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Rules and Regulations

Federal Register

Vol. 68, No. 184

Tuesday, September 23, 2003

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–23–AD; Amendment 39–13310; AD 2003–19–07]

RIN 2120–AA64

Airworthiness Directives; Eagle Aircraft (Malaysia) Sdn. Bhd. Model 150B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Eagle Aircraft (Malaysia) Sdn. Bhd. (Eagle) Model 150B airplanes. This AD requires you to modify the canard rear spar and the rear spar attachment bracket. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Australia. The type design responsibility has been transferred from Australia to Malaysia since the release of the MCAI. The actions specified by this AD are intended to prevent detachment of the rear spar bracket from the canard rear spar, which could result in failure of the canard rear spar. Such failure could lead to loss of control of the airplane.

DATES: This AD becomes effective on November 3, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 3, 2003.

ADDRESSES: You may get the service information referenced in this AD from Eagle Aircraft (Malaysia) Sdn. Bhd., Composites Technology City, Batu Barendam Airport, 75350 Batu Barendam, Melaka, Malaysia. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–23–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, CA 90712; telephone: (562) 627–5232; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Civil Aviation Safety Authority (CASA), which is the airworthiness authority for Australia, notified FAA that an unsafe condition may exist on certain Eagle Model 150B airplanes. The CASA reports that the rear spar attachment bracket does not meet required strength specifications for installation on composite airplanes. These strength specifications are necessary to ensure that the rear spar bracket does not detach from the canard rear spar.

The manufacturer has redesigned these parts in order to meet required strength specifications.

What Is the Potential Impact if FAA Took No Action?

This condition, if not corrected, could result in failure of the canard rear spar. Failure of the canard rear spar could result in loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Eagle Model 150B airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 23, 2003 (68 FR 37102). The NPRM proposed to require you to modify the canard rear spar and the rear spar attachment bracket.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

How Does the Revision to 14 CFR Part 39 Affect This AD?

On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 7 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 workhours × $60 per hour = $240	$135 per airplane	$240 + $135 = $375 per airplane	$375 × 7 = $2,625.

The modification to the rear spar and the rear spar attachment bracket will require 25 hours for cure and post cure time.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2003–19–07 Eagle Aircraft (Malaysia) SDN. BHD.: Amendment 39–13310; Docket No. 2000–CE–23–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model 150B airplanes, serial numbers 001 through 003 and 005 through 030, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent detachment of the rear spar bracket from the canard rear spar, which could result in failure of the canard rear spar. Such failure could lead to loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Modify the canard rear spar by adding additional laminated plies; modifying the rear spar bracket; replacing the existing console support bracket with a new part (part number (P/N) 3100D41–001); modifying the Vinikor cap; and installing an additional support bracket (P/N 581B131–03) and rear spar bracket cap (P/N EO(VAR) 15566–01 or 581B131–02, as applicable).	Within the next 100 hours time-in-service (TIS) after November 3, 2003 (the effective date of this AD), unless already accomplished.	Do the modification in accordance with Eagle Service Bulletin 1074, Revision 1, dated October 19, 1999, except as noted in paragraph (d)(2) of this AD
(2) The following instructions in the service bulletin are incorrect and you must use the information provided in this AD. (i) The instructions for installing console support bracket (P/N 3100D41–01) as specified in paragraph 9.6.9 of Eagle Service Bulletin 1074, Revision 1, dated October 19, 1999, are incorrect. The correct instructions are to install a new console support bracket (P/N 3100D41–01) instead of re-installing the removed bracket. The information contained in this AD takes precedence over the manufacturer's service bulletin; and (ii) The rear spar bracket support P/N specified in paragraph 9.7.2 of Eagle Service Bulletin 1074, Revision 1, dated October 19, 1999, is incorrect. The correct P/N is 581B131–03. The information contained in this AD takes precedence over the manufacturer's service bulletin.	As of November 3, 2003 (the effective date of this AD).	

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, use the procedures in 14 CFR 39.19. Send these requests to the Manager, Los Angeles Aircraft Certification Office (ACO). For information on any already approved alternative methods of compliance, contact Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, CA 90712; telephone: (562) 627–5232; facsimile: (562) 627–5210.

(f) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Eagle Service Bulletin 1074, Revision 1, dated October 19, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Eagle Aircraft Eagle Aircraft (Malaysia) Sdn. Bhd., Composites Technology City, Batu Barendam Airport, 75350 Batu Barendam, Melaka, Malaysia. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note: The subject of this AD is addressed in Australian AD No. X–TS/3, dated December 24, 1999.

(g) *When does this amendment become effective?* This amendment becomes effective on November 3, 2003.

Issued in Kansas City, Missouri, on September 10, 2003.

Frank P. Paskiewicz,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–23677 Filed 9–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–137–AD; Amendment 39–13304; AD 2003–19–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This action requires inspections of the outboard leading edge slats on the wings for installation of seal assemblies with undersized seal inserts and missing or gapped inserts, and follow-on and corrective actions if necessary. This action also provides for an optional replacement of the seal assembly in lieu of the inspections. This action is necessary to find and fix such discrepancies, which could result in cracking of the slats, subsequent separation of the cove skin, structural damage or loss of the trailing edge wedge, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 8, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 8, 2003.

Comments for inclusion in the Rules Docket must be received on or before November 24, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–137–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. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–137–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Related AD

This AD is related to AD 2002–11–06, amendment 39–12767 (67 FR 38587, June 5, 2002), applicable to certain Boeing Model 777 series airplanes. Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998; Revision 3, dated May 4, 2000; Revision 4, dated July 20, 2000; and Revision 5, dated January 25, 2001; were referenced as the appropriate sources of service information for accomplishment of the required actions. That AD supersedes AD 2000–19–08, amendment 39–11909 (65 FR 57282, September 22, 2000), to continue to require repetitive detailed visual inspections to detect cracking of the coveskin on the outboard leading edge slats, and corrective actions, if necessary. AD 2002–11–06 also continues to provide for an optional modification that significantly increases the repetitive inspection interval, and expands the applicability of AD 2000–19–08 by mandating the currently required inspections, and corrective actions, if necessary, for additional airplanes. Also, for airplanes on which the optional modification has been accomplished, AD 2002–11–06 requires a new one-time inspection for undersized (incorrect diameter) seal inserts installed in the spanwise bulb seals on certain slats, and replacement of seal assemblies with new assemblies if necessary.

Since the Issuance of That AD

Since the issuance of AD 2002–11–06, the FAA has received information from the manufacturer indicating that Group 4 airplanes may have seal assemblies on the outboard leading edge slats on the wings that were installed during production with undersized (incorrect diameter) inserts. In addition, those inserts may have receded into the ends of the seal assemblies.

We also have received reports of the installation of seal assemblies with missing and gapped inserts. These seal assemblies are installed on Model 777 series airplanes on which the seal insert installation was done per Revision 3, 4, 5, or 6 of the referenced service bulletin, and on which the seal inserts were installed during production. Investigation revealed that, during installation, the inserts were stretched and did not return to the original shape before being trimmed and bonded into place. Subsequently, the insert recedes into the ends of the seal assembly, and can become unbonded and detach from the seal assembly. Additionally, when the seal is stretched during installation, the insert can separate at a location along its length which allows the seal to recede from the center of the seal assembly. Such conditions, if not found and fixed, could result in cracking of the slats, subsequent separation of the cove skin, structural damage or loss of the trailing edge wedge, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

We have reviewed and approved Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003, which describes procedures for inspections of the outboard leading edge slats on the wings for installation of seal assemblies with undersized (incorrect diameter) seal inserts and missing or gapped inserts, and follow-on and corrective actions if necessary. The applicable inspections and follow-on and corrective actions are specified in Part 5 and Part 6 of the Work Instructions of the service bulletin, described below:

Part 5—Seal Insert Diameter Inspection and Seal Replacement: Describes procedures for airplanes on which the seal insert installation has been done per Part 4 of the service bulletin. (Part 5 was added to Revision 6 of the referenced service bulletin for Groups 1 and 2 airplanes that had done Part 4 of the service bulletin referenced

in the existing AD.) The procedures specify a one-time inspection of the seal assemblies for correct diameter seal inserts on slat numbers 4, 5, 10, and 11; if the correct diameter insert was installed and the insert has receded into the ends of the seal assembly, install an insert segment into the ends of the seal assembly; if incorrect diameter seal inserts are installed or the inspection was inconclusive, replace the seal assembly with a new seal assembly. If the correct diameter insert is installed and the insert has not receded into the ends of the seal assembly, no further action is specified for Part 5.

Part 6—Seal Insert Gap Inspection and Seal Assembly Replacement: Describes procedures for all airplanes on which the seal insert installation has been done. The procedures specify a one-time inspection of the seal assemblies for missing or gapped inserts.

If the assembly insert is not missing and no gaps are found, the procedures in the service bulletin recommend eventual replacement of the seal assembly with a new seal assembly as specified in Figure 8 of the service bulletin at the time specified in Figure 1 of the service bulletin, regardless of apparent condition.

If the seal assembly insert is missing or gaps are found, the procedures specify doing the following:

For airplanes on which the installation specified in Part 4 has been done: Do a cove skin inspection for cracking as specified in Part 1 of the service bulletin. If no cracking is found, repeat the inspection at the intervals specified. If any cracking is found, the procedures in the service bulletin specify the applicable actions as specified below:

- For any crack that is 1.5 inches in length or less, the follow-on actions include stop-drilling the cracking, doing an internal inspection for cracking as specified in Part 2 of the service bulletin, repairing any cracking found, doing a slat adjustment check, and repeating the cove skin and internal inspections at the intervals specified.
- For any crack that is more than 1.5 inches in length, the follow-on actions include doing an internal inspection for cracking as specified in Part 2 of the service bulletin, repairing any cracking found, doing a slat adjustment check, and repeating the cove skin and internal inspections at the intervals specified.
- As an alternative for all cracks: Replace the slat and do a slat adjustment check, then repeat the cove skin and internal inspections at the intervals specified.

If any cracking exceeds certain limits specified in the 777 Structural Repair Manual, or if internal cracking is found, the service bulletin specifies contacting the manufacturer for repair instructions.

For airplanes on which the seal insert installation was done during production, the procedures also include eventual replacement of the seal assembly with a new seal assembly as specified in Figure 8 of the service bulletin, at the time specified in Figure 1 of the service bulletin, regardless of apparent condition.

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

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to find and fix discrepancies of the seal assemblies of the outboard leading edge slats on the wings, which could result in cracking of the slats, subsequent separation of the cove skin, structural damage or loss of the trailing edge wedge, and consequent reduced controllability of the airplane. This AD requires inspections of the outboard leading edge slats on the wings for installation of seal assemblies with undersized (incorrect diameter) seal inserts and missing or gapped inserts, and follow-on and corrective actions if necessary. This AD also provides for an optional replacement of the seal assembly in lieu of the inspections. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Interim Action

At this time we are considering a separate rulemaking action to supersede this AD to address the procedures for long-term follow-on inspections to find additional cracking, and repair of any cracking found, as described in the service bulletin. Due to the urgency of the need to inspect the fleet and repair any cracking found, this AD will address only the sections in the service bulletin that pertain to the inspections and follow-on and corrective actions specified in Part 5 and Part 6 of the service bulletin.

In addition to superseding this AD, that rulemaking action would also supersede AD 2002–11–06 to mandate replacement of the seal assemblies with new seal assemblies for all 777 series airplanes. However, the planned compliance time for these actions is sufficiently long so that prior notice and time for public comment will be practicable.

Differences Between This AD and the Service Bulletin

The service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions; however, this AD requires the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

Clarification of Part Numbers for Installation

Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003, contains certain incorrectly identified part numbers (P/N) in the ''Existing Part Number'' and ''New Part Number'' columns of the table under Appendix A, rows 20 and 27 of page 79, and rows 8 and 10 of page 80; respectively. We have been advised that the manufacturer will issue a revision to this alert service bulletin to correct the error. The part numbers are corrected in the tables below:

TABLE: PART NUMBERS

Existing P/N	Name	Correct P/N
114W4140–21	Slat Assy—No. 11.	114W4140–22
114W4705–42	Seal	114W4705–41

TABLE: PART NUMBERS

New P/N	Name	Correct P/N
114W4150–23	Slat Assy—No. 5.	114W4150–29
114W4150–24	Slat Assy—No. 10.	114W4150–30

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD; however, this AD identifies the office authorized to approve alternative methods of compliance.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–137–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–19–02 Boeing: Amendment 39–13304. Docket 2003–NM–137–AD.

Applicability: Model 777 series airplanes, line numbers 1 through 412 inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the leading edge outboard slats, which could result in separation of the cove skin, structural damage or loss of the trailing edge wedge, and consequent reduced controllability of the airplane, accomplish the following:

Inspections and Follow-On Actions

(a) For all airplanes: Within 90 days after the effective date of this AD; do a detailed inspection of the seal assemblies of the outboard leading edge slats on the wings for missing or gapped inserts; then do the applicable follow-on actions by doing all the actions per paragraphs 1. through 7. of Part 6, ''Seal Insert Gap Inspection and Seal Assembly Replacement,'' of the Work Instructions of Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003 (including replacing the seal assembly, doing a cove skin inspection for cracking, doing an internal inspection for cracking, doing a slat adjustment check, repeating the cove skin and internal inspections, replacing the slat and doing a slat adjustment check). Any applicable follow-on actions must be done at the applicable time specified in Figure 1, Sheets 12 through 15 inclusive, of the service bulletin.

Note 1: 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.''

(b) For airplanes identified as ''Group 4'' in Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003: Within 500 flight cycles after the effective date of this AD; do a detailed inspection of the seal inserts of the seal assemblies of the outboard leading edge slats on the wings for undersized (incorrect diameter) seal inserts; do the applicable follow-on and corrective actions by doing all the actions per paragraphs 1. through 8. of Part 5, ''Seal Insert Inspection and Seal Replacement,'' of the Work Instructions of the service bulletin. Any applicable follow-on actions must be done at the applicable time specified in Figure 1, Sheet 11, of the service bulletin.

Note 2: For airplanes identified as ''Group 4'' in Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003 (outboard slat numbers 4, 5, 10, and 11): If a seal insert has receded, when accomplishing paragraph (a) of this AD, operators should be careful not to install a repair segment prior to inspecting for an undersized diameter insert, as required by paragraph (b) of this AD.

Corrective Actions

(c) If any discrepancy is found during any inspection required by this AD: Before further flight, do all applicable corrective actions specified in Part 1, Part 2, Part 3, Part 5, and Part 6 of the Work Instructions of Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003. Do the applicable corrective actions per the service bulletin. If the service bulletin specifies to contact the manufacturer for appropriate action: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or

per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Part Installation

(d) As of the effective date of this AD, no one may install a seal assembly with a part number listed in the ''Existing Part Number'' column of the table under Appendix A of Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003; on any airplane.

Clarification of Part Numbers for Installation

(e) Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003, contains certain incorrectly identified part numbers (P/N) in the ''Existing Part Number'' and ''New Part Number'' columns of the table under Appendix A, rows 20 and 27 of page 79, and rows 8 and 10 of page 80; respectively. This AD requires operators to remove/install parts having the correct part numbers, as specified in Tables 1 and 2 of this AD:

TABLE 1.—PART NUMBERS

Existing P/N	Name	Correct P/N
114W4140–21	Slat Assy—No. 11.	114W4140–22
114W4705–42	Seal	114W4705–41

TABLE 2.—PART NUMBERS

New P/N	Name	Correct P/N
114W4150–23	Slat Assy—No. 5.	114W4150–29
114W4150–24	Slat Assy—No. 10.	114W4150–30

Alternative Methods of Compliance

(f)(1) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, is authorized to approve alternative methods of compliance for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for a repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 777–57A0034, Revision 7, dated May 22, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on October 8, 2003.

Issued in Renton, Washington, on September 10, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–23932 Filed 9–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–45–AD; Amendment 39–13313; AD 2003–19–10]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes. This AD requires you to inspect the fuel boost pump wiring for any chafing, cracked insulation material, or evidence of bare wire(s) (referred to herein as damage), and replace any damaged wiring. This AD also requires you to install protective tubing around the fuel boost pump wiring harness. This AD is the result of reports of chafed fuel boost pump wiring to either the inboard or outboard boost pump wiring. The actions specified by this AD are intended to prevent the fuel boost pump wiring from chafing, which could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

DATES: This AD becomes effective on November 7, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 7, 2003.

ADDRESSES: You may get the service information referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–45–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received reports indicating problems with 6 Fairchild Aircraft SA227–AC airplanes. Evidence of chafing to either the inboard or outboard fuel boost pump wiring has been found on all 6 airplanes. In one case, evidence of arcing between the chafed wiring and the fuel check valve was found.

All airplane models within the Fairchild Aircraft SA226 and SA227 series incorporate this fuel boost pump wiring design.

What Is the Potential Impact if FAA Took No Action?

Damage to the fuel boost pump wiring, if not detected and corrected, could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Fairchild Aircraft SA226 and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 15, 2002, 67 FR 63573. The NPRM proposed to require you to inspect the fuel boost pump wiring for any chafing, cracked insulation material, or evidence of bare wire(s) (referred to herein as damage), and replace any damaged wiring. The NPRM also proposed to require you to install protective tubing around the fuel boost pump wiring harness.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Change the Compliance Times for Performing the Inspections

What Is the Commenter's Concern?

The commenter states that through a check of in-house maintenance and inspection personnel data records on the company's fleet of 15 airplanes, no instances of fuel boost pump wire chafing were found. The airplanes in this fleet have flying times ranging from 13,925 hours time-in-service (TIS) to 25,815 hours TIS. The commenter suggests that the unsafe condition is isolated to one location or area where there is a problem with incorrect installation of the fuel boost pumps. The commenter also states that the unsafe condition may also be an issue related to a specific threshold of hours TIS.

The commenter states that because of the high usage time of his fleet, in conjunction with other scheduled and unscheduled maintenance, there may be a negative impact on his fleet's flight schedule.

The commenter requests the compliance times be changed from within the next 3 months or 600 hours TIS, whichever occurs first, to 6 months or 1,200 hours TIS, whichever occurs first. The commenter justifies this request by referencing the date of the associated manufacturer's service letters.

What Is FAA's Response to the Concern?

We do not concur with the commenter. We have determined from testing and service data obtained from the manufacturer that the unsafe condition exists in low-time and high-time usage airplanes.

We have determined that 3 months or 600 hours TIS, whichever occurs first, is sufficient time to work the inspection into the owners/operators inspection program. As with any AD action, we will consider compliance time extensions provided they provide an acceptable level of safety and are submitted through the alternative method of compliance procedures specified in the AD.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 2: Revise the Cost Impact Section

What Is the Commenter's Concern?

The commenter does not believe that FAA's estimate of the number of workhours necessary to accomplish the actions proposed in the NPRM is correct. The commenter does not provide a suggested number of workhours with substantiating information.

What Is FAA's Response to the Concern?

We do not concur. We have coordinated all costs with Fairchild Aircraft, Inc.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 3: Give Credit for Previously Accomplishing the Actions Required in the Associated Manufacturer's Service Letters

What Is the Commenter's Concern?

The commenter states that FAA should make a provision for airplanes already in compliance with the associated manufacturer's service letters.

What Is FAA's Response to the Concern?

The FAA agrees and we are changing the final rule AD to provide for airplanes that already meet the requirements of the service letters.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the change described in the above comment disposition and minor editorial corrections. We have determined that this change and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

How Does the Revision to 14 CFR Part 39 Affect This AD?

On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 490 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection of the fuel boost pump wiring:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	$96	$120 + $96 = $216	$216 × 490 = $105,840

We estimate the following costs to accomplish the installation of the convoluted tubing:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $60 per hour = $60	$48	$60 + $48 = $108	$108 × 490 = $52,920

The FAA has no method of determining the number of repairs or replacements each owner/operator will incur based on the results of the inspection. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of this AD is whichever of the following that occurs first:

—Within the next 3 months after the effective date of this AD; or

—Within the next 600 hours time-in-service (TIS) after the effective date of this AD.

Why Is the Compliance Time of This AD Presented in Both Hours TIS and Calendar Time?

Chafing damage is a direct result of airplane usage. However, chafing damage is not necessarily a result of repetitive airplane operation. For example, damage could occur on an affected airplane within a short period of airplane operation while you could operate another affected airplane for a considerable amount of time without experiencing wiring damage. Therefore, to assure that any damaged wiring is detected and corrected in a timely manner without inadvertently grounding any of the affected airplanes, we are utilizing a compliance based upon both hours TIS and calendar time.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2003–19–10 Fairchild Aircraft, Inc.: Amendment 39–13313; Docket No. 2000–CE–45–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models, all serial numbers, that are certificated in any category: SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC(C–26B), SA227–PC, and SA227–TT.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the fuel boost pump wiring from chafing, which could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following, unless already accomplished:

Actions	Compliance	Procedures
(1) Visually inspect the left-hand and right-hand main/auxiliary fuel boost pump wiring for evidence of chafing, damage, or exposed bare wire(s).	Within the next 3 months or within the next 600 hours time-in-service (TIS) after November 7, 2003 (the effective date of this AD), whichever occurs first, unless already accomplished.	Accomplish the inspection in accordance with the Accomplishment Instructions in Fairchild Service Letter 226–SL–023 or Fairchild Service Letter 227–SL–039, both dated September 6, 2000; or Fairchild Service Letter CC7–SL–031, pages 1 and 3 dated September 6, 2000, and page 2 dated September 25, 2000, as applicable.
(2) Replace any chafed, damaged or exposed bare wire(s).	Prior to further flight after the inspection required in paragraph (d)(1) of this AD, unless already accomplished.	Accomplish replacement(s) in accordance with the applicable wiring manual as specified in the applicable Fairchild Service Letter.
(3) Install HEYCO–FLEX V, Slit Convoluted Tubing, part-number (P/N) 1634, around each fuel boost pump wiring harness.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD, unless already accomplished.	Accomplish the installation in accordance with the Accomplishment Instructions in Fairchild Service Letter 226–SL–023 or Fairchild Service Letter 227–SL–039, both dated September 6, 2000; or Fairchild Service Letter CC7–SL–031, pages 1 and 3 dated September 6, 2000, and page 2 dated September 25, 2000, as applicable.

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, use the procedures in 14 CFR 39.19. Send these requests to the Manager, Fort Worth Airplane Certification Office (ACO). For

information on any already approved alternative methods of compliance, contact Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

(f) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Fairchild Service Letter 226–SL–023 or Fairchild Service Letter 227–SL–039, both dated September 6, 2000; or Fairchild Service Letter CC7–SL–031, pages 1 and 3 dated September 6, 2000, and page 2 dated September 25, 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490.

You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) *When does this amendment become effective?* This amendment becomes effective on November 7, 2003.

Issued in Kansas City, Missouri, on September 15, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–23931 Filed 9–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Pyrantel Pamoate Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule, technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for over-the-counter marketing status for pyrantel pamoate suspension, when labeled for oral administration to horses and ponies for the removal and control of certain internal parasites.

DATES: This rule is effective September 23, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV 104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855; 301–827–8549; e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, St. Joseph, MO 64503, filed a supplement to ANADA 200–246 that currently provides for the veterinary prescription use of ANTHELBAN V (pyrantel pamoate) Equine Anthelmintic Suspension, administered orally or by nasogastric tube (stomach tube) to horses and ponies for the removal and control of mature infections of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); pinworms (*Oxyuris equi*); large roundworms (*Parascaris equorum*); and small strongyles. The supplemental ANADA provides for the over-the-counter use of Pyrantel Pamoate Equine Anthelmintic Suspension, an identical formulation labeled for the same conditions of use, except administration by stomach tube, a veterinary procedure. Phoenix Scientific, Inc.'s Pyrantel Pamoate Equine Anthelmintic Suspension is approved as a generic copy of Pfizer, Inc.'s PAMOBAN Horse Wormer Suspension, approved with over-the-counter marketing status under NADA 91–739. The supplemental ANADA is approved as of August 19, 2003, and the regulations are amended in 21 CFR 520.2043 to reflect the approval and the current indications for use. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 520.2043 is amended by revising paragraph (d)(1)(ii) to read as follows:

§ 520.2043 Pyrantel pamoate suspension.

* * * * *

(d) * * *

(1) * * *

(ii) *Indications for use.* For the removal and control of mature infections of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); pinworms (*Oxyuris equi*); large roundworms (*Parascaris equorum*); and small strongyles.

* * * * *

Dated: September 15, 2003.

Steven D. Vaughn.

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 03–24162 Filed 9–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for an additional dose of trenbolone acetate and estradiol implant for use in feedlot steers for increased rate of weight gain and improved feed efficiency. This section of the regulations is also being amended to remove a redundant description of another strength implant. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective September 23, 2003.

FOR FURTHER INFORMATION CONTACT: Eric S. Dubbin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0232, e-mail: *edubbin@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Division of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed supplemental ANADA 200–221 for COMPONENT TE–IS (trenbolone acetate/estradiol), a subcutaneous ear implant containing 80 milligrams (mg) trenbolone acetate and 16 mg estradiol, in four pellets, each pellet containing 20 mg of trenbolone acetate and 4 mg of estradiol. The implants are used in steers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. Ivy Laboratories' COMPONENT TE–IS is approved as a generic copy of Intervet, Inc.'s REVALOR–IS, approved under NADA 140–897. The supplemental application is approved as of September 3, 2003, and 21 CFR 522.2477 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 522.2477 is being amended to remove a redundant description of another strength implant. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522–IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 522.2477 is amended in paragraph (b)(1) by removing ''(d)(1)(i)(A), (d)(1)(i)(B), (d)(1)(i)(C), (d)(1)(ii)'' and by adding in its place ''(d)(1)''; and by revising paragraph (d)(1)(i)(D) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(D) 80 mg trenbolone acetate and 16 mg estradiol (one implant consisting of 4 pellets, each pellet containing 20 mg trenbolone acetate and 4 mg estradiol) per implant dose.

* * * * *

Dated: September 15, 2003.

Steven D. Vaugh,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 03–24161 Filed 9–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for an additional dose of trenbolone acetate and estradiol implant for use in feedlot heifers for increased rate of weight gain.

DATES: This rule is effective September 23, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Division of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed a supplement to ANADA 200–346. The supplemental ANADA provides for the use of COMPONENT TE–IH (trenbolone acetate and estradiol), a subcutaneous implant containing 80 milligrams (mg) trenbolone acetate and 8 mg estradiol in heifers fed in confinement for slaughter for increased rate of weight gain. Ivy Laboratories' COMPONENT TE–IH is approved as a generic copy of Intervet, Inc.'s REVALOR–IH, approved under NADA 140–992. The application is approved as of August 19, 2003, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.2477 [Amended]

■ 2. Section 522.2477 *Trenbolone acetate and estradiol* is amended in paragraph (b)(1) by removing ''(d)(2)(ii)(A),'' and by adding in its place ''(d)(2)(i)(C),''.

Dated: September 15, 2003.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 03–24157 Filed 9–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Nystatin, Neomycin, Thiostrepton, and Triamcinolone Acetonide Ointment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Altana, Inc. The ANADA provides for topical dermatologic use in dogs and cats of a nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment in a vanishing cream base.

DATES: This rule is effective September 23, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Altana, Inc., 60 Baylis Rd., Melville, NY 11747, filed ANADA 200–330 that provides for use of ANIMAX (nystatin, neomycin, thiostrepton, and triamcinolone acetonide) Cream Veterinary, a vanishing cream based ointment, for topical dermatologic use in dogs and cats. Altana, Inc.'s ANIMAX Cream Veterinary is approved as a generic copy of Fort Dodge Animal Health's PANOLOG Cream, approved under NADA 96–676. The ANADA is approved as of September 4, 2003, and the regulations in 21 CFR 524.1600a are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1600a [Amended]

■ 2. Section 524.1600a *Nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment* is amended in paragraph (b) in the second sentence by removing ''051259 and 053501'' and by adding in its place ''Nos. 025463, 051259, and 053501''.

Dated: September 15, 2003.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 03–24160 Filed 9–22–03; 8:45 am]

BILLING CODE 4160–01–S

Proposed Rules

Federal Register

Vol. 68, No. 184

Tuesday, September 23, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 030910227–3227–01]

RIN 0691–AA53

International Services Surveys: BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth a proposed rule to institute a new survey, BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, to be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The proposed survey is mandatory and will be conducted under the International Investment and Trade in Services Survey Act. Data from the proposed BE–45 survey are needed to monitor trade in insurance services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on insurance services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government uses.

The proposed survey will cover the same insurance services presently covered by the BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons, and auxiliary insurance services presently covered by the Benchmark and Annual Surveys of Selected Services Transactions with Unaffiliated Foreign Persons (Forms BE–20 and BE–22).

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before November 24, 2003.

ADDRESSES: Direct all written comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington DC, 20230. To ensure that comments are received in a timely manner, please consider using one of the following delivery methods: (1) Fax to (202) 606–5318; (2) deliver by courier to U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Shipping and Receiving Section M100, 1441 L Street, NW., Washington, DC 20005; or (3) e-mail to *Obie.Whichard@bea.gov*. Comments will be available for public inspection in room 7006, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; or via e-mail at *Obie.Whichard@bea.gov* (Telephone (202) 606–9800).

SUPPLEMENTARY INFORMATION: This proposed rule amends 15 CFR Part 801 by revising paragraph 801.9(c) to set forth the reporting requirements for the BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection. In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated his authority under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in insurance services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on insurance services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE–45 survey on a quarterly basis beginning with the first quarter of 2004. The survey will update the data provided on the universe of insurance services transactions between U.S. insurance companies and foreign persons. Reporting is required from U.S. insurance companies whose covered transactions with foreign persons exceeded $8 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. In addition, the reporting threshold for this survey is applied separately to each of the eight individual types of transactions covered by the survey rather than to the sum of the data for all eight types combined. Insurance companies meeting these criteria must supply data on the amount of their insurance transactions for each type of insurance category, disaggregated by country. U.S. insurance companies that do not meet the mandatory reporting requirements are requested to provide voluntary estimates of their covered insurance transactions.

The transactions covered by this survey are: Reinsurance premiums received, reinsurance premiums paid, reinsurance losses paid, reinsurance losses recovered, primary insurance premiums received, primary insurance losses paid, auxiliary insurance services receipts, and auxiliary insurance services payments. (Auxiliary insurance services include agent's commissions, insurance brokering and agency services, insurance consulting services, evaluation and adjustment services, actuarial services, salvage administration services, and regulatory and monitoring services on indemnities and recovery services.)

The first survey conducted under this proposed rule will cover transactions in the first quarter 2004. BEA will send the

survey to potential respondents in March of 2004; responses will be due by May 15, 2004.

Executive Order 12866

This proposed rule is not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA) and has been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid Office of Management and Budget Control Number.

The BE–45 survey, as proposed, is expected to result in the filing of approximately 210 reports on a quarterly basis, or 840 responses annually, and the average annual respondent burden for completing the survey is estimated at 8 hours. Thus, the total respondent burden of the survey is estimated at about 6,720 hours (840 responses times 8 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their insurance transactions and the ease of assembling the data. This estimate includes time for respondents to review the instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; or faxed (202–395–7245) or e-mailed (*pbugg@omb.eop.gov*) to the Office of Management and Budget, O.I.R.A., (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. While the survey does not collect data on total sales or other measures of the overall size of businesses that respond to the survey, historically the respondent universe for the existing annual survey of international insurance transactions has been comprised mainly of major U.S. corporations. The proposed BE–45 quarterly survey will be required from U.S. insurance companies whose covered transactions with foreign persons exceeded $8 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities and thus will be likely to report only one type of insurance transaction, often limited to transactions with a single partner country; therefore, the burden on them can be expected to be small.

List of Subjects in 15 CFR Part 801

Economic statistics, international transactions, foreign trade, penalties, reporting and recordkeeping requirements.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3 CFR, 1977 Comp., p. 147, E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by revising paragraph (c)(5) to read as follows:

§ 801.9 Reports required.

(c) Quarterly surveys. * * *

(5) BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons:

(i) A BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. insurance company whose covered transactions with foreign persons exceeded $8 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. This threshold is applied separately to each of the eight individual types of transactions covered by the survey rather than to the sum of the data for all eight types combined. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(*2*) *Voluntary reporting.* Reports are requested from each U.S. insurance company whose covered transactions with foreign persons were $8 million or less for the previous fiscal year and are not expected to exceed the $8 million amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search.

(B) Any person receiving a BE–45 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person not subject to the mandatory reporting requirement in paragraph (c)(5)(i)(A) of this section and is not filing information on a voluntary basis must only complete the ''Determination of reporting status'' and the ''Certification'' sections of the survey. This requirement is necessary to ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(C) *Covered insurance transactions.* The transactions covered by this survey are: reinsurance premiums received, reinsurance premiums paid, reinsurance losses paid, reinsurance losses recovered, primary insurance premiums received, primary insurance losses paid, auxiliary insurance services receipts, and auxiliary insurance services payments. (Auxiliary insurance services include agent's commissions, insurance brokering and agency services, insurance consulting services, evaluation and adjustment services,

actuarial services, salvage administration services, and regulatory and monitoring services on indemnities and recovery services.)

(ii) [Reserved]

[FR Doc. 03–24130 Filed 9–22–03; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 030910228–3228–01]

RIN 0691–AA54

International Services Surveys: BE–25, Quarterly Survey of Transactions With Unaffiliated Foreign Persons in Selected Services and in Intangible Assets

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth a proposed rule to institute a new survey, BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, to be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The proposed survey is mandatory and will be conducted under the International Investment and Trade in Services Survey Act. Data from the proposed BE–25 survey are needed to monitor trade in services and intangible assets, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government and public uses.

The proposed survey will cover some of the selected services presently covered by the BE–22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons. The selected services covered by the BE–25 survey will be removed from the BE–22 survey after the survey for 2003 is conducted. The BE–22 survey will continue to be conducted for those services that were not moved to the BE–25 survey. The proposed survey will also cover construction, engineering, architectural, and surveying services presently covered by the BE–47, Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons, and will cover the same transactions in intangible assets presently covered by the BE–93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons; both of these annual surveys would be discontinued, following a final data collection for 2003.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before November 24, 2003.

ADDRESSES: Direct all written comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230. To ensure that comments are received in a timely manner, please consider using one of the following delivery methods: (1) Fax to (202) 606–5318; (2) deliver by courier to U.S. Department of Commerce; Bureau of Economic Analysis, BE–50, Shipping and Receiving Section M100, 1441 L Street, NW., Washington, DC 20005; or (3) e-mail to *Obie.Whichard@bea.gov.* Comments will be available for public inspection in room 7006, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; or via e-mail at *Obie.Whichard@bea.gov* (Telephone (202) 606–9800).

SUPPLEMENTARY INFORMATION: This proposed rule amends 15 CFR Part 801.9 to set forth the reporting requirements for the BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection. In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated his authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in services and in intangible assets, analyze the impact of this trade on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on services and intangible assets, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE–25 survey beginning with the first quarter of 2004. The survey will update the data provided on the universe of transactions between U.S. and unaffiliated foreign persons in selected services and in intangible assets. Reporting is required from U.S. persons whose sales of covered services to unaffiliated foreign persons exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered services from unaffiliated foreign persons exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. U.S. persons meeting any of these criteria must supply data on the amount of their sales or purchases for each type of covered service, disaggregated by country. U.S. persons that do not meet the mandatory reporting requirements are requested to provide voluntary estimates of their total sales and purchases of each type of covered service or intangible asset.

The proposed survey will also cover construction, engineering, architectural, and surveying services presently covered by the BE–47, Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons, and will cover the same transactions in intangible rights presently covered by the BE–93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons; both of these annual surveys would be discontinued, following a final data collection for 2003.

The proposed survey is mandatory and will be conducted under the

International Investment and Trade in Services Survey Act. The first survey conducted under this proposed rule will cover transactions in the first quarter 2004. BEA will send the survey to potential respondents in March of 2004; responses will be due by May 15, 2004.

Executive Order 12866

This proposed rule is not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA) and has been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number.

The BE–25 survey, as proposed, is expected to result in the filing of reports containing mandatory data from about 700 respondents on a quarterly basis, or 2,800 responses annually. The average burden for completing the BE–25 is estimated to be 16 hours. Thus, the total respondent burden of the survey is estimated at 44,800 hours (2,800 responses times 16 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their covered services transactions and the ease of assembling the data. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, and either faxed (202–395–7245) or e-mailed (*pbugg@omb.eop.gov*) to the Office of Management and Budget, O.I.R.A. (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small businesses from mandatory reporting. Companies that engage in international transactions in covered services or intangible assets tend to be quite large. In addition, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The proposed BE–25 quarterly survey will be required from U.S. persons whose sales of covered services to unaffiliated foreign persons exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered services from unaffiliated foreign persons exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction; therefore, the burden on them should be small.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: August 18, 2003.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3 CFR, 1977 Comp., p. 147, E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by revising paragraph (c)(6) to read as follows:

§ 801.9 Reports required.

(c) Quarterly surveys. * * *

(6) BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets:

(i) A BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person that: (a) had sales of covered services to unaffiliated foreign persons that exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year; or (b) had purchases of covered services from unaffiliated foreign persons that exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(*2*) Voluntary reporting. Reports are requested from each U.S. person that had sales of covered services to unaffiliated foreign persons that were $6 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year, or had purchases of covered services from unaffiliated foreign persons that were $4 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search.

(B) Any person receiving a BE–25 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (c)(6)(i)(A) of this section and is not filing information on a voluntary basis must only complete the ''Determination of reporting status'' and the ''Certification'' sections of the survey. This requirement is necessary to

ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(C) Covered services and intangible assets. The services covered by this survey are: Accounting, auditing, and bookkeeping services; computer and data processing services; construction services; foreign expenses related to construction projects; data base and other information services; engineering, architectural, and surveying services; industrial engineering services; industrial-type maintenance, installation, alteration, and training services; legal services; management, consulting, and public relations services; operational leasing services; research, development, and testing services; and telecommunication services. The intangible assets covered by this survey are rights related to: industrial processes and products; books, compact discs, audio tapes and other copyrighted material and intellectual property; trademarks, brand names, and signatures; performances and events pre-recorded on motion picture film and television tape, including digital recording; broadcast and recording of live performances and events; general use computer software; business format franchising fees; and other intangible assets, including indefeasible rights of users.

(ii) [Reserved]

* * * * *

[FR Doc. 03–24129 Filed 9–22–03; 8:45 am]

BILLING CODE 3510–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW FRL–7562–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: The Environmental Protection Agency (the EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA is proposing to grant a petition submitted by Teris LLC (Teris) to exclude (or delist) a certain solid waste generated by its El Dorado, Arkansas, facility from the lists of hazardous wastes.

The EPA used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

The EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision, if finalized, would exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, the EPA would conclude that Teris' petitioned waste is nonhazardous with respect to the original listing criteria and that the stabilization of the incinerator ash generated from the hazardous waste incineration facility will adequately reduce the likelihood of migration of constituents from this waste. The EPA would also conclude that Teris' process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

DATES: The EPA will accept comments until November 7, 2003. The EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Your requests for a hearing must reach the EPA by October 8, 2003. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send three copies of your comments. You should send two copies to the Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD–C), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. You should send a third copy to Derick Warrick, P.E., Hazardous Waste Division, Arkansas Department of Environmental Quality (ADEQ), P.O. Box 8913, Little Rock, Arkansas, 72219–8913. Identify your comments at the top with this regulatory docket number: [F–03–ARDEL–TERIS]. You may submit your comments electronically to James Harris at *harris.jamesa@epa.gov*.

You should address requests for a hearing to Steve Gilrein, Associate Director of RCRA, Multimedia Planning and Permitting Division (6PD), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: James Harris (214) 665–8302.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information
- A. What Action Is the EPA Proposing?
- B. Why Is the EPA Proposing To Approve This Delisting?
- C. How Will Teris Manage the Waste if It Is Delisted?
- D. When Would the Proposed Delisting Exclusion Be Finalized?
- E. How Would This Action Affect States?

II. Background
- A. What Is the History of the Delisting Program?
- B. What Is a Delisting Petition, and What Does It Require of a Petitioner?
- C. What Factors Must the EPA Consider In Deciding Whether To Grant a Delisting Petition?

III. The EPA's Evaluation of the Waste Information and Data
- A. What Wastes Did Teris Petition the EPA To Delist?
- B. Who Is Teris and What Process Do They Use To Generate the Petition Waste?
- C. How Did Teris Sample and Analyze the Data In This Petition?
- D. What Were the Results of Teris' Analysis?
- E. How Did the EPA Evaluate the Risk of Delisting This Waste?
- F. What Did the EPA Conclude About Teris' Analysis?
- G. What Other Factors Did the EPA Consider In Its Evaluation?
- H. What Is the EPA's Evaluation of This Delisting Petition?

IV. Next Steps
- A. With What Conditions Must the Petitioner Comply?
- B. What Happens if Teris Violates the Terms and Conditions?

V. Public Comments
- A. How May I as an Interested Party Submit Comments?
- B. How May I Review the Docket or Obtain Copies of the Proposed Exclusions?

VI. Regulatory Impact
VII. Regulatory Flexibility Act
VIII. Paperwork Reduction Act
IX. Unfunded Mandates Reform Act
X. Executive Order 13045
XI. Executive Order 13084
XII. National Technology Transfer and Advancements Act
XIII. Executive Order 13132 Federalism

I. Overview Information

A. What Action Is the EPA Proposing?

The EPA is proposing to grant the delisting petition submitted by Teris to have its stabilized hazardous waste incinerator ash excluded, or delisted, from the definition of a hazardous waste.

B. Why Is the EPA Proposing To Approve This Delisting?

Teris' petition requests a delisting for the stabilized ash generated by its hazardous waste incinerator. Teris does not believe that the petitioned waste meets the criteria for which the EPA listed it. Teris also believes no additional constituents or factors could cause the waste to be hazardous. The EPA's review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA).

See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(1)–(4). In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, the EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would have proposed to deny the petition.) The EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. The EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. The EPA's proposed decision to delist waste from the Teris facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the El Dorado, Arkansas facility.

C. How Will Teris Manage the Waste if It Is Delisted?

Teris currently sends the petitioned waste to a hazardous waste landfill. If the delisting exclusion is finalized, Teris intends to dispose of the petitioned waste (*i.e.*, stabilized hazardous waste incinerator ash) in a subtitle D solid waste landfill in Arkansas.

D. When Would the Proposed Delisting Exclusion be Finazlized?

RCRA section 3001(f) specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, the EPA will not grant the exclusion until it addresses all timely public comments (including those at public hearings, if any) on this proposal.

RCRA section 3010(b)(1) at 42 USCA 6930(b)(1), allows rules to become effective in less than six months after the EPA addresses public comments when the regulated facility does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes.

The EPA believes that this exclusion should be effective immediately upon final publication because a six-month deadline is not necessary to achieve the purpose of section 3010(b), and a later effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide good cause for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

E. How Would This Action Affect the States?

Because the EPA is issuing this exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude States who have received authorization from the EPA to make their own delisting decisions.

The EPA allows the States to impose their own non-RCRA regulatory requirements that are more stringent than the EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, the EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under the State law. Delisting petitions approved by the EPA Administrator under 40 CFR 260.22 are effective in the State of Arkansas only after the final rule has been published in the **Federal Register** and the rule has been adopted and approved by the Arkasas Pollution Control and Ecology Commission in Regulation No. 23.

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and published it in §§ 261.31 and 261.32.

The EPA lists these wastes as hazardous because: (1) they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be hazardous.

For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to prove that the EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to the EPA or an authorized State to exclude wastes from the list of hazardous wastes. The facility petitions the EPA because it does not consider the wastes hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which the EPA lists a waste are in Part 261 and further explained in the background documents for the listed waste.

In addition, under § 260.22, a petitioner must prove that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and present sufficient information for the EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See Part 261 and the background documents for the listed waste.)

Generators remain obligated under RCRA to confirm whether their waste remains nonhazardous based on the hazardous waste characteristics even if the EPA has ''delisted'' the waste.

C. What Factors Must the EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in §§ 260.22(a) and 3001(f) of RCRA, 42 U.S.C. 6921(f), and in the background documents for the listed wastes, the EPA must consider any factors (including additional constituents) other than those for which the EPA listed the waste if a reasonable basis exists that these additional factors could cause the waste to be hazardous.

The EPA must also consider as hazardous waste mixtures containing listed hazardous wastes and wastes derived from treating, storing, or

disposing of listed hazardous waste. See § 261.3(a)(2)(iii) and (iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded. See 66 FR 27266 (May 16, 2001).

III. The EPA's Evaluation of the Waste Information and Data

A. What Waste Did Teris Petition the EPA To Delist?

On June 3, 2002, Teris petitioned the EPA to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, a stabilized hazardous waste incinerator ash generated from the facility located in El Dorado, Arkansas. The waste falls under the classification of listed waste because of the ''derived-from'' rule in § 261.3. Specifically, in its petition, Teris requested that the EPA grant an exclusion for 30,000 cubic yards per calendar year of stabilized incinerator ash resulting from its hazardous waste thermal treatment process.

B. Who Is Teris and What Process Do They Use To Generate the Petition Waste?

Teris is a commercial hazardous waste treatment and storage facility located in an industrial/commercial setting in the southern portion of the City of El Dorado, Union County, Arkansas. The facility is located east of El Dorado, Arkansas.

Teris thermally treats hazardous wastes (including listed hazardous wastes) that are generated at commercial and industrial facilities throughout the nation. The facility operates two rotary kilns that are used to destroy and remove the hazardous organic constituents found in the waste. These two kilns generate a solid residue (*i.e.,* incinerator ash) in which most of the organic constituents have been destroyed. The incinerator meets the 99.99% Destruction and Removal Efficiency requirement under 40 CFR part 264. This incinerator ash contains trace amounts of regulated metallic constituents that are not destroyed by the incineration process. Teris operates a stabilization treatment system for the incinerator ash that chemically binds the metals so as to prevent their release into groundwater.

C. How Did Teris Sample and Analyze the Data in This Petition?

To support its petition, Teris submitted:

(1) Historical information on past waste generation and management practices;

(2) results of the total constituent analysis for volatiles, semivolatiles, pesticides, herbicides and metals;

(3) results of the Toxicity Characteristic Leaching Procedure (TCLP) extract for those organics detected in the above total constituent analysis;

(4) results of the Multiple pH Protocol Procedure for metal constituents;

(5) results of both total constituent and leachable analysis for total cyanide and sulfide.

D. What Were the Results of Teris' Analyses?

The EPA believes that the descriptions of the Teris analytical characterization provide a reasonable basis to approve the petition of Teris for an exclusion of the hazardous waste incinerator ash. The EPA believes the data submitted in support of the petition show that the stabilized hazardous waste incinerator ash is nonhazardous. Analytical data for the stabilized hazardous waste incinerator ash samples were used in the Delisting Risk Assessment Software. The data summaries for detected constituents are presented in Table I. The EPA has reviewed the sampling procedures used by Teris and has determined they satisfy the EPA's criteria for collecting representative samples of the variations in constituent concentrations in the hazardous waste incinerator ash. The data submitted in support of the petition show that constituents in Teris' waste are presently below health-based levels used in the delisting decision-making. The EPA believes that Teris has successfully demonstrated that the stabilized hazardous waste incinerator ash is nonhazardous.

TABLE 1.—MAXIMUM TCLP CONSTITUENT CONCENTRATIONS OF THE STABILIZED HAZARDOUS INCINERATOR ASH AND CORRESPONDING DELISTING LIMITS [1]

Constituent	Total constituent analyses (mg/kg)	TCLP leachate conc. (mg/l)	Maximum allowable TCLP conc. (mg/l)
Antimony	1400.00	0.206	0.206
Arsenic	537.00	0.0395	0.096
Barium	4500.00	1.40	21.00
Beryllium	2.17	0.004	0.416
Cadmium	49.60	0.0062	0.11
Chromium	1560.00	0.036	0.60
Cobalt	1140.00	0.078	13.14
Copper	12800.00	0.0243	9113.00
Lead	772.00	0.12	0.69
Mercury	0.15	0.00126	0.025
Nickel	5190.00	0.11	3.98
Selenium	497.00	0.285	0.58
Silver	212.00	0.007	0.14
Tin	1760.00	0.48	396.00
Thallium	1.75	0.0012	0.088
Vanadium	370.00	0.49	1.60
Zinc	10300.00	0.0152	2.61
Acenaphthylene	2.0	ND	0.059
Acetone	0.052	ND	0.059
Acetophenone	1.80	ND	0.01
Aniline	0.72	ND	0.81
Anthracene	1.90	ND	0.059
Benzene	0.21	ND	0.14
Benzo(a)pyrene	0.70	ND	0.0018
Benzo(ghi)perylene	0.67	ND	0.0036

TABLE 1.—MAXIMUM TCLP CONSTITUENT CONCENTRATIONS OF THE STABILIZED HAZARDOUS INCINERATOR ASH AND CORRESPONDING DELISTING LIMITS [1]—Continued

Constituent	Total constituent analyses (mg/kg)	TCLP leachate conc. (mg/l)	Maximum allowable TCLP conc. (mg/l)
Benzo(b)fluoranthrene	0.70	ND	0.0038
Benzo(k)fluoranthrene	0.70	ND	0.0038
Bis(2-	0.86	ND	0.114
Carbon disulfide	0.057	ND	3.80
Chrysene	1.90	ND	0.059
Fluoranthene	2.30	ND	0.068
Fluorene	1.60	ND	0.059
Hexachlorobenzene	0.70	ND	0.00822
Methylnaphthalene 2-	0.830	ND	0.059
Naphthalene	3.40	ND	0.059
Phenanthrene	18.0	ND	0.059
Phenol	1.20	ND	0.039
Pyrene	3.90	ND	0.067
Styrene	0.31	ND	1.90
Toluene	0.078	ND	0.08

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.
ND Denotes that the constituent was not detected.

E. How Did the EPA Evaluate the Risk of Delisting This Waste?

For this delisting determination, the EPA used such information gathered to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. The EPA determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for the petitioned waste. The EPA applied the most recent version of the Delisting Risk Assessment Software (DRAS) described in 65 FR 58015 (September 27, 2000) and 65 FR 75637 (December 4, 2000), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and determined the potential impact of the disposal of Teris' petitioned waste on human health and the environment. A copy of this software can be found on the World Wide Web at *http://www.epa.gov/earth1r6/6pd/rcra_c/pd-o/dras.htm.*

In assessing potential risks to ground water, the EPA used the maximum estimated waste volumes and the maximum reported extract concentrations as inputs to the DRAS program to estimate the constituent concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site. Using the risk level (carcinogenic risk of 10–5 and non-cancer hazard index of 1.0), the DRAS program can back-calculate the acceptable receptor well concentrations (referred to as compliance point concentrations) using standard risk assessment algorithms and the EPA's health-based numbers. Using the maximum compliance point concentrations and the EPA Composite Model for Leachate Migration with Transformation Products (EPACMTP) fate and transport modeling factors, the DRAS further back-calculates the maximum permissible waste constituent concentrations not expected to exceed the compliance point concentrations in groundwater.

The EPA believes that the EPACMTP fate and transport model represents a reasonable worst case scenario for possible ground water contamination resulting from disposal of the petitioned waste in a landfill, and that a reasonable worst case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of some reasonable worst-case scenarios results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a significant threat to human health or the environment.

The DRAS also uses the maximum estimated waste volumes and the maximum reported total concentrations to predict possible risks associated with releases of waste constituents through surface pathways (*e.g.*, volatilization or wind-blown particulate from the landfill). As in the above ground water analyses, the DRAS uses the risk level, the health-based data and standard risk assessment and exposure algorithms to predict maximum compliance point concentrations of waste constituents at a hypothetical point of exposure. Using fate and transport equations, the DRAS uses the maximum compliance point concentrations and back-calculates the maximum allowable waste constituent concentrations (or ''delisting levels'').

In most cases, because a delisted waste is no longer subject to hazardous waste control, the EPA is generally unable to predict, and does not presently control, how a petitioner will manage a waste after delisting. Therefore, the EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. The EPA does control the type of unit where the waste is disposed. The waste must be disposed in the type of unit the fate and transport model evaluates.

The EPA also considers the applicability of ground water monitoring data during the evaluation of delisting petitions. In this case, Teris has directly disposed of this material in commercial hazardous waste landfills located at other facilities. Since the Teris waste is commingled with other wastes in these landfills, no representative ground water monitoring data specific to the Teris incinerator ash exists. Therefore, the EPA has determined that it would be unnecessary to request ground water monitoring data.

The EPA believes that the descriptions made by Teris of the hazardous waste process and analytical characterization provide a reasonable basis to conclude that the likelihood of migration of hazardous constituents from the petitioned waste will be substantially reduced so that short-term and long-term threats to human health and the environment are adequately minimized.

DRAS calculates the maximum allowable concentration of chemical constituents in the incinerator ash. Since all maximum TCLP concentrations found in Table I are equal to or less than the maximum allowable TCLP concentration specified by DRAS and the associated risk assessment conducted by the EPA, the petitioned waste meets the applicable delisting criteria. In addition, on the basis of explanations and analytical data provided by Teris, pursuant to § 260.22, the EPA concludes that the petitioned waste does not exhibit any of the characteristics of toxicity, ignitability, corrosivity, or reactivity. *See* §§ 261.21, 261.22, and 261.23, respectively.

F. What Did the EPA Conclude About Teris' Analysis?

The EPA concluded, after reviewing Teris' processes that no other hazardous constituents of concern, other than those for which tested, are likely to be present or formed as reaction products or by-products in Teris' wastes. In addition, on the basis of explanations and analytical data provided by Teris, pursuant to § 260.22, the EPA concludes that the petitoned wastes do not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. *See* §§ 261.21, 261.22 and 261.23, respectively.

G. What Other Factors Did the EPA Consider in Its Evaluation?

During the evaluation of this petition, the EPA also considered the potential impact of the petitioned waste via non-ground water routes (*i.e.*, air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from the petitioned waste is unlikely. Therefore, no appreciable air releases are likely from the stabilized incinerator ash under any likely disposal conditions. The EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from the stabilized incinerator ash in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from the hazardous waste incinerator ash. A description of the EPA's assessment of the potential impact of incinerator ash, regarding airborne dispersion of waste contaminants, is presented in the RCRA public docket for this proposed rule. This docket is designated with the following code F–03–ARDEL–TERIS.

The EPA also considered the potential impact of the petitioned waste via a surface water route. The EPA believes that containment structures at municipal solid waste landfills can effectively control surface water runoff, as the Subtitle D regulations (*See* 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the runoff will tend to be lower than the levels in the TCLP leachate analyses reported in this notice due to the aggressive acidic medium used for extraction in the TCLP. The EPA believes that, in general, leachate derived from the waste is unlikely to directly enter a surface water body without first traveling through the saturated subsurface where dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of solubility of a toxic constituent in water and are indicative of the fraction of the constituent that may be mobilized in surface water as well as ground water.

Based on the reasons discussed above, the EPA believes that the contamination of surface water through runoff from the waste disposal area is very unlikely. Nevertheless, the EPA evaluated the potential impacts on surface water if the stabilized incinerator ash were released from a municipal solid waste landfill through runoff and erosion. See the RCRA public docket for this proposed rule for further information on the potential surface water impacts from runoff and erosion. The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below the EPA Chronic Water Quality Criteria for aquatic organisms (USEPA, OWRS, 1987). The EPA, therefore, concluded that this stabilized hazardous waste incinerator ash is not a present or potential substantial hazard to human health and the environment via the surface water exposure pathway.

H. What Is the EPA's Evaluation of This Delisting Petition?

The descriptions by Teris of the hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis for the EPA to grant the exclusion. The data submitted in support of the petition show that constituents in the waste are below the maximum allowable leachable concentrations (See Table 1). The EPA believes that the thermal treatment and subsequent stabilization process operated by Teris will substantially reduce the likelihood of migration of hazardous constituents from the petitioned waste. These treatment processes will also minimize short-term and long-term threats from the petitioned waste to human health and the environment.

Thus, the EPA believes that it should grant to Teris an exclusion for the stabilized hazardous waste incinerator ash. The EPA believes the data submitted in support of the petition show the stabilization treatment process operated by Teris can render the hazardous waste incinerator ash nonhazardous.

The EPA has reviewed the sampling procedures used by Teris and has determined they satisfy the EPA's criteria for collecting representative samples of variable constituent concentrations in the hazardous waste incinerator ash. The data submitted in support of the petition show that constituents in Teris' waste are presently below the compliance point concentrations used in the delisting decision-making process and would not pose a substantial hazard to the environment. The EPA believes that Teris has successfully demonstrated that the stabilized hazardous waste incinerator ash is nonhazardous.

The EPA therefore proposes to grant an exclusion to Teris, in El Dorado, Arkansas, for the stabilized hazardous waste incinerator ash described in its petition. The EPA's decision to exclude this waste is based on descriptions of the treatment activities associated with the petitioned waste and characterization of the stabilized hazardous waste incinerator ash.

If the EPA finalizes the proposed rule, the EPA will no longer regulate the stabilized incinerator ash under Parts 262 through 268 and the permitting standards of Part 270.

IV. Next Steps

A. With What Conditions Must the Petitioner Comply?

The petitioner, Teris, must comply with the requirements in 40 CFR part 261, appendix IX, table 1 as amended by this notice. The text below gives the rationale and details of those requirements.

(1) Delisting Levels

This paragraph provides the levels of constituents that Teris must test the leachate from the stabilized incinerator ash, below which these wastes would be considered nonhazardous.

The EPA selected the set of inorganic and organic constituents specified in Paragraph (1) of 40 CFR part 261, appendix IX, table 1, based on

information in the petition. The EPA compiled the inorganic and organic constituents list from the composition of the waste, descriptions of the treatment process used by Teris, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making. These delisting levels correspond to the allowable levels measured in the TCLP extract and total concentrations of the waste.

(2) Waste Holding and Handling

The purpose of this paragraph is to ensure that Teris manages and disposes of any stabilized hazardous waste incinerator ash that might contain hazardous levels of inorganic and organic constituents according to Subtitle C of RCRA. Holding the stabilized hazardous waste incinerator ash until characterization is complete will protect against improper handling of hazardous material.

(3) Verification Testing Requirements

Teris must complete a rigorous verification testing program on the incinerator ash to assure that the stabilized incinerator ash does not exceed the maximum levels specified in Paragraph (1). If the EPA determines that the data collected under this Paragraph does not support the data provided for in the petition, the exclusion will not cover the tested waste. This verification program operates on two levels.

The first part of the verification testing program consists of testing every batch (*i.e.* roll-off) of incinerator ash for specified indicator parameters as per Paragraph (1). Levels of constituents measured in the samples of the stabilized hazardous waste incinerator ash that do not exceed the levels set forth in Paragraph (1) are nonhazardous. Teris can manage and dispose the stabilized nonhazardous incinerator ash according to all applicable solid waste regulations. If any roll-off fails to meet the specified limits, then Teris must retreat the batch (*i.e.*, reburn and/or restabilize) until the limits are met or they must dispose of the waste as hazardous. Organic indicators are those specified in the Waste Analysis Plan of Teris' RCRA permit to verify that the incinerator operated as demonstrated in the trial burn. Analysis for total and TCLP arsenic must be conducted.

The second part of the verification testing program is the quarterly testing of four representative composite samples of stabilized incinerator ash for all constituents specified in Paragraph (1). If Teris demonstrates for two consecutive quarters complete attainment of all specified limits, then Teris may request approval of the EPA to reduce the frequency of testing to annually. If, after review of performance of the treatment system, the EPA finds that annual testing is adequately protective of human health and the environment, then the EPA may authorize Teris to reduce the quarterly comprehensive sampling frequency to an annual basis. If the annual testing of the waste does not meet the delisting requirements in Paragraph 1, Teris must notify the EPA according to the requirements in Paragraph 6. The EPA will then take the appropriate actions necessary to protect human health and the environment per Paragraph 6. Teris must provide sampling results that support the rationale that the delisting exclusion should not be withdrawn.

The exclusion is effective upon publication in the **Federal Register** but the disposal cannot begin until the verification sampling is completed. Disposal is also not authorized if Teris fails to perform the quarterly and yearly testing as specified herein. Should Teris fail to conduct the quarterly/yearly testing as specified herein, then disposal of stabilized incinerator ash as delisted waste may not occur in the following quarter(s)/year(s) until Teris obtains the written approval of the EPA.

(4) Changes in Operating Conditions

Paragraph (4) would allow Teris the flexibility of modifying its processes (for example, changes in equipment or change in operating conditions) to improve its treatment processes. However, Teris must prove the effectiveness of the modified process and request approval from the EPA. Teris must manage wastes generated during the new process demonstration as hazardous waste until it has obtained written approval and Paragraph (3), is satisfied.

(5) Data Submittals

To provide appropriate documentation that Teris' facility is properly treating the incinerator ash, Teris must compile, summarize, and keep delisting records on-site for a minimum of five years. It should keep all analytical data obtained through Paragraph (3) including quality control information for five years. Paragraph (5) requires that Teris furnish these data upon request for inspection by any employee or representative of the EPA or the State of Arkansas.

If the proposed exclusion is made final, then it will apply only to 30,000 cubic yards per calendar year of stabilized hazardous waste incinerator ash generated at the Teris facility after successful verification testing.

The EPA would require Teris to file a new delisting petition under any of the following circumstances:

(a) If Teris significantly alters the manufacturing process treatment system except as described in Paragraph (4).

(b) If Teris uses any new manufacturing or production process(es), or significantly change from the current process(es) described in its petition; or

(c) If Teris makes any changes that could affect the composition or type of waste generated.

Teris must manage waste volumes greater than 30,000 cubic yards per calendar year of stabilized hazardous waste incinerator ash as hazardous waste until the EPA grants a new exclusion. When this exclusion becomes final, the management by Teris of the stabilized incinerator ash covered by this petition would be relieved from Subtitle C jurisdiction. Teris must either (a) treat, store, or dispose of the waste in a State permitted on-site facility, or (b) Teris must ensure that it delivers the waste to an off-site storage, treatment, or disposal facility that has a State permit, license, or register to manage municipal or industrial solid waste.

(6) Reopener

The purpose of Paragraph 6 is to require Teris to disclose new or different information related to a condition at the facility or disposal of the waste if it is pertinent to the delisting. Teris must also use this procedure if the waste sample in the annual testing fails to meet the levels found in Paragraph 1. This provision will allow the EPA to reevaluate the exclusion if a source provides new or additional information to the EPA. The EPA will evaluate the information on which it based the decision to see if it is still correct, or if circumstances have changed so that the information is no longer correct or would cause the EPA to deny the petition if presented.

This provision expressly requires Teris to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If the EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

The EPA believes that it has the authority under RCRA and the Administrative Procedures Act (APA), 5 U.S.C. 551 (1978) *et seq.*, to reopen a

delisting decision. The EPA may reopen a delisting decision when it receives new information that calls into question the assumptions underlying the delisting.

The EPA believes a clear statement of its authority in delistings is merited in light of the EPA experience. See Reynolds Metals Company at 62 FR 37694 (July 14, 1997) and 62 FR 63458 (December 1, 1997) where the delisted waste leached at greater concentrations in the environment than the concentrations predicted when conducting the TCLP, thus leading the EPA to repeal the delisting. If an immediate threat to human health and the environment presents itself, the EPA will continue to address these situations case by case. Where necessary, the EPA will make a good cause finding to justify emergency rulemaking. See APA § 553 (b).

(7) Notification Requirements

In order to adequately track wastes that have been delisted, the EPA is requiring that Teris provide a one-time notification to any State regulatory agency through which or to which the delisted waste is being carried. Teris must provide this notification within 60 days of commencing this activity.

B. What Happens if Teris Violates the Terms and Conditions?

If Teris violates the terms and conditions established in the exclusion, the EPA will start procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, the EPA will evaluate the need for enforcement activities on a case-by-case basis. The EPA expects Teris to conduct the appropriate waste analysis and comply with the criteria explained above in Paragraph 1 of the exclusion.

V. Public Comments

A. How May I as an Interested Party Submit Comments?

The EPA is requesting public comments on this proposed decision. Please send three copies of your comments. Send two copies to the Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C), U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Send a third copy to Derick Warrick, P. E., Hazardous Waste Division, Arkansas Department of Environmental Quality (ADEQ), P.O. Box 8913, Little Rock, Arkansas 72219–8913. You should identify your comments at the top with this regulatory docket number: F–03–ARDEL–TERIS.

You should submit requests for a hearing to Steve Gilrein, Associate Director of RCRA, Multimedia Planning and Permitting Division (6PD–0), U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

B. How May I Review the Docket or Obtain Copies of the Proposed Exclusion?

You may review the RCRA regulatory docket for this proposed rule at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. It is available for viewing in the EPA Freedom of Information Act Review Room from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies.

VI. Regulatory Impact

Under Executive Order 12866, the EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of the EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from the EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from this proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on a small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of the EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the EPA hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VIII. Paperwork Reduction Act

Information collection and record keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96 511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050 0053.

IX. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, which was signed into law on March 22, 1995, the EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for the EPA rules, under section 205 of the UMRA the EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before the EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of the EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that this delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

X. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 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 EPA 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 EPA. This proposed rule is not subject to E.O. 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XI. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of Executive Order 13084 do not apply.

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, the EPA must provide to the Office Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to have ''meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XII. National Technology Transfer and Advancement Act

Under Section 12(d) of the National Technology Transfer and Advancement Act, the EPA is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by the EPA, the Act requires that the EPA provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the EPA has no need to consider the use of voluntary consensus standards in developing this final rule.

XIII. Executive Order 13132 Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that 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.''

Under section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It 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 13132, because it affects only one facility.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: September 4, 2003.

William Luthans,

Acting Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Tables 1, 2 and 3 of Appendix IX of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Teris LLC	El Dorado, AR	Stabilized hazardous waste incinerator ash bearing some or all of the following EPA Hazardous Waste Numbers: F001–F012, F019, F024, F025, F032, F034, F035, F037–F039. The stabilized hazardous waste incinerator ash is generated at a maximum rate of 30,000 cubic yards per calendar year after [publication date of the final rule] and disposed in a Subtitle D landfill. For the exclusion to be valid, Teris must implement a verification testing program that meets the following Paragraphs: (1) Delisting Levels: All leachable concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph. Teris must use the leaching method specified at 40 CFR Part 261.24 to measure constituents in the waste leachate. When analyzing for leachable metals, Teris must perform two runs using the Multiple Extraction Procedure. One run will use a pH 7.0 leaching medium on inorganic and organic constituents and the other run will use a leaching medium adjusted to pH 4.9 on inorganic constituents. (A) Inorganic Constituents (from Table 1) TCLP (mg/l): Antimony—0.206; Arsenic—0.096; Barium—21.00; Beryllium—0.416; Cadmium—0.11; Chromium—0.60; Cobalt—13.14; Copper—9113.00; Lead—0.69; Mercury—0.025; Nickel—3.98; Selenium—0.58; Silver—0.14; Tin—396.00; Thallium—0.088; Vanadium—1.6; Zinc—2.61. (B) Organic Constituents (from Table 1) TCLP (mg/l): Acenapthylene—0.059; Acetone—0.059; Acetophenone—0.01; Aniline—0.81; Anthracene—0.059; Benzene—0.14; Benzo(a)pyrene—0.0018; Benzo(ghi)perylene—0.0036; Benzo(b)fluoranthrene—0.0038; Benzo(k)fluoranthrene—0.0038; Bis(2-ethylhexyl)phthalate—0.114; Carbon Disulfide—3.80; Chrysene—0.059; Fluoranthene—0.068; Fluorene—0.059; Hexachlorobenzene—0.00822; 2-Methylnapthalene—0.059; Napthalene—0.059; Phenanthrene—0.059; Phenol—0.039; Pyrene—0.067; Styrene—1.90; Toluene—0.08. (2) Waste Holding and Handling: (A) Teris must store the hazardous waste incinerator ash as described in its RCRA permit, or continue to dispose of as hazardous all hazardous waste incinerator ash generated, until the verification testing described in Paragraph (3)(A) and (B), as appropriate, is completed and valid analyses demonstrate that Condition (3) is satisfied. (B) Teris can manage and dispose the stabilized nonhazardous incinerator ash according to all applicable solid waste regulations when levels of constituents measured in the samples of the stabilized hazardous waste incinerator ash do not exceed the levels set forth in Paragraph (1) for two consecutive quarters. (C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), Teris must retreat the batches of incinerator waste used to generate the representative sample until they meet the levels specified in Paragraph 1. Teris must repeat the analyses of the treated waste. (D) If the facility has not treated the incinerator ash as necessary to achieve the limits in Paragraph (1), then Teris must either manage and dispose the waste generated under Subtitle C of RCRA, or retreat the incinerator ash until it meets the requirements specified in Paragraph (1). (3) Verification Testing Requirements: Teris must perform sample collection and analyses, including quality control procedures, according to SW–846 methodologies. (A) Verification Testing: At quarterly intervals for one year after the EPA grants the final exclusion, Teris must do the following: (i) Collect four representative composite samples of roll-off of the hazardous waste incinerator ash. (ii) Analyze each sample for all constituents listed in Paragraph 1. All samples exceeding delisting levels in Paragraph 1 will be retested. Any roll-off exceeding the delisting levels listed in Paragraph (1) must be retreated or disposed as hazardous waste in a Subtitle C landfill. (iii) Within sixty (60) days after this exclusion becomes final, Teris will report initial verification analytical test data, including analytical quality control information for the first thirty (30) days of operation after this exclusion becomes final of the stabilized incinerator ash treatment process. If levels of constituents measured in the samples of the stabilized hazardous waste incinerator ash that do not exceed the levels set forth in Paragraph (1) are also nonhazardous in two consecutive quarters after the first thirty (30) days of operation after this exclusion, Teris can manage and dispose the stabilized nonhazardous incinerator ash according to all applicable solid waste regulations. (B) Quarterly Testing: (i) Teris must test four representative composite samples of the stabilized incinerator ash for all constituents listed in Paragraph (1) at least once per calendar quarter.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(ii) Once the analytical results submitted under Paragraph (3)(B)(i) show two consecutive quarters below the delisting levels in Paragraph (1), Teris may then request that the EPA not require quarterly testing. After the EPA notifies Teris in writing, the company may end quarterly testing. (iii) Following cancellation of the quarterly testing, Teris must continue to test a representative composite sample (according to SW–846 methodologies) for all constituents listed in Paragraph (1) at least annually after the effective date of the final exclusion. (4) Changes in Operating Conditions: If Teris significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify the EPA in writing; it may no longer handle the wastes generated from the new process as nonhazardous until the wastes meet the delisting levels set in Paragraph (1) and it has received written approval to do so from the EPA. (5) Data Submittals: Teris must submit the information described below. If Teris fails to submit the required data within the specified time or maintain the required records on-site for the specified time, the EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. Teris must: (A) Submit the data obtained through Paragraph 3 to the Section Chief, Region 6 Oklahoma/Texas Section, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–O) within the time specified. (B) Compile records of analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when either the EPA or the State of Arkansas request them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: ''Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by the EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.'' (6) Reopener: (A) If, anytime after disposal of the delisted waste Teris possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in Paragraph 1, Teris must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (C) If Teris fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires the EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Regional Administrator or his delegate determines that the reported information requires action the EPA, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed the EPA action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or his delegate's notice to present such information.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (7) Notification Requirements: Teris must do following before transporting the delisted waste: (A) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if Teris ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
*	*	* * * * *

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Teris LLC	El Dorado, AR	Stabilized hazardous waste incinerator ash (at a maximum generation of 30,000 cubic yards per calendar year) bearing some or all of the following EPA Hazardous Waste Numbers: K001–K011, K013–K052, K060–K062, K064–K066, K069, K071, K073, K083–K088, K090–K091, K093–K118, K123–K126, K131–K132, K136, K141–K145, K147–K151, K156–K161, K169–K172, K174–K180 generated at Teris. Teris must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources for the petition to be valid.
*	*	* * * * *

TABLE 3.—WASTE EXCLUDED FROM COMMERCIAL CHEMICAL PRODUCTS, OFF-SPECIFICATION SPECIES, CONTAINER RESIDUES, AND SOIL RESIDUES THEREOF

Facility	Address	Waste description
*	*	* * * * *
Teris LLC	El Dorado, AR	Stabilized hazardous waste incinerator ash (at a maximum generation of 30,000 cubic yards per calendar year) bearing some or all of the following EPA Hazardous Waste Numbers: P001–P008, P010–P018, P020–P024, P026–P031, P033–P034, P036–P051, P054, P056–P060, P062–P064, P066–P078, P081–P082, P084–P085, P087–P089, P092–P099, P101–P106, P108–P116, P118–P123, P127–P128, P185, P188–P192, P194, P196–P199, P201–P205, U001–U012, U014–U039, U041–U053, U055–U064, U066–U099, U101–U103, U105–U138, U140–U174, U176–U194, U196–U197, U200–U211, U213–U223, U225–U228, U234–U240, U243–U244, U246–U249, U271, U277–U280, U328, U353, U359, U364–U367, U372–U373, U375–U379, U381–U396, U400–U404, U407, and U409–U411 generated at Teris. Teris must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources Thereof for the petition to be valid.
*	*	* * * * *

[FR Doc. 03–24120 Filed 9–22–03; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–03–16194]

RIN 2127–AI09

Federal Motor Vehicle Safety Standards; Controls and Displays

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, we propose to update and expand our standard regulating motor vehicle controls and displays. The standard requires, among other things, that certain controls, telltales and indicators be identified by specified symbols or words. The NPRM proposes to require the mandatory use of symbols for the identification of these controls, telltales and indicators, as well as for additional controls, telltales and indicators. The NPRM also proposes to extend the standard's display requirements to vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 10,000 pounds. Finally, the NPRM proposes to update the standard's requirements for multi-function controls and displays, to make the requirements appropriate for advanced systems.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than November 24, 2003.

ADDRESSES: You may submit your comments [identified by the DOT DMS Docket Number cited in the heading of this document] by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

You may call the Docket at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, except for international harmonization issues, you may call Ms. Gayle Dalrymple, Office of Crash Avoidance Standards at (202) 366–5559. Her FAX number is (202) 493–2739.

For international harmonization issues, you may call Mr. Patrick Boyd, Office of Crash Avoidance Standards at (202) 366–6346. His FAX number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her FAX number is (202) 366–3820.

You may send mail to all of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

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I. Background

NHTSA issued the original version of Federal Motor Vehicle Safety Standard (FMVSS) 101, *Controls and Displays,* in 1967 (32 FR 2408) as one of the initial FMVSSs. The standard applies to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses.[1] The purpose of the original standard was to assure the accessibility and visibility of motor vehicle controls and displays under all lighting conditions. The standard was designed to reduce the risk of safety hazards caused by the diversion of the driver's attention from the driving task to locate and identify the desired control or display, and to ensure that a driver wearing a safety belt could reach controls needed to accomplish the driving task.

At present, FMVSS 101 specifies requirements for the location (S5.1), identification (S5.2), and illumination (5.3) of various controls and displays. It specifies that those controls and displays must be accessible and visible to a driver properly seated wearing his or her safety belt. Table 1, ''Identification and Illumination of Controls,'' and Table 2, ''Identification and Illumination of Displays,'' indicate which controls and displays are subject to the identification requirements, and how they are to be identified, colored, and illuminated.

II. Issues Raised in 1996 NPRM and 1997 Final Rule

In 1996, pursuant to a March 4, 1995 directive entitled ''Regulatory Reinvention Initiative'' from the President to the heads of departments

[1] The requirements of the current Table 2, ''Identification and Illustration of Displays'' do not apply to vehicles of 10,000 pounds or more GVWR. We are proposing to change this. See section V.B.

and agencies,[2] NHTSA undertook a review of its regulations and directives. During the course of this review, we identified regulations that could be proposed for elimination as unnecessary or for revision to improve their comprehensibility, application, or appropriateness.

We identified FMVSS 101 as one of those regulations because it appeared to be a candidate either for elimination or revision. We were concerned that the Standard might be imposing a needless regulatory burden on the public by regulating aspects of motor vehicle design that were beyond what was needed to assure safety.

To explore these concerns further, the agency proposed a number of alternative ways that might reduce the regulatory burden of this standard. Specifically, in a May 30, 1996 notice of proposed rulemaking (61 FR 27039), we identified the following approaches to amending FMVSS 101: (1) Rescinding the standard; (2) regulating only those controls and displays whose function is related to motor vehicle safety, and removing outdated provisions; (3) regulating only those controls and displays required by other FMVSSs; (4) consolidating all control and display requirements into FMVSS 101; and (5) permitting the use of International Standards Organization (ISO) symbols on some or all controls and displays currently required to be identified. We announced that if we decided not to rescind FMVSS 101, we might adopt one or more of the other proposals.

The public comments on the proposal indicated that the current requirements are not imposing unnecessary regulatory burdens. None of the commenters urged rescission of the standard. Further, there was no broad consensus, even among the vehicle manufacturers, in support of any of the proposals.

After reviewing the public comments, we published a final rule, announcing that we had decided not to adopt any of the proposals (62 FR 32538; June 16, 1997). We nonetheless amended the standard by removing outdated provisions.

In response to the proposal to regulate only those controls and displays whose function is ''related to motor vehicle safety,'' some commenters questioned our suggestion in the NPRM that some controls and displays were not related to safety. In the final rule, we did not provide guidance on which controls and displays are or are not safety related.[3]

As to our proposal to permit the use of ISO symbols to identify some or all controls and displays currently required by the standard to be identified, commenters from the motor vehicle industry generally supported that proposal. The American Automobile Manufacturers Association (AAMA) supported use of the ISO symbols, noting that symbols not specified in FMVSS 101 have been used in U.S. vehicles for years and that the ''motoring public has been educated as to the meaning of these symbols.''

On the other hand, public interest groups raised concerns about the ISO symbols. The Center for Auto Safety (CAS) urged us not to permit ISO symbols because of potential adverse safety consequences if a driver were uncertain how to interpret the symbols. Commenters opposed to using ISO symbols also cited several past NHTSA rulemakings, especially several on the brake standards, in which the agency had expressed reluctance to permit ISO symbols whose meaning it did not believe to be intuitively obvious, *i.e.*, immediately understandable without the necessity for any education or memorization.

In the response to these comments, we expressed our commitment to ''exploring the possibilities of harmonizing its regulatory requirements with the regulatory requirements of other nations, provided that such harmonization does not reduce the safety protection afforded to the American public.''

III. Concerns Underlying This Proposal

Two primary concerns underlie this proposal to update FMVSS 101.

A. Need To Standardize Identifying Symbols for Additional Controls and Displays

First, we tentatively conclude that requiring vehicle controls and displays to be consistently identified by means of an internationally recognized set of graphics in all vehicles would promote safety. This is particularly important as the controls and displays in vehicles increase in number and complexity.

The consistent use in all new motor vehicles of a single symbol for each function would increase the recognition of that function among all drivers. Moreover, the internationally recognized symbols are independent of any particular language. In addition, using an established set of symbols also used in other areas enhances their recognition.

The foregoing considerations have led us to propose the use of a graphic symbol set established by the International Standards Organization (ISO) specifically for controls and displays in motor vehicles, ISO 2575:2000. The ISO symbol set has existed for many years. The great majority of vehicles manufactured for sale in the U.S. already use many of these symbols. As a result, U.S. drivers have become familiar with many of them through exposure in their current vehicles.

We believe that, for all vehicles sold today, the vehicle owner's manual lists the symbols used in the vehicle and explains their meanings. To test this belief, NHTSA staff randomly selected owner's manuals for 12 different vehicles. All of the vehicles used some ISO symbols. In all cases, the manuals provided complete explanations of all symbols used in the vehicle, including their definition and the function or condition they represented. Therefore, an explicit requirement that manufacturers list such information in their vehicles' owners' manuals appears unnecessary.

We recognize that some vehicle functions are easily represented by a symbol, such as the horn, while others may be more difficult to convey graphically. Nonetheless, the consistent and widespread use of even the less intuitive symbols generates understanding of their meanings.

We note that an SAE report from the early 1980s, ''Investigation Into the Identification and Interpretation of Automotive Indicators and Controls,'' showed that U.S. drivers generally failed to recognize the ISO brake malfunction symbol, a graphic representation of a brake drum and shoes with an exclamation point in the center. In general, the word ''BRAKE'' better communicated a brake malfunction. In the twenty-plus years since that report, many manufacturers have used the ISO symbols for parking brake, brake lining wear, ABS, and brake malfunction in U.S. vehicles (accompanied by the English word, where required), so that U.S. drivers are much more exposed to the graphic of the brake drum and shoes than they were in the past. We believe that the proposed five-year phase-in of the ISO brake symbol proposed here, during which the word ''BRAKE'' must appear

[2] The initiative was intended in part to eliminate duplicative and unnecessary agency rules and regulations in addition to streamlining existing regulations that remain useful and relevant.

[3] The agency notes, in retrospect, that while only some controls and displays are for safety functions like brakes or vehicle speed, one of the purposes of FMVSS 101 is to reduce the amount of time that a driver's attention is diverted from the driving task while he or she attempts to locate, correctly identify and correctly operate the desired control or display. In that sense, all controls and displays are related to vehicle safety.

in combination with the ISO brake malfunction symbol, would contribute toward all drivers learning the meaning of the symbol.

We also note that, nearly 20 years ago, the agency stated that it agreed with the idea that ''too many symbols'' would not be in the interest of motor vehicle safety.[4] However, we believe today, the issue is not so much the number of symbols or other identifiers, but the number of controls, telltales and indicators. In today's increasingly sophisticated vehicles, the number of controls, telltales and indicators is steadily increasing. These items must be identified in some fashion.

The function of FMVSS 101 is not to limit or regulate the number of controls, telltales and indicators in vehicles; instead, its function is to ensure that when a regulated control, telltale, or indicator exists in the vehicle, proper identification is provided. Whether that identification is a word, an abbreviation, or a graphic, it is a means of representing a specific vehicle function or condition. We tentatively conclude that, in response to the increase in the number of controls in vehicles, it would be desirable to require each control to be labeled with the same symbol in every vehicle in order to minimize driver confusion and distraction. After a period of learning, symbols would be generally recognized as to the function or condition they represent.

B. Need To Modify Identification Requirements for Multi-function Controls With Remote Displays

Second, we tentatively conclude that there is a need to amend FMVSS 101 in response to the development and increased use of multi-function controls linked to a display screen remote from the control itself to convey information to drivers about the status of multiple vehicle systems and means of controlling those systems. We believe that FMVSS 101's current requirement that the identification for controls ''be placed on or adjacent to the control'' restricts the design of these types of systems unnecessarily. Accordingly, we are proposing an amendment to accommodate those systems.

IV. Harmonizing With Canadian and International Standards

A. Working With Canada

Implementing its commitment to explore the international harmonization of FMVSS 101, NHTSA talked with Transport Canada (Canada's counterpart to the U.S. Department of Transportation) in the late 1990s about Canada's controls and displays standard, *i.e.*, Canadian Motor Vehicle Safety Standard 101. The joint goal of NHTSA and Transport Canada in these talks was to revise their respective standards so that, subject to the overriding concern of ensuring that they continue to provide at least the same level of motor vehicle safety, they are better organized, easier to understand, and consistent with the positions of the U.S., Canada, and European standards organizations. This notice of proposed rulemaking is based in part on that collaboration.

B. Working With the World Forum for Harmonization of Vehicle Regulations of the United Nations/Economic Commission for Europe

The United States and Canada have also informally discussed earlier drafts of the proposed FMVSS 101 and the possibility of its being considered for adoption by other countries participating in the United Nations/Economic Commission for Europe World Forum for Harmonization of Vehicle Regulations (also know as Working Party 29). Working Party 29 administers two agreements dealing with the establishment and harmonization of technical motor vehicle safety regulations: a 1958 Agreement called the ''Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions'' and a 1998 Agreement known as the 1998 Global Agreement. The 1998 Global Agreement provides for the establishment of global technical regulations regarding the safety, emissions, energy conservation and theft prevention of wheeled vehicles, equipment and parts. The Agreement contains procedures for establishing global technical regulations by either harmonizing existing regulations or developing new ones.

On July 18, 2000, in anticipation of the 1998 Global Agreement's entry into force, NHTSA published a request for public comments on the agency's list of preliminary recommendations of standards or aspects of standards for consideration by the Contracting Parties to the Agreement in prioritizing the development and establishment of global technical regulations under the Agreement (65 FR 44565). In the notice, the agency said that it believed that the recommendations would serve the interest of improving motor vehicle safety in the U.S. It also said it would help carry out the 1998 Global Agreement's goal of continuously improving and seeking high levels of safety around the world. In turn, accomplishing that goal would promote the development of new and/or better U.S. standards, thus leveraging the available NHTSA resources for such development.

One of NHTSA's preliminary recommendations in the notice concerned controls and displays:

> Controls and displays: No ECE regulation exists on this subject. Further, the European Union (EU) directive on this subject lacks many of the location and illumination requirements of the U.S. standard (FMVSS No.101) and concentrates mainly on symbols. WP.29 is interested in developing an ECE regulation on controls and displays and has asked the U.S. and Canada to develop a draft harmonized standard that will incorporate control and display requirements currently in standards of other countries. The draft will include requirements regarding visibility, illumination and location of controls and displays, and will specify many standardized ISO symbols as mandatory or optional.

After reviewing the public comments, we published a document on January 18, 2001 (66 FR 4893) (DOT Docket No. NHTSA–00–7638; Notice 2) setting forth the recommendations the agency would make to WP.29. We submitted those recommendations at the March 2001 meeting of WP.29 in Geneva. WP.29 considered our recommendations and those of other Contracting Parties and in March 2002 adopted a work program of initial priorities under the 1998 Global Agreement, including controls and displays.

V. Notice of Proposed Rulemaking

A. Proposed New Definitions

In S4, Definitions, we propose the following new or amended definitions:

1. ''Adjacent''—At present, the term ''adjacent'' appears in FMVSS 101's ''Identification'' section at S5.2.1(a) ''The identification appears on or adjacent to the control'' and at S5.2.3: ''The identification required or permitted by this section shall be placed on or adjacent to the display that it identifies.'' The word ''adjacent'' is not presently defined in FMVSS 101. As will be explained more fully below, the term ''adjacent'' has resulted in several requests for interpretation of what ''adjacent'' means for controls that are identified by images that appear on a digital display screen. We propose to clarify ''adjacent'' with the following definition: ''Adjacent, with respect to a symbol identifying a control, telltale or indicator, means: (a) the symbol is in close proximity to the control, telltale or

[4] 49 FR 30191–92; July 27, 1984.

indicator; and (b) no other control, telltale, indicator, identifying symbol or source of illumination appears between the identifying symbol and the telltale, indicator, or control that the symbol identifies.'' This would put into regulatory form the definition of the term ''adjacent'' that we have used in FMVSS 101 interpretation letters such as the June 8, 2000 letter to an unidentified company, and the February 27, 2001 letter to Mazda North American Operations.

2. ''Common space''—This term, which is used but not defined in FMVSS 101, would be defined as ''an area on which more than one telltale, indicator, identifier or other message may be displayed, but not simultaneously.'' This definition is intended to address designs in which a ''common space'' is used to display more than one warning, message or identification, but not simultaneously. The ''common space'' is a space-saving device.

3. ''Control''—At present, FMVSS 101 regulates both hand-operated controls and foot-operated controls. The Standard requires that certain foot-operated controls, *i.e.*, those for service brake, accelerator, clutch, high beam, windshield washer and windshield wiper, must be operable by the driver. We propose to limit the term ''control,'' and thus FMVSS 101 itself, to hand-operated controls. We are doing so for two reasons. First, we are unaware of any current vehicles whose high beam, or windshield washer or wiper controls are foot-operated. Second, there is no need, as a practical matter, to include a requirement that service brakes, accelerators, and clutches be operable by the driver.

4. ''Indicator''—We propose to use this new term to replace the term ''gauge'' because ''gauge'' connotes an analog display whereas ''indicator'' does not. We propose to define ''indicator'' as ''a device that shows the magnitude of physical characteristics that the instrument is designed to sense.''

5. ''Multi-function control'' and ''multi-task display.'' We propose two new definitions to address the use of controls that select several different vehicle functions and that display information about those functions on a display that is remote from the control. A multi-function control is ''a control through which the driver may select, and affect the operation of, more than one vehicle function.'' A multi-task display is ''a display on which more than one message can be shown simultaneously.'' These controls and displays are discussed in Section V.I.

6. ''*Telltale*''—We propose to redefine ''telltale'' as an ''optical signal that, when illuminated, indicates the actuation of a device, a correct or improper functioning or condition, or a failure to function.'' It is NHTSA's belief that this proposed definition is more specific and less broad than the present definition.

B. Application to Vehicles of 4,536 kg (10,000 lb) or Greater GVWR

At present, FMVSS 101 at S5 excludes vehicles of 4,536 kg (10,000 lb) or greater gross vehicle weight rating from the location, illumination, and color requirements for displays. We are proposing to remove the exclusion, and to make the standard's display requirements applicable to medium and heavy vehicles. Our rationale to include these vehicles is that it would meet the need for safety to ensure that drivers of medium and heavy vehicles are able to see and identify their displays as easily as do drivers of light vehicles.

C. Location of Controls

At S5.1.1, in the section on ''Location,'' we propose to require that the controls listed in the standard must be located so that they are within reach of the driver while the driver is restrained by a crash protection system pursuant to FMVSS 208, *Occupant Crash Protection.* Included are not only controls essential to the driving task (*i.e.,* turn signal, windshield wiping and washing), but also controls such as the air conditioning and heating control and fan control.

D. Labeling Requirement for Ring-Type Horn Actuators.

We propose at S5.2.1 that the standard exclude only horns actuated by lanyards from the requirement for identifying horn actuators. This would remove a current exclusion for ring-type horn actuators. We are unaware of any vehicles that use ring-type horn controls. However, we believe that with the current interest in styling vehicles to resemble earlier models we may again see ring-type horn controls in some vehicles.[5] Since the majority of current drivers would not be familiar with the use of this type of horn control, it should be labeled, if possible. We seek comment on whether this type of horn actuator is used in vehicles currently in production, or planned for production. If ring-type horn actuators are used, in what types of vehicles are they found, and is there a means by which they can be labeled?

E. Visibility Requirements Under ''Daylight and Nighttime'' Conditions

At S5.3.2.1, we propose to specify that means be provided ''for illuminating the indicators, identifications of indicators, and identifications of hand-operated controls listed in Table 1 sufficiently to make them visible to the driver under daylight and nighttime driving conditions.'' At S5.3.3, we propose to specify that means be provided for illuminating telltales and their identification sufficiently to make them visible to the driver ''under daylight and nighttime driving conditions.'' The present language at S.5.3.3(a) states that means shall be provided for making controls, gauges, and their identification of those items ''visible to the driver under all driving conditions.'' The narrower ''visible * * * under daylight and nighttime conditions'' language is proposed because under some extreme lighting conditions (*e.g.* driving directly into a sunrise or sunset), it is virtually impossible to make illuminated symbols (even after adjusting the level of illumination) or non-illuminated symbols be visible to the driver. NHTSA believes that, for the most part, the instances in which the driver cannot see symbols are of short duration, and therefore would not cause a safety problem if the telltales and/or their identifiers were not ''visible'' to the driver during that short time period.

F. Proposed New Tables

In the current standard, Table 1 lists controls, the symbols and/or words to identify them, and whether illumination is required, while Table 2 lists displays, the symbols and/or words to identify them, the required color, and whether illumination is required.

The proposed revised standard would have two tables, each of which would include both controls and displays.

Table 1 would specify symbols, color requirements and whether illumination is required for controls, telltales, and indicators for which we are proposing illumination or color requirements. These proposed requirements reflect requirements already in FMVSS 101, CMVSS 101, ECE 78/316, or are proposed in the draft GTR on ''Hand controls, tell-tales, and indicators.''

Table 2 would specify symbols for controls, telltales, and indicators other than those listed in proposed Table 1. No color or illumination requirements are specified in this table.

[5] We note that the providing of ring-type horn controls is limited by FMVSS 203, *Impact Protection for the Driver from the Steering Control System.* This standard requires steering control systems to be constructed so that no components or attachments, including horn actuating mechanisms and trim hardware, can catch the driver's clothing or jewelry during normal driving maneuvers.

We believe that the new, proposed tables would simplify a search for a symbol and show when a symbol is used for several different displays (control, indicator, or telltale). The symbols in the proposed tables are essentially identical to the ISO symbols.

1. *Table 1.* As indicated above, the proposed Table 1 lists controls, telltales, and indicators for which we are proposing an illumination or color requirement. Column 1 of the table names the control, telltale or indicator, column 2 specifies the required symbol, column 3 indicates whether the item is a control, telltale, indicator, or some combination of control, telltale, or indicator, column 4 states whether illumination is required for that item, and column 5 specifies the required color, if any. All controls, telltales, and indicators that had an illumination or color requirement in the present Tables 1 and 2 are proposed to be included in new Table 1.

a. *Items in Proposed Table 1 Not in the Current Tables.* The following items are proposed to be included in the new Table 1, but do not appear in either of the current FMVSS 101 tables: (1) The controls and telltales for front and rear fog lamps and parking lamps; (2) the telltale concerning air bag malfunction required by FMVSS 208; and (3) the engine on-board diagnostics telltale required by emissions standards.

b. *Air Bag Malfunction Telltale.* While FMVSS 208 requires a telltale concerning air bag malfunction, the identification is not specified. This has resulted in manufacturers using different identifications, *e.g.*, ''SRS'' or ''INFL REST''. We propose to require the ISO symbol for air bag malfunction to make the display uniform in all vehicles.

c. *Malfunction of Trailer ABS Telltale.* Table 1 includes a telltale indicating a malfunction of trailer antilock brake system (ABS). We note that the symbol for the telltale is not identical to the ISO symbol. The ISO specifies a symbol that indicates which trailer, in a rig hauling multiple trailers, is experiencing the problem. To our knowledge, no current vehicle has this sensing capability. FMVSS 121, *Air Brake Systems,* requires tractor and trailer ABS malfunctions to be identified separately. However, only one telltale is required for trailer ABS malfunctions, regardless of the number of trailers. The ABS malfunction telltales proposed in Table 1, if adopted, would permit compliance with braking standards. The ISO symbol, which includes numbered trailers, on the other hand, represents a capability not required by any country's safety standard, and therefore would require more than is necessary for compliance with braking standards. We believe that manufacturers currently do not plan to use that symbol because standard tractor/trailer wiring systems have too few lines to make it possible to communicate information indicating which trailer is experiencing the problem.

d. *Required Use of Symbols and Word Identifiers for Brake Telltales.*

FMVSS 101 currently specifies that for controls and displays for which a symbol is shown in the standard's tables, the control or display must be identified by either that symbol or by the word or abbreviation shown in the tables. The standard requires some items, including the brake system malfunction telltales required by FMVSS 105 and 135, to be identified by words.

In proposed Table 1, identifying words or abbreviations have been eliminated for all telltales, except for the brake system malfunction telltales regulated by FMVSS 105 and 135, for which the word ''BRAKE'' is incorporated into the symbols. We are proposing to require the word ''BRAKE'', in addition to the ISO symbol, for these telltales to aid consumers in correctly interpreting the meaning of the brake symbols during a five-year learning period.

The requirements for the word ''BRAKE'' would end after the five year period. We believe that five years is enough time to enable the American public to learn the meaning of the symbols. We seek public comment on the length of this period.

We believe that requiring the use of a standardized set of symbols would promote safety by making the manner of identification of controls, telltales and indicators uniform across the fleet, thereby reducing driver distraction. It also harmonizes U.S. requirements and symbol usage with Canadian and UN/ECE standards.

e. *Air Bag Deactivated Telltale.* The advanced air bag requirements of FMVSS 208 include, for vehicles that have automatic suppression features, a requirement for a telltale that indicates whether the passenger air bag is deactivated. See S19.2.2. Among other things, the telltale must have the identifying words ''PASSENGER AIR BAG OFF'' or ''PASS AIR BAG OFF'' on the telltale or within 25 mm (1.0 in) of the telltale. The advanced air bag requirements are being phased in on a mandatory basis beginning September 1, 2003. We have decided not to propose any change in FMVSS 208's requirements for this telltale at this time, *i.e.*, it will continue to be required to have the identifying words ''PASSENGER AIR BAG OFF'' or ''PASS AIR BAG OFF'' on the telltale or within 25 mm (1.0 in) of the telltale.

f. *Speedometer.* As with the existing version of FMVSS 101, a vehicle's speedometer would be required to be identified with ''MPH, or MPH and km/h''. The intent is to require speedometer display in MPH, and to allow the addition of km/h at the option of the manufacturer. This differs from the requirements of many other countries. However, as we explained in a final rule published in the **Federal Register** on May 15, 2000 (65 FR 30915), speedometers graduated in km/h only would be useless for drivers in the U.S., where speed limits are communicated in MPH alone.

2. *Proposed Table 2.* As discussed earlier, proposed Table 2 specifies symbols for the controls, indicators and telltales that are not listed in Table 1. Proposed Table 2 items have no illumination, location, or color requirements. A vehicle containing an item listed in either proposed Table 1 or Table 2 would be required to use the symbol listed for the item, regardless of the vehicle's weight class.

G. Objectivity

Comments are requested on increasing the objectivity, and thus the enforceability, of the performance requirements proposed in this document. For example, is there an appropriate way to increase the objectivity of the proposed requirement that ''Any indicator or telltale not listed in Table 1 and any identification of that indicator or telltale must not be a color that masks the driver's ability to recognize any telltale, control, or indicator listed in Table 1'' (Proposed S5.4.2)? What colors mask the specified colors in the tables, and under what circumstances, *i.e.*, is masking partly a function of the distance between two of these items and the relative brightness of the two items?

H. Common Space for Displaying Multiple Messages

FMVSS 101 currently specifies that a common space may be used to display messages from any sources, subject to several requirements. One of the requirements is that the telltales for the brake, high beam, turn signal, and safety belt may not be shown in the common space. These telltales are of particular safety significance. This requirement ensures that these telltales, if activated, are always visible to the driver.

We are proposing to modify this requirement in a way that will provide increased flexibility. Under our

proposal, an expanded list of telltales of particular safety significance—the telltales for any brake system malfunction, the air bag malfunction, the side air bag malfunction, low tire pressure, passenger air bag off, high beam, turn signal, and seat belt—could be in a common space but not with any other of these telltales. If one of these telltales were activated, it would be required to displace any other symbol or message in that common space while the underlying condition that caused the telltale's activation exists. This modified requirement would continue to ensure that these telltales, if activated, would always be visible to the driver.

I. Identification of Multi-Function Controls

Over the past several years, we have addressed several requests for interpretation asking how FMVSS 101's requirements for identifying controls apply to advanced design concepts that use one control to access many vehicle functions, with the control's functions displayed on a screen remote from the control. These interpretations include a June 8, 2000 interpretation to a manufacturer whose identity is confidential, a February 28, 2001 interpretation to Mazda, and a January 10, 2002 interpretation to Porsche.

In interpreting FMVSS 101 over the years, we have sought to interpret it in a broad manner in light of new technology. As we explained in our letter to Porsche, however, there is a limit to how much we can do by interpretation as opposed to conducting rulemaking to facilitate the use of new technology.

We believe that FMVSS 101's current requirement that the identification for controls ''be placed on or adjacent to the control'' has a particular potential to restrict the use of advanced design concepts. The system that Porsche asked about included a ''combination multi-function switch/rotary dial,'' similar to a joystick, located on the center console between the driver's seat and the front passenger seat, and a small display screen on the dashboard. The display screen provided the identification for the various functions of the dial, which changed as different functions were selected. Thus, the dial needed to be operated in conjunction with the display screen. As we explained in our letter to Porsche, however, the dial (*i.e.*, the control) and the related display (which provided the identification for functions of the control) could not be considered to be ''adjacent'' to each other, given the distance between them.

We have tentatively concluded that FMVSS 101 is unnecessarily design restrictive with respect to multi-function controls that use remote displays to identify the various functions of the controls, such as Porsche's control. As we noted in our letter to Porsche, the use of this type of system may be intuitive to persons who are familiar with computers and/or video games, since use of the multi-function switch/rotary dial is analogous to the use of a computer mouse or video game controller. Also, for reasons of ergonomics, there may be advantages to separating the control and the display. In the case of the system identified by Porsche, the control between the driver seat and front passenger seat is easily reached by the driver without having to lean forward, and the location of the display on the instrument panel enables the driver to see the identification for the multi-function system without having to look down to the console, away from the road.

On November 23, 2001, the agency received a petition for rulemaking from the Alliance of Automobile Manufacturers (the Alliance) to eliminate the adjacency requirement from the current 49 CFR 571.101, Section S5.2.1(a). The agency granted the petition and is taking up the issue in this rulemaking. The Alliance contends that the current language of S5.2.1(a) ''* * * has become an inadvertent design restriction on technologically advanced vehicle control and display systems. The Alliance believes that such an amendment is needed to facilitate the introduction of advanced vehicle control and display systems that can enhance vehicle safety by reducing the need for a driver to take his or her eyes of (sic) the roadway to operate multiple vehicle controls and by reducing the potential for driver confusion that could arise from 'information overload' from multiple identification symbols on a single control.'' The Alliance proposed the following language to replace the current S5.2.1(a):

(a)(1) Except as specified in § 5.2.1(b), any vehicle system operated by a hand-operated control listed in column 1 of Table 1 that has a symbol designated for it in column 3 of that table shall be identified by either the symbol designated in column 3 (or symbol substantially similar in form to that shown in column 3) or the word or abbreviation shown in column 2 of that table. Any such control for which no symbol is shown in Table 1 shall be identified by the word or abbreviation shown in column 2. Words or symbols in addition to the required symbol, word or abbreviation may be used at the manufacturer's discretion for the purpose of clarity. Any vehicle system operated by such a control for which column 2 of Table 1 and/or column 3 of Table 1 specifies ''Mfr. Option'' shall be identified by the manufacturer's choice of a symbol, word or abbreviation, as indicated by that specification in column 2 and/or column 3.

(2) Under the conditions of S6, each hand operated control listed in column 1 of Table 1 shall be visible to the driver and each identification required by subsection (a)(1) shall be visible to the driver when the control is operating the corresponding vehicle system. Hand-operated controls listed in column 1 of Table 1 may be combined. Except as provided in S5.2.1.1, S5.2.1.2, and S5.2.1.3, when identification required by subsection (a)(1) is required by this section to be visible to the driver, it shall appear to the driver perceptually upright. The vehicle's owner's manual must explain the operation and identification of the hand operated controls listed in column 1 of Table 1.

It is not our desire to hinder technical advances in this area, if there are no safety concerns. However, we have the following concerns about the Alliance proposal:

(1) We note that the Alliance did not provide data to support its claim that these ''advanced vehicle control and display systems'' can, in fact, reduce the amount of time the driver needs to look away from the road to locate and operate controls while driving;

(2) Although it would drop the adjacency requirement, the proposal does not define what proper identification would be. Can a control be said to be truly identified if there is no visual clue as to which label belongs with which control?;

(3) The Alliance's suggested requirement that the identification need only be visible to the driver when the control is operating the corresponding vehicle system raises the question of how the driver will be able to locate the control for a system that is not currently operating, but when the need for it arises, may be urgent. For example, access to windshield wiper controls becomes critical when a sudden rainstorm begins. Control identification is probably most important in terms of driver distraction when the vehicle system desired is not operating, but operation is desired to begin.

(4) The Alliance's proposed explanatory text, ''* * *controls* * * may be combined'' is irrelevant since the current standard does not prohibit the combination of controls. However, it raises the question, are there controls that should not be combined? An example would be the headlight switch. If the headlight switch were part of a multi-function control, would it be too easy for the driver to inadvertently flash the headlights, or for the driver to have trouble locating the headlight switch quickly?

In an attempt to address the petitioner's concerns, we have proposed limited exemption from the adjacency requirement if the control is associated with a display, located in the driver's view, which clearly shows all functions available from that control (see proposed regulatory text at S5.1.4). We have also added a definition for ''multi-function control'' to S4.

We seek comment on the following issues related to the use of multi-function controls and multi-task displays as well as comment on the proposed regulatory language itself:

(1) If a display screen shows all of the functions available from a multi-function control, as required by the proposed text, how important is it to vehicle safety that the control itself be labeled?

(2) Please provide any data related to the safety of use of multi-function controls, such as the number of times the driver looks away from the road, the length of these glances, etc., while using the control in different driving scenarios. Compare this to traditional single controls.

(3) Are there controls that, for the sake of vehicle safety, should not be combined with any other controls, or should not be combined with certain other controls?

We request comments on whether any other exceptions from the ''on or adjacent'' requirement would be appropriate. In providing comments on this issue and on the proposed language for the exceptions discussed above, we ask that manufacturers and other interested persons consider discussing future advanced design concepts [6] that may now be foreseeable.

J. Other Issues

We invite public comment on any other FMVSS 101 issue that the commenter may wish to raise. For example, we seek comment on whether the selection of some controller/multi-task display combinations are, or could become, too complex for some drivers.

K. Conforming Amendments to Other Standards

Several other safety standards include requirements that are affected by the proposed changes to FMVSS 101, including FMVSS 105, 121 and 135. While we are not specifying specific proposed regulatory text, we will make any necessary conforming amendments as part of the final rule.

VI. Leadtime and Cost

We believe the controls, telltales and indicators that would be regulated by the proposed new version of FMVSS 101 are already identified by vehicle manufacturers. The primary cost of this rulemaking would therefore be changing the identification of those controls, telltales and indicators that are not already identified by the proposed symbols but are instead identified by words or some other symbol. To the extent that such changes are made in the course of normal vehicle redesigns, such costs would be negligible.

Given that the benefits of this rulemaking are nonquantifiable and recognizing that it could be costly for some manufacturers to have to redesign their vehicles within a short time period to meet the proposed requirements, we tentatively conclude that it is in the public interest to provide a long leadtime for the proposed requirements. We are proposing a leadtime of five years for light vehicles and eight years for vehicles with a GVWR of 4,536 kg. or greater.

The proposed leadtime would generally permit manufacturers to redesign their vehicles to meet the proposed requirements at the same time as they redesign their vehicles for other purposes. A longer leadtime is proposed for heavier vehicles because they are redesigned less often and because they have not previously been subject to FMVSS 101's requirements for displays.

VII. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, we believe that this proposal, if made final, would not have any quantifiable cost effect on motor vehicle manufacturers. We believe that all vehicle manufacturers already identify each control, telltale or indicator provided in vehicles that they manufacture. We believe that because we are providing five to eight years of leadtime, if this proposed rule is made final, there would be enough leadtime for manufacturers to make necessary vehicle changes that coincide with continuous design changes in motor vehicles for future model years.

If this proposed rule is made final, we believe manufacturers would incur minuscule costs to make the identifications meet FMVSS 101. This rule, if made final, would specify the symbol that must be used to identify each control, telltale, or indicator in a motor vehicle. This requirement would only apply if that control, telltale or indicator were listed in one of the tables proposed in this NPRM.

Because the economic impacts of this proposal are so minimal, no further regulatory evaluation is necessary.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require

[6] NHTSA's regulation at 49 CFR Part 512 *Confidential Business Information,* establishes procedures by which NHTSA will consider claims that information submitted to us is confidential business information, as described in 5 U.S.C. Section 552(b)(4).

Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The Administrator has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this proposal would not have a significant economic impact on a substantial number of small entities. We believe that if this proposed rule is made final, small motor vehicle manufacturers would incur minuscule costs to make the identifications of controls, telltales, and indicators in their vehicle meet FMVSS 101. The statement of the factual basis for the certification is that this proposed rule, if made final, would require specific symbols to be placed on a motor vehicle control, telltale, or indicator, if that control, indicator or telltale is listed in one of three tables in FMVSS 101, and is provided in that vehicle. If any such control, indicator or telltale already is provided in a motor vehicle, the vehicle manufacturer already provides some type of identification for it. The only change would be a substitution of existing symbols. We propose to give manufacturers lead time of five to eight years to provide the new symbols. Nothing in this proposed rule, if made final, would require that any telltale, indicator, or control be provided in a motor vehicle. For manufacturers of motor vehicles with multi-task controls, we propose to relieve a regulatory restriction. For these reasons, and for the reasons described in our discussion on Executive Order 12866 and DOT Regulatory Policies and Procedures, the agency believes that this proposal would, if made final, may have a minuscule, but not significant, cost effect on small motor vehicle manufacturers considered to be small business entities.

C. Executive Order 13132 (Federalism)

Executive Order 13132 requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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, as specified in Executive Order 13132. The reason is that this proposed rule, if made final, would apply to motor vehicle manufacturers, and not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order do not apply to this proposed rule.

D. Executive Order 12778 (Civil Justice Reform)

Pursuant to Executive Order 12778, ''Civil Justice Reform,'' we have considered whether this proposed rule would have any retroactive effect. We conclude that it would not have such an effect.

Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. National Environmental Policy Act

We have analyzed this proposal for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

F. Paperwork Reduction Act

NHTSA has determined that, if made final, this proposed rule would impose no ''collection of information'' burdens on the public, within the meaning of the Paperwork Reduction Act of 1995 (PRA). This rulemaking action would not impose any filing or recordkeeping requirements on any manufacturer or any other party. For this reason, we discuss neither electronic filing and recordkeeping nor a fully electronic reporting option by October 2003.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have determined that there is an applicable voluntary consensus standard. That standard is the International Standards Organization's (ISO) Standard 2575:2000. We are using the symbols in that standard in Table 1 and Table 2 of this NPRM.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply

when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This proposal would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this proposal is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule 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 this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

J. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

VIII. Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

You may also submit your comments to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

2. On that page, click on ''search.''

3. On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Does the Federal Privacy Act Apply to My Public Comments?

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may visit *http://dms.dot.gov.*

List of Subjects in 49 CFR Part 571

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

In consideration of the foregoing, it is proposed that the Federal Motor Vehicle Safety Standards (49 CFR part 571), be amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.101 would be revised to read as follows:

§ 571.101 Standard No. 101; Controls, telltales, and indicators.

S1. *Scope.* This standard specifies performance requirements for location, identification, color, and illumination of motor vehicle controls, telltales and indicators.

S2. *Purpose.* The purpose of this standard is to ensure the accessibility, visibility and recognition of motor vehicle controls, telltales and indicators, and to facilitate the proper selection of controls under daylight and nighttime conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S4. *Definitions.*

Adjacent, with respect to a symbol identifying a control, telltale or indicator, means:

(a) The symbol is in close proximity to the control, telltale or indicator; and

(b) No other control, telltale, indicator, identifying symbol or source of illumination appears between the identifying symbol and the telltale, indicator, or control that the symbol identifies.

Common space means an area on which more than one telltale, indicator, identifier, or other message may be displayed, but not simultaneously.

Control means the hand-operated part of a device that enables the driver to change the state or functioning of the vehicle or a vehicle subsystem.

Indicator means a device that shows the magnitude of the physical characteristics that the instrument is designed to sense.

Multi-function control means a control through which the driver may select, and affect the operation of, more than one vehicle function.

Multi-task display means a display on which more than one message can be shown simultaneously.

Telltale means an optical signal that, when illuminated, indicates the actuation of a device, a correct or improper functioning or condition, or a failure to function.

S5. *Requirements.* Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale or an indicator listed in Table 1 or Table 2 must meet the requirements of this standard for the location, identification, color, and illumination of that control, telltale or indicator. The standard's requirements for telltales and indicators do not apply to vehicles with a GVWR of 4,536 kg. or greater if those vehicles are manufactured before [the date eight years after the publication date of the final rule would be inserted]. At the option of the manufacturer, vehicles with a GVWR less than 4,536 kg. manufactured before [the date five years after the publication date of the final rule would be inserted] may meet the requirements of the version of 49 CFR part 571.101 in effect on [the publication date of the final rule would be inserted] instead of the requirements of this version of the standard. At the option of the manufacturer, vehicles with a GVWR of 4,536 kg. or greater manufactured before [the date eight years after the publication date of the final rule would be inserted] may meet the requirements of the version of 49 CFR part 571.101 in effect on [the publication date of the final rule would be inserted] instead of the requirements of this version of the standard.

S5.1 *Location.*

S5.1.1 The controls listed in Table 1 must be located so that they are operable by the driver under the conditions of S5.6.2.

S5.1.2 The telltales and indicators listed in Table 1 and Table 2 and their identification must be located so that, when activated, they are visible to a driver under the conditions of S5.6.1 and S5.6.2.

S5.1.3 Except as provided in S5.1.4, the identification for controls, telltales and indicators must be placed on or adjacent to the telltale, indicator or control that it identifies.

S5.1.4 The requirement of S5.1.3 does not apply to a multi-task control, provided:

(a) The control is depicted in an associated multi-task display,

(b) The associated multi-task display is visible to the driver under the conditions of S5.6.1 and S5.6.2, and

(c) All of the vehicle systems for which control is possible from the multi-task control are identified in the associated multi-task display. Subfunctions of the available systems need not be shown on the top-most layer of the multi-task display.

S5.2 Identification.

S5.2.1 Each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 of Table 1 or Table 2. Each symbol provided pursuant to this paragraph must have the proportional dimensional characteristics of the symbol as it appears in Table 1 or Table 2. No identification is required for any horn (*i.e.*, audible warning signal) that is activated by a lanyard or for a turn signal control that is operated in a plane essentially parallel to the face plane of the steering wheel in its normal driving position and which is located on the left side of the steering column so that it is the control on that side of the column nearest to the steering wheel face plane.

S5.2.2 Any symbol not shown in Table 1 or Table 2 may be used to identify a control, a telltale or an indicator that is not listed in those tables.

S5.2.3 Supplementary symbols or words may be used in conjunction with any symbol specified in Table 1 or Table 2.

S5.2.4 [Reserved]

S5.2.5 A single symbol may be used to identify any combination of the control, indicator, and telltale for the same function.

S5.2.6 Except as provided in S5.2.7, all identifications of telltales, indicators and controls listed in Table 1 or Table 2 must appear to the driver to be perceptually upright. For rotating controls that have an ''off'' position, this requirement applies to the control in the ''off'' position.

S5.2.7 The identification of the following items need not appear to the driver to be perceptually upright:

(a) A horn control;

(b) Any control, telltale or indicator located on the steering wheel, when the steering wheel is positioned for the motor vehicle to travel in a direction other than straight forward; and

(c) Any rotating control that does not have an ''off'' position.

S5.2.8 Each control for an automatic vehicle speed system (cruise control) and each control for heating and air conditioning systems must have identification provided for each function of each such system.

S5.2.9 Each control that regulates a system function over a continuous range must have identification provided for the limits of the adjustment range of that function. If color coding is used to identify the limits of the adjustment range of a temperature function, the hot limit must be identified by the color red and the cold limit by the color blue. If the status or limit of a function is shown by a display not adjacent to the control for that function, both the control and the display must be independently identified as to the function of the control, in compliance with S5.2.1, on

or adjacent to the control and on or adjacent to the display.

S5.2.10 Motor vehicles manufactured on or after [the date 5 years after the effective date of the final rule would be inserted] need not have the word ''Brake'' on the brake malfunction symbol specified in Table 1.

S5.2.11 Motor vehicles manufactured on or after [the date 5 years after the effective date of the final rule would be inserted] need not have the words ''Brake pressure'' on the low brake air/fluid pressure symbol specified in Table 1.

S5.2.12 Motor vehicles manufactured on or after [the date 5 years after the effective date of the final rule would be inserted] need not have the words ''Brake fluid'' on the low brake fluid condition symbol specified in Table 1.

S5.2.13 Motor vehicles manufactured on or after [the date 5 years after the effective date of the final rule would be inserted] need not have the English words ''Brake wear'' on the brake lining wear-out condition symbol specified in Table 1.

S5.3 *Illumination.*

S5.3.1 *Timing of illumination.*

(a) Except as provided in S5.3.1(c), the identifications of controls for which the word ''Yes'' is specified in column 4 of Table 1 must be capable of being illuminated whenever the headlamps are activated. This requirement does not apply to a control located on the floor, floor console, steering wheel, steering column, or in the area of windshield header, or to a control for a heating and air-conditioning system that does not direct air upon the windshield.

(b) Except as provided in S5.3.1(c), the indicators and their identifications for which the word ''Yes'' is specified in column 4 of Table 1 must be illuminated whenever the vehicle's propulsion system and headlamps are activated.

(c) The indicators, their identifications and the identifications of controls need not be illuminated when the headlamps are being flashed or operated as daytime running lamps.

(d) At the manufacturer's option, any control, indicator, or their identifications may be capable of being illuminated at any time.

(e) A telltale must not emit light except when identifying the malfunction or vehicle condition it is designed to indicate, or during a bulb check, upon propulsion system activation.

S5.3.2 *Brightness of illumination of controls and indicators.*

S5.3.2.1 Means must be provided for illuminating the indicators, identifications of indicators and identifications of controls listed in Table 1 to make them visible to the driver under daylight and nighttime driving conditions.

S5.3.2.2 The means of providing the visibility required by S5.3.2.1:

(a) Must be adjustable to provide at least two levels of brightness;

(b) At the lower level of brightness, the identification of controls, indicators and the identification of indicators must be barely discernible to the driver who has adapted to dark ambient roadway condition; and

(c) May be operable manually or automatically.

S5.3.3 *Brightness of telltale illumination.* Means must be provided for illuminating telltales and their identification sufficiently to make them visible to the driver under daylight and nighttime driving conditions.

S5.3.4 *Brightness of interior lamps.* Any source of illumination that is:

(a) Within the passenger compartment of a motor vehicle;

(b) Located in front of a transverse vertical plane 110 mm behind the H-point of the driver's seat while in its rearmost driving position;

(c) Capable of being activated while the motor vehicle is in motion; and

(d) Neither a telltale nor a source of illumination used for the controls and indicators listed in Table 1 or Table 2, must have a means for the driver to turn off that source under the conditions of S5.6.2.

S5.4 *Color.*

S5.4.1 The light of each telltale listed in Table 1 must be of the color specified for that telltale in column 5 of that table.

S5.4.2 Any indicator or telltale not listed in Table 1 and any identification of that indicator or telltale must not be a color that masks the driver's ability to recognize any telltale, control, or indicator listed in Table 1.

S5.4.3 Each symbol used for the identification of a telltale, control or indicator must be in a color that stands out clearly against the background.

S5.4.4 The filled-in part of any symbol in Table 1 or Table 2 may be replaced by its outline and the outline of any symbol in Table 1 or Table 2 may be filled in.

S5.5 *Common space for displaying multiple messages.*

S5.5.1 A common space may be used to show multiple messages from any source, subject to the requirements in S5.5.2 through S5.5.6.

S5.5.2 The telltales for any brake system malfunction, the air bag malfunction, the side air bag malfunction, low tire pressure, passenger air bag off, high beam, turn signal, and seat belt must not be shown in the same common space.

S5.5.3 The telltales and indicators that are listed in Table 1 and are shown in the common space must illuminate at the initiation of any underlying condition.

S5.5.4 Except as provided in S5.5.5, when the underlying conditions exist for actuation of two or more telltales, the telltales must be either:

(a) Repeated automatically in sequence, or

(b) Indicated by visible means and capable of being selected for viewing by the driver under the conditions of S5.6.2.

S5.5.5 In the case of the telltale for a brake system malfunction, air bag malfunction, side air bag malfunction, low tire pressure, passenger air bag off, high beam, turn signal, or seat belt that is designed to display in a common space, that telltale must displace any other symbol or message in that common space while the underlying condition for the telltale's activation exists.

S5.5.6(a) Except as provided in S5.5.6(b), messages displayed in a common space may be cancelable automatically or by the driver.

(b) Telltales for high beams, turn signal, low tire pressure, and passenger air bag off, and telltales for which the color red is required in Table 1 must not be cancelable while the underlying condition for their activation exists.

(c) The color requirements regarding telltales for engine oil pressure and parking brake do not apply when those telltales appear in a common space.

S5.6 *Conditions.*

S5.6.1 The driver has adapted to the ambient light roadway conditions.

S5.6.2 The driver is restrained by the seat belts installed in accordance with 49 CFR 571.208 and adjusted in accordance with the vehicle manufacturer's instructions.

BILLING CODE 4910–59–P

Table 1
Symbols for Controls, Telltales, and Indicators with Illumination or Color Requirements

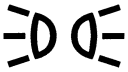
Column 1 ITEM	Column 2 SYMBOL	Column 3 FUNCTION	Column 4 ILLUMINATION	Column 5 COLOR
Master lighting switch	1	Control	No	—
Telltale may not act as the telltale for the position (side) lamps		Telltale	Yes	Green
Headlights	1,2	Control	—	—
		Telltale	Yes	Green
High beams	1,2	Control	No	—
		Telltale	Yes	Blue[3]
Turn signals	1,4	Control	—	—
		Telltale	Yes	Green
Hazard warning signal	1	Control	Yes	Red[3]
		Telltale[5]	Yes	Red[3]
Front fog lamps	1	Control	—	—
		Telltale	Yes	Green
Rear fog lamp	1	Control	—	—
		Telltale	Yes	Yellow
Position, side marker, and/or end-outline marker lamps	 1	Control[6]	Yes	—
		Telltale	Yes	Green
Parking lamp (if separate)		Control	No	—
		Telltale	Yes	Green

Table 1
Symbols for Controls, Telltales, and Indicators with Illumination or Color Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 3 FUNCTION	Column 4 ILLUMINATION	Column 5 COLOR
Windshield wiping system *(continuous)*		Control	Yes	—
Windshield washing system		Control	Yes	—
Windshield washing and wiping system		Control	Yes	—
Windshield defrosting and defogging system		Control	Yes	—
		Telltale	Yes	Yellow
Rear window defrosting and defogging system		Control	Yes	Yellow
		Telltale	Yes	Yellow
Brake system malfunction may include Stop Lamp failure	BRAKE 7	Telltale	Yes	Red[3]
Antilock brake system malfunction	ABS 8	Telltale	Yes	Yellow
Regenerative brake system malfunction	RBS 8	Telltale	Yes	Yellow
Antilock brake system malfunction in tow vehicle	ABS	Telltale	Yes	Yellow

Table 1
Symbols for Controls, Telltales, and Indicators with Illumination or Color Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 3 FUNCTION	Column 4 ILLUMINATION	Column 5 COLOR
Antilock brake system trailer fault	ABS	Telltale	Yes	Yellow
Low brake air/fluid pressure	BRAKE PRESSURE 7,8	Telltale	Yes	Red[3]
Low brake fluid condition	BRAKE FLUID 7,8	Telltale	Yes	Red[3]
Parking brake applied	P 8	Telltale	Yes	Red[3]
Brake lining wear-out condition	BRAKE WEAR 7,8	Telltale	Yes	Yellow
Fuel level	or	Telltale	Yes	Yellow
		Indicator	Yes	—
Engine oil pressure	9	Telltale	Yes	Red[3]
		Indicator	Yes	—
Engine coolant temperature	9	Telltale	Yes	Red[3]
		Indicator	Yes	—
Electrical charging		Telltale	Yes	Red[3]
Condition		Indicator	Yes	—

Table 1
Symbols for Controls, Telltales, and Indicators with Illumination or Color Requirements

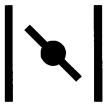
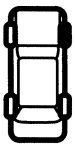
Column 1 ITEM	Column 2 SYMBOL	Column 3 FUNCTION	Column 4 ILLUMINATION	Column 5 COLOR
Engine on-board diagnostics	1	Telltale	Yes	Yellow
Engine stop	10	Control	Yes	—
Choke (cold-start device)		Control	No	—
		Telltale	Yes	Yellow
Diesel pre-heat		Telltale	Yes	Yellow
Automatic vehicle speed (cruise control)		Control	Yes	—
Seat belt	or	Telltale	Yes	Red[3]
Airbag malfunction	1	Telltale	Yes	Red[3]
Side airbag malfunction	1	Telltale	Yes	Red[3]
Speedometer	**km/h and MPH or MPH** 12	Indicator	Yes	—

Table 1
Symbols for Controls, Telltales, and Indicators with Illumination or Color Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 3 FUNCTION	Column 4 ILLUMINATION	Column 5 COLOR
Heating system		Control	Yes	—
Air conditioning system	or A/C	Control	Yes	—
Automatic transmission control position *(park)* *(reverse)* *(neutral)* *(drive)*	P R N D [11]	Indicator	Yes	—
Heating and/or air conditioning fan	or	Control	Yes	—
Tire malfunction (including low pressure)		Telltale	Yes	Yellow
Tire malfunction (including low pressure) that indentifies involved tire		Telltale	Yes	Yellow

Notes:

1. Framed areas of the symbol may be solid; solid areas may be framed.
2. Symbols employing four lines instead of five may also be used.
3. Red may be red-orange. Blue may be blue-green.
4. The pair of arrows is a single symbol. When the controls or telltales for left and right turn operate independently, however, the two arrows may be considered separate symbols and be spaced accordingly.
5. Not required when arrows of turn signal telltales that otherwise operate independently flash simultaneously as hazard warning telltale.
6. Separate identification not required if function is combined with master lighting switch.
7. English word or abbreviation not required after [insert 5 years after effective date of this rule].
8. If a single telltale is used to indicate more than one brake system condition, the brake system malfunction symbol must be used.
9. Combination of the engine oil pressure symbol and the engine coolant temperature symbol in a single telltale is permitted.
10. Use when engine control is separate from the key locking system.
11. Letter "D" may be replaced by other alphanumeric character or symbol chosen by the manufacturer. The indicators may be displayed top to bottom, or left to right, or both.
12. If the speedometer is graduated in miles per hour and in kilometers per hour, the identification must be "MPH and km/h" in any combination of upper and lowercase letters.

Table 2
Symbols with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Headlamp cleaner	1,2	Interior compartment illumination	1
Headlamp leveling	1,2,3	Long range light	1
Exterior bulb failure		Working light	1,2
Reading/map light	1	Beacon	1
Taxi sign light	TAXI	Medical assistance sign light	
Loading light		Elevated headlights Loading platform and rear axle may be omitted if appropriate	
Roof sign illumination		Instrument panel illumination	
Low windshield washer fluid		Electrically heated windshield	
Windshield wiping system (intermittent)		Low rear window washer fluid	

Table 2
Symbols with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Rear window wiping system (continuous)		Rear window wiping system (intermittent)	
Rear window washing and wiping system		Rear window washing system	
Exterior mirror heating	or	Exterior mirror adjustment Symbol allows for mirror image and 90 degree rotation. Arrows can be omitted if the function does not exist.	or
Power folding exterior mirror	or		
Hand throttle		Engine malfunction	
Engine heating		Electronic diesel control	EDC
Engine start	4	Central lubrication	
Engine oil temperature		Engine oil level	
Engine oil filter		Engine coolant heating	

Table 2
Symbols with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Engine coolant level		Engine coolant fan	
Engine inlet air filter		Engine inlet air pre-heat	
Emission system malfunction		Engine exhaust gas filter	
Turbo		Battery malfunction	
Battery shut off		Battery fluid level	
Fuel economy		Fuel filter	or
Fuel system malfunction	or	Fuel shut off	1
Odometer	**km**, if kilometers are shown, or **miles**, if miles are shown (upper or lower case)	Tachometer	**RPM** or **r/min**
Hood opener	1	Door lock	

Table 2
Symbols with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Trunk opener	1	Child lock	
Immobilizer/theft protection	1	Door ajar	1
Sun shade		Power window	
Power window lock	or		
Power on/off switch		Owner's manual	
Upper air outlet	1	Lower air outlet	1
Upper and lower air outlets	1	Defrost and lower air outlet	1
Passenger compartment air filter	1	Vent open	
Vent closed		Fresh air	or

Table 2
Symbols with
No Color or Illumination Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Recirculated air	or	Temperature	°F if degrees Fahrenheit is shown, or °C if degrees Celsius is shown.
Lighter			
Longitudinal seat adjustment	1	Seat back recline	1
Seat height adjustment	1	Seat cushion front height adjustment	1
Seat cushion rear height adjustment	1	Head restraint adjustment	1
Seat lumbar adjustment	1	Seat heater	1
Steering circuit 1	1	Steering circuit 2	2
Steering malfunction		Steering fluid level	
Four wheel steer		Traction control	TC

Table 2
Symbols with
No Color or Illumination Requirements

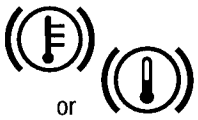
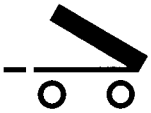
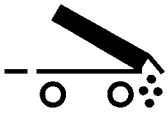
Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Parking aid		Horn	
Brake temperature	 or	Retarder	
Exhaust gas brake		Spring brake release	
Fresh air — Truck		Recirculated air — Truck	
Roof ventilation — Truck			
Load tipping		Load tipping — trailer	
Diverging flap release		Diverging flap release — trailer	
Truck height control		Truck front height control	
Truck rear height control		Trailer lock up	

Table 2
Symbols with
No Color or Illumination Requirements

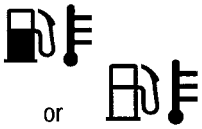
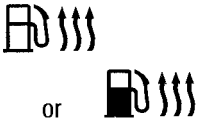
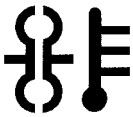
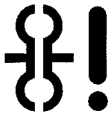
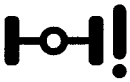
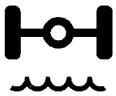
Column 1 ITEM	Column 2 SYMBOL	Column 1 ITEM	Column 2 SYMBOL
Fifth wheel height adjustment		Snowplow Platform and rear axle may be omitted from the symbol if appropriate.	
Fuel temperature	 or	Fuel heating	 or
Transmission malfunction		Transmission fluid level	
Transmission temperature		Transmission converter temperature	
Transmission converter fluid level		Transmission converter malfunction	
Axle malfunction		Axle lifting	
Axle fluid level			
Cab lock Platform and rear axle may be omitted if appropriate.		Winch	
Tire temperature			

Table 2
Symbols with
No Color or Illumination Requirements

Notes:

1. Symbols employing four lines instead of five may also be used.
2. Framed areas of the symbol may be solid; solid areas may be framed.
3. Symbol may be displayed with only one of the two arrows present.
4. Use when engine control is separate from the key locking system.

Issued on: September 17, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–24145 Filed 9–22–03; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 091203B]

Public Scoping Meetings on the Management of Bottomfish Fishery Resources within the Exclusive Economic Zone around the Commonwealth of the Northern Mariana Islands

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

ACTION: Notice of Intent to prepare an environmental impact statement (EIS); notice of scoping meetings; request for written comments.

SUMMARY: The Western Pacific Fishery Management Council (Western Pacific Council) and NMFS announce their intent to prepare a comprehensive EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) on the Federal management of bottomfish fishery resources in the exclusive economic zone (EEZ) around the Commonwealth of the Northern Mariana Islands (CNMI).

The Council will convene public scoping meetings in the CNMI to solicit comments on bottomfish fishery issues and potential management options related to those resources. The scope of the EIS analysis will, among other things, describe activities related to the management, monitoring, and conduct of the fisheries; examine the impacts of bottomfish harvest on archipelagic and localized stocks; and consider the potential impacts to protected species, non-target species, and essential fish habitat. The scoping meetings will provide for public input on the issues, range of alternatives, and impacts the EIS should consider. Written comments will also be accepted concerning the various management options the EIS should consider.

DATES: Public scoping meetings will be held in Saipan, CNMI, on September 24, 2003; in Tinian, CNMI, on September 24, 2003; in Rota, CNMI, September 25, 2003; in Agana, Guam on September 26, 2003. Written comments must be submitted by October 27, 2003. See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations.

ADDRESSES: Written comments on the issues, range of alternatives, and impacts that should be discussed in the EIS may be sent to Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, or to Sam Pooley, Acting Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu HI 96814. Comments may be sent to the Council via facsimile (fax) at 808–522–8226 and must be received by October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, 808–522–8220.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the United States has exclusive management authority over all living marine resources found within the EEZ. The management of these marine resources found within the EEZ with the exception of sea birds and some marine mammals, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The Western Pacific Council has the responsibility to prepare fishery management plans for fishery resources in the EEZ of the Western Pacific Region, which include the Federal waters surrounding the CNMI.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502. 4(b) state:

> ''Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.''

The bottomfish fishery resources that occur in the EEZ waters surrounding CNMI are not currently managed under the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP), which was developed by the Council and approved by NOAA, becoming effective August 27, 1986 (51 FR 27413). There have been six amendments to the FMP since 1986, and recently, a comprehensive draft EIS describing the environmental effects of the existing fishery activities conducted under the FMP was developed. The draft EIS, which is currently being finalized for transmittal to NOAA, presents an overall picture of the existing management framework for the bottomfish resources occurring in the EEZ of the Western Pacific region.

In order for the bottomfish fishery resources in the EEZ of the CNMI to be managed under the FMP, an amendment to the existing FMP is required. The

Council has recently adopted Amendment 8 to the FMP, which if approved, would allow the bottomfish resources in the EEZ waters of the CNMI to be managed under the FMP. Amendment 8 is currently being finalized for transmittal to NOAA.

The FMP provides a management framework for which the Secretary has promulgated corresponding regulations at 50 CFR 660.61. For example, if Amendment 8 is approved, the CFR regulations that would apply to the bottomfish fishery in the EEZ waters of CNMI include, among other things, gear restrictions (50 CFR 660.64) and vessel identification requirements (50 CFR 660.16)

Background

The bottomfish fishery resources occurring in the EEZ waters of Guam are managed under the FMP. Recently, Guam's bottomfish fishery has experienced an increase in effort due to the entry and participation of large-scale vessels (> 50 ft)(15.2 m). This has concerned the Council for multiple reasons: (1) there is a lack of information regarding Guam's bottomfish fishery resources, (2) local catch rates might decline to levels not viable to support the small-vessel component of the fishery, (3) community participation in the fishery may be threatened, and (4) traditional patterns of supply for bottomfish products in the local markets may be disrupted.

These concerns prompted the Council to recommend the development of Amendment 9 to the FMP that would address the apparent increase in effort occurring in Guam's bottomfish fishery. An environmental assessment prepared for the amendment described the various management needs and options to effectively manage the fishery, in addition to the costs of no action. On June 12, 2003, the Council chose the preferred alternative which excludes large-scale vessels (≤50 ft)(15.2 m) from fishing for bottomfish within 50 nm of Guam, the implementation a permit system, and logbook reporting requirements. Reflecting the preferred alternative, Amendment 9 is currently being finalized for transmittal to NOAA.

CNMI

For several years, there has been bottomfish fishing in the EEZ waters of CNMI. A significant portion of the effort in the CNMI's bottomfish fishery is from larger vessels (> 50 ft), which account for sixty percent of the total bottomfish landings in the CNMI.

As a response to the Council's development of Amendment 9, which addresses the emergence of large-scale vessels in Guam's bottomfish fishery, the CNMI is concerned that large-scale vessels displaced from Guam's bottomfish fishery will subsequently fish and exploit the nearby bottomfish resources in the EEZ waters around the CNMI. For this reason, the Council has recommended the development of a comprehensive EIS that describes various options for effective management of the bottomfish fishery around the CNMI.

Alternatives

The Council is scoping to establish a reasonable range of alternatives, which may include gear restrictions, limited access, closed areas, seasonal closures, permits and reporting requirements, and catch limits. In addition to developing possible alternatives, the scoping meetings will serve to identify and eliminate the issues which are not significant or which have been covered by prior environmental review.

Public Involvement

Public scoping is an early and open process for determining the scope of issues to be addressed. A principle objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

Dates, Times, and Locations for Public Scoping Meetings

1. Tinian, CNMI — Wednesday, September 24, 2003, from 2–4 p.m. at the Tinian Gaming Commission Conference Room, San Jose, Tinian 96952.

2. Saipan, CNMI — Wednesday, September 24, 2003, from 7–9 p.m. at the Pedro P. Tenorio Multipursoe Building, Susupe, Saipan 96950;

3. Rota, CNMI — Thursday, September 25, 2003, from 1–3 p.m. at the Department of Lands and Natural Resources Building, Songsong, Rota 96951.

4. Agana, Guam - Friday, September 26, 2003, from 7–9 p.m. at the G. D. Perez Marina, Agana, Guam 96910.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least five days prior to the meeting date.

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

Dated: September 17, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–24115 Filed 9–22–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 184

Tuesday, September 23, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

South Bear River Range Allotment Management Plan Revisions; Caribou-Targhee National Forest; Bear Lake and Franklin Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Montpelier Ranger District, Caribou-Targhee National Forest will be preparing an Environmental Impact Statement (EIS) to analyze the effects of continued domestic livestock grazing on eight cattle allotments and two sheep allotments within the South Bear River Ranger project area. The project area is the Idaho tract of the Cache National Forest. It includes the portion of the Bear River Range of the Wasatch Range which extends from the Utah-Idaho border to just south of Emigration Highway, Idaho. The communities of Fish Haven, St. Charles, Bloomington, and Paris are situated east of this area, and Preston and Franklin lie west of the project area. Allotment Management Plans would be revised on the following allotments: Bear Lake C&H, Bloomington C&H, Cherryville C&H, Franklin Basin S&G, Fish Haven C&H, Logan River S&G, Mink Creek C&H, Paris-Liberty C&H, and Sugar Creek C&H. The scope of the analysis is limited to the consideration of the revision of the Allotment Management Plans and connected actions. The project impact zone includes Bear Lake and Franklin Counties, Idaho, and Idaho Fish and Game Hunting Units (77) and (78). Implementation of this project is scheduled to begin fiscal year 2005. The decision would provide guidance for grazing allotments in the project area for the next twenty years.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received within 30 days of the date of publication of this Notice in the **Federal Register.** No scoping meetings are planned at this time. Information received will be used in preparation of the Draft EIS and Final EIS.

ADDRESSES: Send written comments to Montpelier Ranger District, Attn. Dennis Deuhren, 322 North 4th St., Montpelier, Idaho 83254. The responsible official for this decision is Dennis Deuhren, District Ranger.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Heidi Heyrend, Rangeland Management Specialist at (208) 847–0375.

SUPPLEMENTARY INFORMATION: The EIS and subsequent revision of the Allotment Management Plans will bring these allotments in compliance with Public Law 104, and other applicable laws and regulations. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this Notice in the **Federal Register.**

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods include during the scoping process (the next thirty days following the publication of this Notice in the **Federal Register**) and during the formal review period of the Draft EIS.

The Forest Service estimates the Draft EIS will be filed within 5 months of this Notice of Intent, approximately April 2004. The Final EIS will be filed within 6 months of that date, approximately September 2004.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts, *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: September 11, 2003.

Dennis Duehren,

District Ranger, Caribou-Targhee National Forest, Intermountain Region, USDA Forest Service.

[FR Doc. 03–24166 Filed 9–22–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 24, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for the European Community-United States Cooperation Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 60.

Burden Hours: 1,800.

Abstract: The European Community-United States (EC-US) Cooperation Programs will support new types of cooperation in curriculum development and student exchange between the U.S. and the European union.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2349. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to her e-mail address *Vivian_Reese@ed.gov*. Requests may also be faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–24181 Filed 9–22–03; 8:45: am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 24, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Reinstatement.

Title: School Survey on Crime and Safety: 2004 (SSOCS: 2004)

Frequency: Every four years.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,550.

Burden Hours: 2,703.

Abstract: Authorized under the Education Sciences Reform Act of 2002,

the School Survey on Crime and Safety: 2004 (SSOCS) is the only recurring federal survey which collect detailed information on crime and safety from the public school principals' perspective. The survey collects information on frequency and types of crimes at schools and disciplinary actions; information about perceptions or disciplinary problems in school; and a description of school policies and programs concerning crime and safety.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2352. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–24182 Filed 9–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–87–000]

Hardee Power Partners, Limited; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

September 12, 2003.

Take notice that on September 9, 2003, Hardee Power Partners, Limited (Hardee Power) filed with the Federal Energy Regulatory Commission (the Commission) a supplement to its application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations, on and as of the time at which a proposed transaction that will result in a change in Hardee Power's upstream owners closes (Transaction Closing Time).

Hardee Power states that as of the Transaction Closing Time and as described in the supplement and application, Hardee Power, a Florida limited partnership, will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities located in Florida. Hardee Power also states that the eligible facilities will consist of an approximate 307 MW natural gas/No. 2 oil fired electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: September 22, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24068 Filed 9–22–03; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement Nos.: 011510–019, –020.

Title: West Africa Discussion Agreement.

Parties:

A.P. Moller-Maersk Sealand;
Atlantic Bulk Carriers, Ltd.;
HUAL A/S;
P&O Nedlloyd Limited;
Safmarine Container Lines NV; and
Zim Israel Navigation Co., Ltd. Corp.

Synopsis: The first amendment removes Maersk Sealand as a party to the agreement and the second amendment removes Safmarine as a party.

Dated: September 17, 2003.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24187 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P8–03]

Petition of BAX Global Inc. for Rulemaking; Notice of Filing

Notice is hereby given that Bax Global Inc. (''Petitioner'') has petitioned for the issuance of a rulemaking pursuant to 46 CFR 502.51. Petitioner seeks a rulemaking to amend the Commission's regulations to permit Petitioner to enter into confidential service contracts as ''ocean common carriers'' with their shipper-clients for the ocean transportation of cargo. Petitioner proposes the following criteria for determining which entities should be authorized to enter confidential service contracts:

1. A substantial U.S. related transportation presence with $100 million annual transportation related gross revenue by itself or affiliated companies;

2. Publicly-held (either directly or through a parent) or is a third party logistics company (*e.g.*, ocean freight

forwarder, NVOCC) that is related to an ocean common carrier serving the U.S. trades; and

3. Holding itself out to be a multi-modal logistics maritime transportation provider and historically compliant with U.S. regulations as administered by the Federal Maritime Commission prior to applying to qualify for the right to offer service contracts.

Petitioner asserts that allowing NVOCCs that meet these criteria to enter confidential service contracts without an individual exemption will set a standard that will allow the Commission to continue appropriate regulation and oversight of the NVOCC trade, and provide the Commission and the public with the confidence that only qualified companies are granted this privilege.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the petition no later than October 10, 2003. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, and be served on Petitioner's counsel Edward J. Sheppard, Esq., Thompson Coburn LLP, 1909 K Street, NW., Suite 600, Washington, DC 20006. It is also requested that a copy of the reply be submitted in electronic form (WordPerfect, Word or ASCII) on diskette or e-mailed to *Secretary@fmc.gov.* The Petition will be posted on the Commission's Home Page at *http://www.fmc.gov/Docket%20Log/Docket%20Log%20Index.htm.* All replies filed in response to the Petition will also be posted on the Commission's Home Page at this location.[1] Copies of the Petition also may be obtained by sending a request to the Office of the Secretary, Room 1046, or by calling (202) 523–5725. Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made. Such request should be directed to *secretary@fmc.gov.*

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24186 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

[1] Copies of replies to Petition Nos. P3–03, P5–03, P7–03, and P9–03 are also available on the Commission's homepage at the address listed above.

FEDERAL MARITIME COMMISSION

[Petition No. P9–03]

Petition of C.H. Robinson Worldwide, Inc. for Exemption Pursuant to Section 16 of the Shipping Act of 1984 to Permit Negotiation, Entry and Performance of Confidential Service Contracts; Notice of Filing

Notice is hereby given that C.H. Robinson Worldwide, Inc. (''Petitioner'') has petitioned, pursuant to Section 16 of the Shipping Act of 1984, 46 U.S.C. app. 1715, and 46 CFR 502.67, for an exemption from the Shipping Act, to permit it to negotiate, enter into and perform service contracts.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the petition no later than October 10, 2003. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, and be served on Petitioner's counsel Carlos Rodriguez, Esq., Rodriguez O'Donnell Ross, Fuerst Gonzalez & Williams, P.C., 1211 Connecticut Ave. NW., Suite 800 Washington, DC 20036. It is also requested that a copy of the reply be submitted in electronic form (WordPerfect, Word or ASCII) on diskette or emailed to *Secretary@fmc.gov.* The Petition will be posted on the Commission's Home page at *http://www.fmc.gov/Docket%20Log/Docket%20Log%20Index.htm.* All replies filed in response to the Petition will also be posted on the Commission's homepage at this location.[1] Copies of the Petition also may be obtained by sending a request to the Office of the Secretary, Room 1046, or by calling (202) 523–5725. Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through email in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made. Such request should be directed to *secretary@fmc.gov.*

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24184 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

[1] Copies of replies to Petition Nos. P3–03, P5–03, P7–03, and P8–03 are also available on the Commission's homepage at the address listed above.

FEDERAL MARITIME COMMISSION

[Petition No. P5–03]

Petition of National Customs Brokers and Forwarders Association of America, Inc. for Limited Exemption from Certain Tariff Requirements of the Shipping Act of 1984; Extension of Time

Notice is hereby given that the Commission has determined to extend the due date for comments in reply to Petition No. P5–03 until October 10, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24185 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P7–03]

Petition of Ocean World Lines, Inc., for a Rulemaking To Amend and Expand the Definition and Scope of ''Special Contracts'' To Include All Ocean Transportation Intermediaries; Notice of Filing

Notice is hereby given that Ocean World Lines, Inc. (''Petitioner'') has petitioned for the issuance of a rulemaking pursuant to 46 CFR 502.51. Petitioner seeks a rulemaking to address and evaluate the impact of the Commission's rules governing Ocean Transportation Intermediaries (''OTIs''). Specifically, Petitioner seeks a rulemaking that would expand the definition and scope of the term ''special contracts'' to include all OTIs in the same manner as currently applied to ocean freight forwarders (46 CFR 515.41(c)). Petitioner advises that it filed its Petition in response to petitions P3–03, Petition of United Parcel Service, Inc. for Exemption Pursuant to Section 16 of the Shipping Act of 1984 to Permit Negotiation, Entry and Performance of Service Contracts, and P5–03, Petition of National Customs Brokers and Forwarders Association of America, Inc., for Limited Exemption from Certain Tariff Requirements of the Shipping Act of 1984. Petitioner asserts that its Petition will

Provide the Commission with the regulatory ability to act on the issue of shielding some non-vessel-operating common carrier (''NVOCC'') rates even if it determines that its statutory exemption authority does not extend to those elements of the statutory regime that Congress addressed directly in the Ocean Shipping Reform Act of 1998; and in so doing, provide NVOCCs with the ability to enter into rate agreements that are shielded from public

view by their competitors without recourse to service contracts or a broad-ranging tariff exemption and to ameliorate the marketplace dysfunction caused by the transparent/opaque rate dichotomy that exists in the trade today.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the petition no later than October 10, 2003. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, and be served on Petitioner's counsel Leonard L. Fleisig, Esq., Troutman Sanders LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004. It is also requested that a copy of the reply be submitted in electronic form (WordPerfect, Word or ASCII) on diskette or e-mailed to *secretary@fmc.gov.* The Petition will be posted on the Commission's Home page at *http://www.fmc.gov/Docket%20Log/Docket%20Log%20Index.htm.* All replies filed in response to the Petition will also be posted on the Commission's Home page at this location.[1] Copies of the Petition also may be obtained by sending a request to the Office of the Secretary, Room 1046, or by calling (202) 523–5725. Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made. Such request should be directed to *secretary@fmc.gov.*

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24183 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Petition P3–03]

Petition of United Parcel Service, Inc. for Exemption Pursuant to Section 16 of the Shipping Act of 1984 To Permit Negotiation, Entry and Performance of Service Contracts; Extension of Time

Notice is hereby given that the Commission has determined to extend the due date for comments in reply to Petition No. P3–03 until October 10, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–24188 Filed 9–22–03; 8:45 am]

BILLING CODE 6730–01–P

[1] Copies of replies to Petition Nos. P3–03, P5–03, P8–03, and P9–03 are also available on the Commission's homepage at the address listed above.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notices of Approval of New Animal Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting two documents that provided notice of the approval of new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs). FDA is correcting the chemical entities listed in the subject lines of both documents that were transposed during document preparation. The address for one of the drug sponsors is also being corrected. These corrections are being made to improve the accuracy of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567, e-mail: *ghaibel@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–17262, published on July 9, 2003 (68 FR 40984), the following correction is made:

1. On page 40984, in the first column, in the title, ''Clindamycin'' is corrected to read ''Bacitracin; Lasalocid; Narasin; Roxarsone''.

In FR Doc. 03–17438, published on July 10, 2003 (68 FR 41161), the following corrections are made:

1. On page 41161, in the third column, in the title, ''Bacitracin; Lasalocid; Narasin; Roxarsone'' is corrected to read ''Clindamycin''; and

2. On page 41161, in the third column, in the second paragraph of the **SUPPLEMENTARY INFORMATION** section, the address for Delmarva Laboratories, Inc., is corrected to read ''1500 Huguenot Rd., suite 106, Midlothian, VA 23113''.

Dated: September 15, 2003.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 03–24158 Filed 9–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act, Clean Air Act, Resource Conservation and Recovery Act, and Chapter 11 of the United States Bankruptcy Code

Notice is hereby given that on September 17, 2003, a proposed Settlement Agreement was lodged with the United States Bankruptcy Court for the Southern District of New York in *In re Bethlehem Steel Corporation, et al.,* Chapter 11 Case Nos. 01–15288 (BRL) through 01–15302, 01–15308. The proposed Settlement Agreement would resolve civil claims alleged in two proofs of claim filed by the United States against Bethlehem Steel Corporation and its subsidiaries and affiliates (collectively, Debtors) in the Bankruptcy cases: A September 25, 2002, Proof of Claim filed on behalf of the U.S. Army, U.S. Navy, U.S. Air Force, and General Service Administration (GSA) relating to the Consent Decree judgment entered in *Duffy Brothers Construction Co., Inc.* v. *American Airlines, Inc.* (D. Mass. 1997); and a September 30, 2002, Proof of Claim filed on behalf of the United States Environmental Protection Agency (EPA), the Department of Commerce (on behalf of the National Oceanic and Atmospheric Administration (NOAA)), and the Department of Agriculture (on behalf of the USDA Forest Service), asserting various liabilities against Debtors under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Air Act, and the Resource Conservation and Recovery Act (RCRA).

Under the proposed settlement, the United States would resolve the following claims: Claims of the United States pertaining to Bethlehem Steel's liability under CERCLA relating to six EPA CERCLA sites in Regions 3,5,7, and 9 and one USDA Forest Service CERCLA site in Montana; a claim of the United States filed on behalf of the U.S. Army, U.S. Navy, U.S. Air Force, and GSA for Bethelehem's liability relating to a CERCLA consent decree; and claims of the United States on behalf of EPA asserting liability to Bethlehem Steel for civil penalties under the Clean Air Act and the RCRA.

The United States would receive the following claims in the Bankruptcy under the proposed Settlement Agreement: (1) Allowed secured claims totaling $200,000 and allowed general unsecured claims totaling $2,492,163.10

for Debtors' liability under CERCLA for response costs incurred and to be incurred by EPA in connection with the following Superfund sites: the *Breslube-Penn Superfund Site* in Coraopolis, Pennsylvania; the *Spectron Superfund Site* in Elkton, Maryland; the *Conservation Chemical Company of Illinois, Inc. Site* in Gary, Indiana; the *PCB Treatment, Inc. Superfund Site,* including one facility in Kansas City, Kansas and another facility in Kansas City, Missouri; the *Operating Industries, Inc. Superfund Site* in Monterey Park, California; and the *Waste Disposal, Inc. Superfund Site* in Santa Fe Springs, California; (2) an allowed secured claim of $125,000 and an allowed general unsecured claim of $250,000 for Debtors; liability under CERCLA for response costs incurred and to be incurred by the USDA Forest Service in connection with the *Elkhorn Mine and Mill Site* near Wise River, Montana; (3) an allowed general unsecured claim for $30,000 for Debtors' liability for civil penalties for prepetition RCRA violations at the Bethlehem Lukens Plate Division in Coatesville, Pennsylvania; (4) an allowed administrative expense claim for $165,000 and an allowed general unsecured claim for $500,000 for Debtors' liability for civil penalties for prepetition and postpetition violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.* (CAA), and regulations promulgated thereunder, at Bethlehem's Burns Harbor facility in Porter County, Indiana; and (5) an allowed general unsecured claim for $137,191.11 resolving Debtors' liability relating to the Consent Decree judgment in *Duffy Brothers Construction Co., Inc.* v. *American Airlines, Inc.* (D. Mass 1997).

The Department of Justice will receive comments relating to the Settlement Agreement for a period of twenty (20) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, and should refer to *In re Bethlehem Steel Corporation, et al.* (Case Nos. 01–15288 (BRL) through 01–15308)(D.J. Ref. No. 90–11–3–07678). Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA 42 U.S.C. 6973(d).

The Settlement Agreement may be examined at the Office of the United States Attorney for the Southern District of New York, 33 Whitehall Street (8th Floor) New York, New York 10004, and at the United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Benjamin Fisherow,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–24190 Filed 9–18–03; 9:46 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

U.S. Marshals Service

Notice of Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for development of a contract detention facility to house persons in the custody of the U.S. Department of Justice. The contract detention facility is proposed to be located within a 50-mile radius of the U.S. Courthouse located at 1300 Victoria in Laredo, Texas.

Background

The United States Marshals Service (USMS) is the nation's oldest and most versatile federal law enforcement agency. Created by the Judiciary Act of 1789, the same legislation that established the federal judicial system, the USMS has served the nation through a variety of vital law enforcement activities. The Director, Deputy Director and 94 U.S. Marshals (appointed by the President or the Attorney General) direct the activities of 95 district offices and personnel stationed at more than 350 locations throughout the 50 states and U.S. territories. The USMS occupies a uniquely central position in the federal justice system and is involved in virtually every federal law enforcement initiative. Approximately 4,000 Deputy Marshals and career employees perform a variety of nationwide, day-to-day missions.

During the past decade, the federal detainee population has experienced unprecedented growth as a result of expanded federal law enforcement initiatives and resources. The detainee population has increased by almost 1,000 percent, from approximately 4,000 in 1981 to over 45,000 today. These prisoners are being housed in a combination of local, state, federal and private facilities around the country. However, the growth in the detainee population is occurring at the same time that available space in local jails is decreasing. Local jail space is increasingly needed to house local offenders, leaving less space available for the contractual accommodation of federal detainees. These trends are projected to continue for the foreseeable future and present a major challenge for federal agencies such as the USMS to house detainees.

Faced with severe shortages in state and local bed space, especially in major metropolitan areas (federal court cities), as well as court-ordered caps on prisoner populations, the USMS is finding it increasingly difficulty to local bedspace in state and local jails that have traditionally been used to house federal prisoners. Consequently, the USMS periodically contracts with the private sector for detention services or must house detainees farther and farther from their respective federal court cities. The resultant long-distance movement of federal detainees requires substantial amounts of USMS time and resources, and strains the Justice Prisoner and Alien Transportation System to its limit.

Proposed Action

The USMS has determined that there is a need to house up to 2,800 federal detainees within the Laredo, Texas area. The high level of USMS and U.S. Department of Homeland Security activity in the southwestern United States in general and Texas in particular requires more beds than are readily available in local or state facilities. The USMS has a particular need for detention facilities to be located near federal courthouses because of its responsibility to detain those individuals accused of violating federal laws.

In response to this need, the USMS is seeking to contract with a private detention contractor to provide a contractor-owned and operated facility capable of housing 2,800 detained individuals charged with federal

offenses and while awaiting trial or sentencing. Eight prospective contract detention facility sites within a 50-mile radius of the U.S. Courthouse located at 1300 Victoria, Laredo, Texas have been offered to the USMS for consideration. The eight sites are described as follows:

- Killam Property—East of I–35 and north of Laredo in Webb County, Texas.
- San Rafael Property—West of I–35 and south of Laredo in Webb County, Texas.
- Las Blancas Subdivision Property—North of State Highway 359 and east of Laredo in Webb County, Texas.
- Pinto Valle Industrial Park Property—East of Farm-to-Market Road 1472 and northwest of Laredo in Webb County, Texas.
- Riata/Laredo Property—North of State Highway 359 and east of Laredo in Webb County, Texas.
- Valley Boulevard/Highway 83 Property—West of State Highway 83 and south of Laredo, in Webb County, Texas.
- Webb County Detention Center Property—West of State Highway 83 and south of Laredo in Webb County, Texas.
- Encinal Property—East of I–35, south of State Highway 44 and east of the City of Encinal in La Salle County, Texas.

All sites offered will be evaluated by USMS in a DEIS that will analyze the potential impacts of detention facility construction and operation at the prospective sites.

The Process

In the process of evaluating prospective sites, many factors and features will be analyzed including, but not limited to: topography, geology/soils, hydrology, biological resources, utility services, transportation services, cultural resources, land uses, socio-economics, hazardous materials, air and noise quality, among others.

Alternatives

In developing the DEIS, the No Action alternative and alternative sites for the proposed contract detention facility will be examined.

Scoping Process

During the preparation of the DEIS, there will be opportunities for public involvement in order to determine the issues to be examined. Public Scoping Meetings will be held in and around communities under consideration for development of the contract detention facility at times, dates and at locations to be determined. The meeting locations, dates, and times will be well publicized and will be arranged to allow for the public as well as interested agencies and organizations to attend and formally express their views on the scope and significant issues to be studied as part of the DEIS process. The Scoping Meetings are also being held to provide for timely public comments and understanding of federal plans and programs with possible environmental consequences as required by the National Environmental Policy Act of 1969, as amended, and the National Historic Preservation Act of 1966, as amended.

Availability of DEIS

Public notice will be given concerning the availability of the DEIS for public review and comment.

Contact

Questions concerning the proposed action and the DEIS may be directed to: Karin E. Eddy, Contract Specialist, U.S. Department of Justice—United States Marshals Service, Headquarters Contracts Office, C.S. #3, Room 927, Washington, DC 20530–1000, Telephone: 202–353–8348/Facsimile: 202–307–9695.

Dated: September 2, 2003.

Thomas J. McCafferty,

Contracting Officer, United States Marshals Service.

[FR Doc. 03–24170 Filed 9–23–03; 8:45 am]

BILLING CODE 4410–04–M

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration National Small Business Development Center Advisory Board will hold a public meeting on Thursday, October 2, 2003, from 9 am to 1 pm in Seabreeze II at the San Diego Sheraton in San Diego, California to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, please write or call Vanessa Piccioni, U. S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416, telephone number (202) 205–6705.

Sue Hensley,

Associate Administrator, Communications and Public Liaison.

[FR Doc. 03–24189 Filed 9–22–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Amended Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Saturday, October 4, 2003 from 12:30 p.m. EDT to 1:30 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be held Saturday, October 4, 2003, from 12:30 p.m. EDT to 1:30 p.m. EDT at Grand Hyatt Hotel, 1000 H Street, NW., Washington, DC. Written comments will be accepted by mail. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611 or write Barbara Toy, TAP Office, 310 West Wisconsin Avenue Stop 1006MIL, Milwaukee, WI 53203. Mrs. Toy can be reached at 1–888–912–1227 or 414–297–1611. The agenda will include various IRS issues.

Dated: September 15, 2003.

Martha J. Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 03–24132 Filed 9–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Savings Association Holding Company Report H–(b)11

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on

proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on the Savings Association Holding Company Report H–(b)11 proposal.

DATES: Submit written comments on or before November 24, 2003.

ADDRESSES: Send comments, referring to the collection by title (Savings Association Holding Company Report H–(b)11) or by OMB approval number (1550–0060), to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Kevin O'Connell, Affiliates Specialist, (202) 906–5693, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Savings Association Holding Company Report H–(b)11.

OMB Number: 1550–0060.

Form Number: H–(b)11.

Regulation requirement: 12 CFR 584.1(a)(2).

Description: The H–(b)11 form is used to aid OTS in determining whether savings and loan holding companies are engaging in activities that may prove injurious to any subsidiary savings association, as well as to applicable statutes and regulations. We are seeking only a six-month renewal of the current form, to March 31, 2004, as we are in the process of streamlining the form in conjunction with an expansion of holding company information to be gathered through the quarterly Thrift Financial Report. The streamlined H–(b)11, which we anticipate reducing the current 22 information request items to only four, would take effect April 1, 2004, in conjunction with the expanded Thrift Financial Report. The new H–(b)11 form is expected to be submitted for public notice by October of 2003.

Type of Review: Renewal.

Affected Public: Savings association holding companies.

Estimated Number of Respondents: 963.

Estimated Frequency of Response: 2 (using the current form).

Estimated Burden Hours per Response: 15.5 hours.

Estimated Total Burden: 29,853 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: September 15, 2003.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 03–24070 Filed 9–22–03; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Tuesday,
September 23, 2003

Part II

The President

Proclamation 7706—National Hispanic Heritage Month, 2003

Executive Order 13316—Continuance of Certain Federal Advisory Committees

Order of September 17, 2003—Designation Under Executive Order 12958

Proclamation 7707—National POW/MIA Recognition Day, 2003

Federal Register
Vol. 68, No. 184
Tuesday, September 23, 2003

Presidential Documents

Title 3—

The President

Proclamation 7706 of September 17, 2003

National Hispanic Heritage Month, 2003

By the President of the United States of America

A Proclamation

America's diversity has always been a great strength of our Nation. As we celebrate National Hispanic Heritage Month, we recognize and applaud the extraordinary accomplishments of Hispanic Americans.

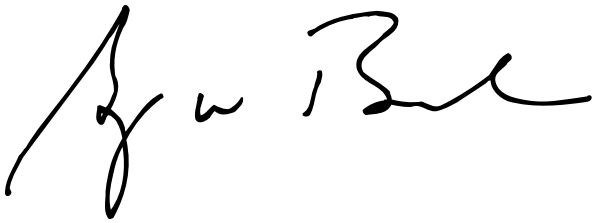
From America's beginning, Hispanic Americans have served as leaders in business, government, law, science, athletics, the arts, and many other fields. In 1822, Joseph Marion Hernández became the first Hispanic to serve as a member of the United States Congress, representing the newly established territory of Florida. Businessman Roberto Goizueta, a refugee from Cuba who rose to become the CEO of one of America's largest corporations, is an inspiring example of what immigrants to America can achieve through hard work and character. Presidential Medal of Freedom recipient Roberto Clemente's athletic skills, generosity, and charity made him a legend on and off the baseball field. Through memorable recordings and performances, singer Celia Cruz celebrated her heritage and helped introduce salsa music to the United States.

Hispanic Americans have sacrificed in defense of this Nation's freedom, serving in every major American conflict. More than three dozen Hispanic Americans have earned the Medal of Honor. Today, more than 125,000 Hispanic Americans serve in the Armed Forces, approximately 9 percent of our active-duty military. As we work to advance peace, freedom, and opportunity abroad, we are grateful to all of the brave men and women who serve our Nation, and to their families.

During Hispanic Heritage Month, I join with all Americans in recognizing the many contributions of Hispanic Americans to the United States, and in celebrating Hispanic heritage and culture. To honor the achievements of Hispanic Americans, the Congress, by Public Law 100–402 as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15, as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 15 through October 15, 2003, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.



[FR Doc. 03–24216
Filed 9–22–03; 11:38 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13316 of September 17, 2003

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 2005.

(a) Committee for the Preservation of the White House; Executive Order 11145, as amended (Department of the Interior).

(b) National Infrastructure Advisory Council; Section 3 of Executive Order 13231, as amended (Department of Homeland Security).

(c) Federal Advisory Council on Occupational Safety and Health; Executive Order 12196, as amended (Department of Labor).

(d) President's Board of Advisors on Historically Black Colleges and Universities; Executive Order 13256 (Department of Education).

(e) President's Board of Advisors on Tribal Colleges and Universities; Executive Order 13270 (Department of Education).

(f) President's Commission on White House Fellowships; Executive Order 11183, as amended (Office of Personnel Management).

(g) President's Committee on the Arts and the Humanities; Executive Order 12367, as amended (National Endowment for the Arts).

(h) President's Committee on the International Labor Organization; Executive Order 12216, as amended (Department of Labor).

(i) President's Committee on the National Medal of Science; Executive Order 11287, as amended (National Science Foundation).

(j) President's Council on Bioethics; Executive Order 13237 (Department of Health and Human Services).

(k) President's Council on Physical Fitness and Sports; Executive Order 13265 (Department of Health and Human Services).

(l) President's Export Council; Executive Order 12131, as amended (Department of Commerce).

(m) President's National Security Telecommunications Advisory Committee; Executive Order 12382, as amended (Department of Homeland Security).

(n) Trade and Environment Policy Advisory Committee; Executive Order 12905 (Office of the United States Trade Representative).

Sec. 2. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in section 1 of this order shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 3. The following Executive Orders, or sections thereof, which established committees that have terminated or whose work is completed, are revoked:

(a) Sections 5 through 7 of Executive Order 13111, as amended by Executive Order 13188 and Section 3(a) of Executive Order 13218, pertaining to the

establishment of the Advisory Committee on Expanding Training Opportunities;

(b) Executive Order 12975, as amended by Executive Orders 13018, 13046, and 13137, establishing the National Bioethics Advisory Commission;

(c) Executive Order 13227, as amended by Executive Order 13255, establishing the President's Commission on Excellence in Special Education;

(d) Executive Order 13278, establishing the President's Commission on the United States Postal Service;

(e) Executive Order 13210, establishing the President's Commission to Strengthen Social Security;

(f) Sections 5 through 8 of Executive Order 13177, pertaining to the establishment of the President's Council on the Use of Offsets in Commercial Trade;

(g) Executive Order 13263, establishing the President's New Freedom Commission on Mental Health;

(h) Executive Order 13214, establishing the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans; and

(i) Executive Order 13147, as amended by Executive Order 13167, establishing the White House Commission on Complementary and Alternative Medicine Policy.

Sec. 4. Executive Order 13225 is superseded.

Sec. 5. Section 1–102(a) of Executive Order 12131, as amended, is further amended to read as follows:

''(a) The heads of the following executive agencies or their representatives:

(1) Department of State.

(2) Department of the Treasury.

(3) Department of Agriculture.

(4) Department of Commerce.

(5) Department of Labor.

(6) Department of Energy.

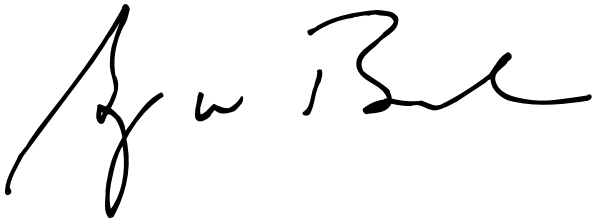
(7) Department of Homeland Security.

(8) Office of the United States Trade Representative.

(9) Export-Import Bank of the United States.

(10) Small Business Administration.''

Sec. 6. This order shall be effective September 30, 2003.



THE WHITE HOUSE,
September 17, 2003.

[FR Doc. 03–24217
Filed 9–22–03; 11:38 am]
Billing code 3195–01–P

Presidential Documents

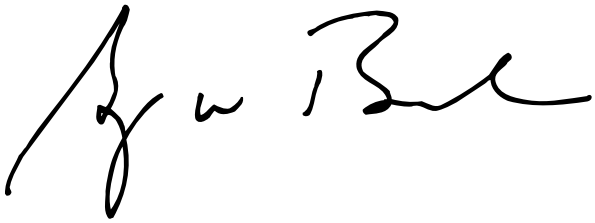
Order of September 17, 2003

Designation Under Executive Order 12958

Consistent with the provisions of section 1.3 of Executive Order 12958 of April 17, 1995, as amended, entitled ''Classified National Security Information,'' I hereby designate the Director of the Office of Science and Technology Policy to classify information originally as ''Top Secret.''

Any delegation of this authority shall be in accordance with section 1.3(c) of Executive Order 12958, as amended.

This order shall be published in the **Federal Register**.



THE WHITE HOUSE,
September 17, 2003.

[FR Doc. 03–24218
Filed 9–22–03; 11:38 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7707 of September 18, 2003

National POW/MIA Recognition Day, 2003

By the President of the United States of America

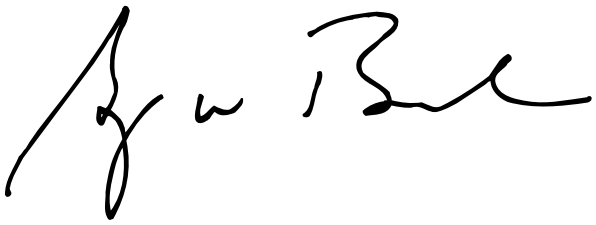
A Proclamation

The sacrifice and service of America's veterans, including those who became prisoners of war or who went missing in action, have preserved freedom for America and brought freedom to millions around the world. On National POW/MIA Recognition Day, we honor the extraordinary courage of the Americans who have been prisoners of war, and we pray for those who are still missing in action and unaccounted for. This Nation also remembers the challenges and heartache endured by the families of prisoners of war and missing in action. We seek answers for the families of those who are still missing, and we will not rest until we have a full accounting.

To mark this important day, on September 19, 2003, the flag of the National League of Families of American Prisoners and Missing in Southeast Asia will again be flown over the White House, the Capitol, the Departments of State, Defense, and Veterans Affairs, the Selective Service System Headquarters, the National Vietnam Veterans and Korean War Veterans Memorials, U.S. military installations, national cemeteries, and other locations across our country. We raise this flag as a reminder and a promise. The black-and-white flag is a symbol that these missing Americans will not be forgotten, and is flown as a testament to our Government's unwavering commitment to pursue the fullest possible accounting for all our missing in action service members.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 19, 2003, as National POW/MIA Recognition Day. I call upon the people of the United States to join me in saluting all American POWs who valiantly served this great country. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.



[FR Doc. 03–24219
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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 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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/nara005.html*. Some laws may not yet be available.

H.R. 1668/P.L. 108–80

To designate the United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, as the ''Ed Edmondson United States Courthouse''. (Sept. 17, 2003; 117 Stat. 990)

Last List September 8, 2003

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