, ''(e)(1)''; and by removing the reference to ''(d)(2)'' in newly redesignated paragraph (e)(3), and by adding, in its place, ''(e)(2)'' to read as follows:

§ 685.211 Miscellaneous repayment provisions.

* * * * *

(b) *Repayment incentives.* To encourage on-time repayment, the Secretary may reduce the interest rate for a borrower who repays a loan under a system or on a schedule that meets requirements specified by the Secretary.

* * * * *

[FR Doc. 99–27719 Filed 10–26–99; 8:45 am]

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federal register

Wednesday
October 27, 1999

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 26 and 52

Federal Acquisition Regulation; Utilization of Indian Organizations and Indian-Owned Economic Enterprises; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 26 and 52

[FAR Case 99–301]

RIN 9000–AI52

Federal Acquisition Regulation; Utilization of Indian Organizations and Indian-Owned Economic Enterprises

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to delete DoD-unique language pertaining to incentive payments made to prime contractors for the utilization of Indian organizations and Indian-owned economic enterprises.

DATES: Comments should be submitted on or before December 27, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.99–301@gsa.gov.

Please submit comments only and cite FAR case 99–301 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (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 99–301.

SUPPLEMENTARY INFORMATION:

A. Background

Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) established the Indian Incentive Program. Annual DoD appropriations acts have restricted DoD payments under the Program to those contractors that submitted subcontracting plans pursuant to 15 U.S.C. 637(d) and those contractors participating in the test program for comprehensive small business subcontracting plans established by Section 854 of Pub. L. 101–189. Section 8024 of the DoD Appropriations Act for Fiscal Year 1999 (Pub. L. 105–262) eliminated the link between a DoD contractor's subcontracting plan requirement and the contractor's eligibility for participation in the Indian Incentive Program. This change now allows DoD to make incentive payments to small businesses that subcontract to Indian organizations or Indian-owned economic enterprises when the contract includes the clause at FAR 52.226–1, Utilization of Indian Organizations and Indian-owned Economic Enterprises. This rule proposes to remove obsolete DoD-unique implementing guidance from the FAR. The Defense Acquisition Regulations Council will add guidance to the Defense Federal Acquisition Regulation Supplement under a separate case to implement the change made in Section 8024 of Pub. L. 105–262.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely deletes DoD-unique requirements from the FAR. The rule will have no effect on small entities doing business with civilian agencies. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 99–301), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 26 and 52

Government procurement.

Dated: October 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 26 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 26 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 26—OTHER SOCIOECONOMIC PROGRAM

26.101 [Amended]

2. Amend section 26.101 as follows:

a. In the definition ''Indian'', remove ''which'' and insert ''that'', in its place;

b. In the definition ''Indian-owned economic enterprise'' remove ''shall constitute'' and insert ''constitutes'', in its place; and

c. In the definition ''Indian tribe'', remove ''which'' and insert ''that'', in its place.

3. Revise section 26.104 to read as follows:

26.104 Contract clause.

Contracting Officers in civilian agencies may insert the clause at 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, in solicitations and contracts if—

(a) In the opinion of the contracting officer, subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises; and

(b) Funds are available for any increased costs as described in paragraph (b)(2) of the clause at 52.226–1.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.226–1 as follows:

a. Revise the date of the clause;

b. Remove paragraph (a);

c. Redesignate paragraphs (b) through (d) as (a) through (c), respectively;

d. In the newly designated paragraph (a):

(1) Remove ''which'' from the definition ''Indian'' and insert ''that'', in its place;

(2) Remove ''shall constitute'' from the definition ''Indian-owned economic enterprise'' and insert ''constitutes'', in its place; and

(3) Remove ''which'' from the definition ''Indian tribe'' and insert ''that'', in its place.

e. Revise newly designated paragraphs (b) and (c).

The revised text reads as follows:

52.226–1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

* * * * *

Utilization of Indian Organizations and Indian-Owned Economic Enterprises (Date)

* * * * *

(b) The Contractor shall use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS 2626–MIB, Washington, DC 20240–4000. The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the Disputes clause of this contract.

(End of clause)

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.J. Res. 71/P.L. 106–75

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Oct. 21, 1999; 113 Stat. 1125)

S. 323/P.L. 106–76

Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (Oct. 21, 1999; 113 Stat. 1126)

H.R. 560/P.L. 106–77

To designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the ''Jose V. Toledo Federal Building and United States Courthouse''. (Oct. 22, 1999; 113 Stat. 1134)

H.R. 1906/P.L. 106–78

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Oct. 22, 1999; 113 Stat. 1135)

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