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April 9, 1997

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure to: Implement the compensatory damages provision of the Civil Rights Act of 1991, Public Law 102–166, with respect to MSPB cases where certain kinds of discrimination are found; implement the attorney fee provision of the Uniformed Services Employment and Reemployment Rights Act of 1994, Public Law 103–353; implement the attorney fee, consequential damages, and choice of procedures provisions of Public Law 103–424 (MSPB and Office of Special Counsel reauthorization of 1994); and amend its existing rules governing requests for attorney fees to change the time limit for filing and incorporate an evidentiary requirement from the Board's case law. The purpose of these amendments is to provide guidance to the parties to MSPB cases, and their representatives, on how to proceed with respect to requests for attorney fees, consequential damages, and compensatory damages, and to inform them of the statutory requirement regarding choice of procedures in cases involving both an appealable action and a prohibited personnel practice other than discrimination. The Board is also making a technical change to its rules governing mixed cases to reflect the fact that the Equal Employment Opportunity Commission's regulations governing Federal employee discrimination complaints are now found at 29 CFR part 1614. The Board is implementing other provisions of Public Law 103–424 through an amendment to its rules at 5 CFR part 1209, which is being published simultaneously with this amendment.

DATES: Effective date April 9, 1997. Submit written comments on or before June 9, 1997.

ADDRESSES: Send comments to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419. Comments may be sent via e-mail to mspb@mspb.gov.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: This amendment consists principally of the addition of a new subpart H to the Board's rules of practice and procedure at 5 CFR part 1201. This new subpart sets forth the Board's statutory authorities to make awards of attorney fees (plus, where applicable, costs, expert witness fees, and litigation expenses), consequential damages, and compensatory damages. It combines the Board's existing procedural rules governing requests for attorney fees (with modifications) with new procedural rules governing requests for consequential damages and compensatory damages. Conforming amendments are made in appropriate sections of part 1201.

Awards of Attorney Fees

The Civil Service Reform Act of 1978 (CSRA), Public Law 95–454, authorized the newly established Merit Systems Protection Board to award attorney fees to an employee or applicant who prevails before the Board. The CSRA provided two authorities for attorney fee awards. The first, 5 U.S.C. 7701(g)(1), authorizes an award where warranted in the interest of justice, including any case in which the agency engaged in a prohibited personnel practice or the agency's action was clearly without merit. The second, 5 U.S.C. 7701(g)(2), applies only to cases where the employee or applicant prevails on a finding of discrimination; it authorizes an award under the standards of section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)). The Civil Rights Act standard also permits an award for out-of-pocket costs such as those for copying, postage, and facsimile (see *Chin* v. *Department of the Treasury*, 55 M.S.P.R. 84, 86 (1992)).

Although the CSRA authorities for attorney fee awards were made a part of chapter 77 of title 5 of the U.S. Code, which governs appeals to MSPB, subsequent case law determined that section 7701(g) provides authority for an award of attorney fees in other kinds of MSPB cases as well. In *Frazier* v. *MSPB*, 672 F.2d 150, 168–170 (D.C. Cir. 1982), the U.S. Court of Appeals for the District of Columbia Circuit ruled that section 7701(g) permitted the Board to award attorney fees where the Special Counsel obtained corrective action from the Board for an employee and the employee also was represented by private counsel. In *Social Security Administration* v. *Goodman*, 28 M.S.P.R. 120, 124–125 (1985), the Board, citing *Frazier*, ruled that it could award attorney fees to a prevailing administrative law judge in an agency action brought under 5 U.S.C. 7521.

The Whistleblower Protection Act of 1989 (WPA), Public Law 101–12, included a new provision—at that time 5 U.S.C. 1221(g)(1), now 5 U.S.C. 1221(g)(2)—making an agency liable for payment of attorney fees and costs in an action before MSPB where an employee, former employee, or applicant prevails on a finding of a prohibited personnel practice. Although enacted as part of the new chapter 12 of title 5, governing individual right of action (IRA) appeals filed by whistleblowers, the provision, by its plain language, applies to any MSPB case in which an employee, former employee, or applicant prevails on a finding of a prohibited personnel practice. The Board has construed ''costs'' in this provision to include a prevailing employee's out-of-pocket costs, such as those for copying, clerical services, word processing services, postage, and facsimile (see *Bonggat* v. *Department of the Navy*, 59 M.S.P.R. 175, 179 (1993)).

In October 1994, President Clinton signed two new laws that provide four additional authorities for the Board to make attorney fee awards. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Public Law 103–353, authorized the Board to adjudicate Federal employee complaints alleging violation of a right or benefit to which an individual is entitled following service in the uniformed services and

included authority for the Board to award reasonable attorney fees, expert witness fees, and other litigation expenses (38 U.S.C. 4324(c)(4)). Public Law 103–424, which reauthorized MSPB and the Office of Special Counsel, included a new provision—5 U.S.C. 1221(g)(1)(B)—that requires an award of attorney fees and any other reasonable costs incurred when the Board orders corrective action under section 1221 of title 5, governing IRA appeals and certain other whistleblower appeals. (The former section 1221(g)(1) was renumbered section 1221(g)(2).) Public Law 103–424 also included two provisions authorizing awards of attorney fees in Special Counsel cases. In a corrective action case under 5 U.S.C. 1214, where the Special Counsel obtains corrective action for an employee, former employee, or applicant, and that individual also is represented by private counsel, the Board may award attorney fees under 5 U.S.C. 1214(g)(2). Where an employee against whom the Special Counsel has brought a disciplinary action under 5 U.S.C. 1215 is the prevailing party, the Board may award attorney fees under 5 U.S.C. 1204(m).

Thus, the Board now has seven—sometimes overlapping— statutory authorities to make awards of attorney fees. (An eighth authority was enacted in October 1996 as part of the Presidential and Executive Office Accountability Act, Public Law 104–331, but that authority does not take effect with respect to cases to be adjudicated by MSPB until the President issues implementing regulations or on October 1, 1998, whichever is earlier. See section 2(a), adding new 3 U.S.C. 435.)

The Board's existing rules governing requests for attorney fees, found at 5 CFR 1201.37(a), implement only the two original authorities provided by the CSRA and the additional authority provided by the WPA in 1989. There is a need, therefore, to amend the Board's rules governing requests for attorney fees to incorporate the new statutory authorities and, in view of the overlap among certain of the authorities for attorney fee awards, to provide guidance to parties and their representatives as to how the Board will apply its various authorities for attorney fee awards to the cases it adjudicates.

In the course of its review of the rules governing requests for attorney fees, the Board also has determined that two changes should be made in its existing rules. The current time limit for filing a request for attorney fees—30 days after an initial decision becomes final or 35 days after a final Board decision—is deleted and replaced by a requirement that such a request be filed as soon as possible after there is a final Board decision but no later than 60 days after the date on which a decision becomes final. This change is intended to reduce the need for litigation over late-filed attorney fee requests. The evidentiary requirements for attorney fee requests are amended, in accordance with the Board's established case law, to incorporate the requirement for evidence of an established attorney-client relationship. *Allen* v. *U.S. Postal Service*, 2 M.S.P.R. 420, 427 n.9 (1980). See *Stewart* v. *Office of Personnel Management*, 70 M.S.P.R. 544 (1996).

Awards of Consequential Damages

Public Law 103–424 also gave the Board new authority—in two kinds of cases only—to order payment of medical costs, travel expenses, and any other reasonable and foreseeable consequential damages incurred by an employee, former employee, or applicant. This authority applies only where the Board orders corrective action in a Special Counsel case brought under 5 U.S.C. 1214 (see 5 U.S.C. 1214(g)(2)) or in an IRA or other whistleblower appeal to which 5 U.S.C. 1221 applies (see 5 U.S.C. 1221(g)(1)(A)(ii)).

Because the Board has no existing rules governing awards of consequential damages, there is a need to amend its rules of practice and procedure to set forth the statutory authorities for it to make such awards and to prescribe procedural rules for making requests for such awards. In these new rules, the Board uses the term ''consequential damages'' to encompass what the statutory provisions at 5 U.S.C. 1214(g)(2) and 5 U.S.C. 1221(g)(1)(A)(ii) describe as ''medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.'' The legislative history of Public Law 103–424 provides no further guidance as to the kinds of costs and expenses intended to be covered by these provisions. The Board, therefore, will interpret these provisions through its adjudication of individual cases.

The Board has had little opportunity to date to address these new provisions for awards of consequential damages in actual cases. Its principal ruling thus far is that the consequential damages provisions of Public Law 103–424 may not be applied retroactively and, therefore, do not apply where the contested personnel action took place before the law's effective date, October 29, 1994. See *Roman* v. *Department of the Army*, 72 M.S.P.R. 409 (1996). In *Roman*, the Board also ruled that while the appellant's claimed mileage costs could not be awarded as consequential damages, because of the Board's ruling against retroactive application, they could be awarded as ''costs'' under the WPA provision for attorney fees and costs (formerly 5 U.S.C. 1221(g)(1), now 5 U.S.C. 1221(g)(2)). The Board declined in *Roman* to decide what the term ''travel expenses'' means in the new consequential damages provisions.

Despite the paucity of case law dealing with consequential damages, the Board has determined that its procedural rules for adjudication of requests for consequential damages should be consistent with those governing requests for compensatory damages. These rules are discussed below under ''Awards of Compensatory Damages.''

Awards of Compensatory Damages

Section 102 of the Civil Rights Act of 1991, Public Law 102–166, authorizes an award of compensatory damages where there is a finding of intentional discrimination or a failure to provide reasonable accommodation, where such discrimination is prohibited by the Civil Rights Act of 1964, the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 (42 U.S.C. 1981a). In late 1992, the Equal Employment Opportunity Commission ruled that compensatory damages under the Civil Rights Act of 1991 are available to Federal employees in administrative proceedings (*Jackson* v. *U.S. Postal Service*, EEOC Appeal No. 01923399, Nov. 12, 1992).

The Board issued its first decision on a request for compensatory damages in July of 1994. *Hocker* v. *Department of Transportation*, 63 M.S.P.R. 497, 503–508 (1994), *aff'd*. 64 F.3d 676 (Fed. Cir. 1995) (table), *cert. denied*, 116 U.S. 918, 116 S.Ct. 918 (1996). Citing the EEOC ruling in *Jackson*, the Board ruled in *Hocker* that compensatory damages are available in MSPB proceedings where there is a finding of discrimination to which section 102 of the Civil Rights Act of 1991 applies. The Board further ruled that it would not apply the compensatory damages provision of the Civil Rights Act of 1991 retroactively to cases pending on the effective date of the Act, November 21, 1991. In addition, the Board stated that a request for compensatory damages may not be made for the first time in a petition for enforcement of a Board order (unless the non-compliance with the order constituted a separate, intentional act of discrimination) but must be made in the proceeding on the merits before the judge.

In *Yates* v. *U.S. Postal Service,* 70 M.S.P.R. 170, 179–180 (1996), the Board distinguished the *Hocker* requirement that a request for compensatory damages must be made in the proceeding on the merits before the judge as *dictum,* ruling that an appellant who prevails on a finding of discrimination to which section 102 of the Civil Rights Act of 1991 applies has a right to seek compensatory damages. Finding that the appellant was not notified of his right to seek compensatory damages or the time for doing so, the Board gave the appellant 30 days from the date of the decision to file a request for compensatory damages with the judge. (Accord *Spencer* v. *Department of the Navy,* MSPB Docket No. DC–0752–96–0116–I–1, Jan. 3, 1997, and *Callagan* v. *Department of Agriculture,* MSPB Docket No. DE–0752–95–0588–I–2, Feb. 26, 1997).

Other key cases in which the Board has ruled on compensatory damages issues include *Schultz* v. *U.S. Postal Service,* 70 M.S.P.R. 633, 639–640 (1996) (remand to judge for adjudication of compensatory damages claim necessary where appellant made claim early on in the appeal), and *Currier* v. *U.S. Postal Service,* 72 M.S.P.R. 191, 195–198 (1996) (where appellant has made a nonfrivolous claim of discrimination to which section 102 of the Civil Rights Act of 1991 applies but has not specifically made a claim for compensatory damages, judge should afford opportunity to make such a claim before dismissing appeal as moot; judge may bifurcate proceeding by deferring a decision on a claim for compensatory damages for a separate proceeding after there is a final decision in the merits proceeding).

Because the Board has no existing rules governing awards of compensatory damages, there is a need to amend its rules of practice and procedure to set forth the statutory authority for it to make such awards and to prescribe procedural rules for making requests for such awards. Based on its rulings in cases involving compensatory damages to date, the Board in these rules calls for a request for compensatory damages to be made as early as possible in a Board proceeding before an administrative judge or administrative law judge. Such a request is to be made no later than the time the first pleading is filed with the three-member Board. In permitting a request for compensatory damages to be made as late as the time of the first filing with the three-member Board, the Board is following the lead of the EEOC (the lead agency in interpreting compensatory damages provisions). *Hocker, supra.* See *Thorne* v. *Department of Education,* EEOC No. 01922524, slip op. at 3 (Dec. 23, 1993); *Square* v. *Department of Veterans Affairs,* EEOC No. 0193053, slip op. at 5 (Aug. 25, 1994); and *Simpkins* v. *U.S. Postal Service,* EEOC No. 01942339, slip op. at 2–3 (Sep. 28, 1995).

The rules permit the judge or the Board, as applicable, to waive the time limit for good cause shown. The rules also permit the judge or the Board, as applicable, to decide a request for compensatory damages in the merits proceeding or to defer it for an addendum proceeding.

Amendment to Choice of Procedures

Section 9(b) of Public Law 103–424 amended 5 U.S.C. 7121, ''Grievance procedures,'' by adding a new subsection (g) which imposes a new choice of procedures requirement. Where an employee is subject to a personnel action that is appealable to MSPB, and the employee may grieve the action under a negotiated grievance procedure (NGP), and the employee alleges that the action was the result of a prohibited personnel practice—other than discrimination—that may form the basis of a complaint to the Special Counsel, the employee may elect not more than one of the following remedies: an appeal to MSPB, a grievance under the NGP, or a corrective action complaint under subchapters II (Special Counsel actions) and III (IRA appeals) of chapter 12 of title 5. The choice among these three procedures is deemed to have been made when the employee timely files an appeal with MSPB, a written grievance under the NGP, or a complaint with the Special Counsel.

The Board's existing rules at 5 CFR 1201.3(c) reflect the choice of procedures requirements of 5 U.S.C. 7121 prior to its amendment by Public Law 103–424. Those rules require a choice between an MSPB appeal and a grievance under the NGP where there is an allegation of discrimination (see 5 U.S.C. 7121(d)) or where the personnel action is a performance-based action under chapter 43 of title 5 or an adverse action under chapter 75 of title 5 (see 5 U.S.C. 7121(e)). There is a need, therefore, for the Board to amend its rules at 5 CFR 1201.3(c) to incorporate the new choice of procedures requirement in 5 U.S.C. 7121(g).

Under 5 U.S.C. 7121 as amended by Public Law 103–424, an employee who chooses to seek corrective action from the Special Counsel could not also appeal to MSPB—unless the prohibited personnel practice complained of is an action based on whistleblowing, in which case the employee could file an IRA appeal with MSPB after exhausting the procedures of the Office of Special Counsel. (See *Briley* v. *National Archives and Records Administration,* 71 M.S.P.R. 211, 224–226 (1996).)

Technical Amendment

The Equal Employment Opportunity Commission's regulations governing discrimination complaints filed by Federal employees, formerly found at 29 CFR part 1613, are now found at 29 CFR part 1614. The Board, therefore, is amending its mixed case rules at 5 CFR 1201.163 to change all references to ''29 CFR part 1613'' to read ''29 CFR part 1614.''

Section-by-Section Guide to Changes

The following paragraphs constitute a section-by-section guide to the changes made in 5 CFR part 1201 by this amendment.

(1–3) The authority citation for part 1201 is amended to include the authority for the Board to issue implementing regulations under USERRA, 38 U.S.C. 4331.

(4) Section 1201.3(b), concerning appeals governed by part 1209, is amended to include a statement that the attorney fee and consequential damages provisions of subpart H apply to such appeals.

(5) Section 1201.3(c)(1) is amended to incorporate the choice of procedures requirements of 5 U.S.C. 7121(g), as discussed above under ''Amendment to Choice of Procedures.''

(6) Section 1201.3(c)(2) is amended to incorporate the provisions of 5 U.S.C. 7121(g) regarding when a choice of procedures is deemed to have been made, as discussed above under ''Amendment to Choice of Procedures.''

(7) Section 1201.37 is amended to change the title from ''Fees'' to ''Witness fees;'' to remove paragraph (a)—which is moved to the new subpart H (with modifications)—in its entirety; and to redesignate the remaining paragraphs.

(8) Section 1201.55(b), concerning objections to motions, is amended to remove the reference to a motion for attorney fees; new section 1201.203(d) in subpart H will now apply to such objections.

(9) Section 1201.111(b)(6), concerning the statement in a judge's initial decision of any further processes available, is amended to state that such further processes include, as appropriate, a motion for attorney fees under new section 1201.203 of subpart H, and, where a claim for consequential damages or compensatory damages has been deferred for an addendum proceeding, the right to such a

proceeding, with the time to be established by the judge.

(10) Section 1201.112(a)(3), concerning a judge's retaining jurisdiction to rule on a request for attorney fees after isssuing an initial decision, is amended to also authorize the judge to retain jurisdiction to rule on a request for consequential damages or compensatory damages under subpart H.

(11) Section 1201.121, concerning actions brought by the Special Counsel, is amended by revising the section title to read ''Scope of jurisdiction; application of subparts B, F, and H.''

(12) Section 1201.121 is further amended by revising the heading of paragraph (b) to read ''Application of subparts B, F, and H;'' by revising paragraph (b) to state that all provisions of subpart B of part 1201—not just the hearing procedures—apply to Special Counsel cases, except as otherwise expressly provided by this subpart; and by including in the revised paragraph (b) cross-references to subpart F for enforcement proceedings and to subpart H for requests for attorney fees, consequential damages, and compensatory damages.

(13) Section 1201.131, concerning procedures for actions against administrative law judges, is amended by revising it to state that all provisions of subpart B of part 1201—not just the hearing procedures—apply to actions against administrative law judges, except as otherwise expressly provided by this subpart, and by including cross-references to subpart F for enforcement proceedings and to subpart H for requests for attorney fees and compensatory damages.

(14) Section 1201.163, concerning mixed case procedures, is amended at paragraphs (a) and (c) by removing ''29 CFR part 1613'' each place it appears and by replacing it with ''29 CFR part 1614.''

(15) A new subpart H is added after subpart G of part 1201. The following is a section-by-section guide to the provisions of subpart H:

Section 1201.201 states that the purpose of subpart H is to prescribe procedures for awards of attorney fees (plus costs, expert witness fees, and litigation expenses, where applicable), consequential damages, and compensatory damages in MSPB cases. It provides a general overview of the Board's statutory authorities to make such awards.

Section 1201.202(a) provides a ''roadmap'' to each statutory authority for the Board to award attorney fees (plus costs, expert witness fees, and litigation expenses, where applicable) and describes the kind of case or cases with which each authority is associated. Section 1201.202(b) sets forth the Board's statutory authorities for awards of consequential damages and describes the kind of case with which each authority is associated. Section 1201.202(c) sets forth the Board's statutory authority to award compensatory damages and incorporates the definition of such damages from 42 U.S.C. 1981a.

Section 1201.203 prescribes procedures for requests for attorney fees. The procedures are essentially the same as in the Board's existing rules at 5 CFR 1201.37(a)(3), with some modifications. The time limit for filing a motion for attorney fees has been changed to ''as soon as possible after a final decision of the Board but no later than 60 days after the date on which a decision becomes final.'' A requirement for submission of evidence of ''an established attorney-client relationship'' has been incorporated, reflecting the Board's established case law. Certain changes in wording have been made to clarify that the provisions apply to MSPB cases generally—not just to appeals, the requirements for an addendum proceeding are set forth more fully, and a definition of a ''proceeding on the merits'' has been added.

Section 1201.204 prescribes procedures for requests for consequential damages and compensatory damages. Paragraph (a)(1) calls for such requests to be made as early as possible in the merits proceeding before an administrative judge or administrative law judge. Such a request may be made no later than the time the first pleading is filed with the three-member Board. Paragraph (a)(2) permits the judge or the Board, as applicable, to waive the time limit for filing a request for consequential damages or compensatory damages for good cause shown. Paragraph (b) sets forth the service requirements.

Paragraph (c) of section 1201.204 authorizes the judge or the Board, as applicable, to decide a request for consequential damages or compensatory damages either in the merits proceeding or in an addendum proceeding after there is a final decision on the merits. Paragraph (d) requires the judge, where a decision on a request for consequential damages or compensatory damages has been deferred for an addendum proceeding, to schedule that proceeding after there is a final Board decision. Paragraph (e) permits the Board, at its discretion, to order that an addendum proceeding to decide a request for consequential damages or compensatory damages be held prior to the issuance of a final decision on the merits.

Paragraph (f) of section 1201.204 provides for the application of appropriate provisions of subpart B in an addendum proceeding to decide a request for consequential damages or compensatory damages, and paragraph (g) provides for a petition for review of the judge's initial decision by the Board and for Board review of a recommended decision of an administrative law judge. Paragraph (h) provides for EEOC review of a final Board decision on a request for compensatory damages (but not consequential damages) in accordance with subpart E of part 1201.

Section 1201.205 provides that a final Board decision issued under subpart H—on a request for attorney fees, consequential damages, or compensatory damages—is subject to judicial review in accordance with 5 U.S.C. 7703.

Citations

All citations to MSPB decisions are to West Publishing Company's *Merit Systems Protection Board Reporter* (M.S.P.R.). The citation to a D.C. Circuit decision is to West Publishing Company's *Federal Reporter,* second series (F.2d). These publications are available in many law libraries and some public libraries. They are also available in the MSPB Library, 1120 Vermont Avenue, NW, 8th Floor, Washington, DC, which is open to the public between 1:00 and 5:00 PM, Monday through Friday (excluding Federal holidays).

The Board is publishing this rule as an interim rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1–3. The authority citation for part 1201 is revised to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 4331, unless otherwise noted.

4. Section 1201.3 is amended in paragraph (b) by adding a sentence to the end of the paragraph to read as follows:

§ 1201.3 Appellate jurisdiction.

* * * * *

(b) * * * The provisions of subpart H of this part regarding awards of attorney fees and consequential damages under 5

U.S.C. 1221(g) apply to appeals governed by part 1209 of this chapter.

* * * * *

5. Section 1201.3 is amended by revising paragraph (c)(1)(ii) and adding paragraph (c)(1)(iii) to read as follows:

* * * * *

(c) * * *

(1) * * *

(ii) An appealable action involving a prohibited personnel practice other than discrimination under 5 U.S.C. 2302(b)(1) may be raised under not more than one of the following procedures:

(A) The Board's appellate procedures;

(B) The negotiated grievance procedures; or

(C) The procedures for seeking corrective action from the Special Counsel under subchapters II and III of chapter 12 of title 5 of the United States Code.

(iii) Except for actions involving discrimination under 5 U.S.C. 2302(b)(1) or any other prohibited personnel practice, any appealable action that is excluded from the application of the negotiated grievance procedures may be raised only under the Board's appellate procedures.

* * * * *

6. Section 1201.3 is further amended at paragraph (c) by adding a sentence to the end of paragraph (c)(2) to read as follows:

* * * * *

(c) * * *

(2) * * * When an employee has the choice of pursuing an appealable action involving a prohibited personnel practice other than discrimination under 5 U.S.C. 2302(b)(1) in accordance with paragraph (c)(1)(ii) of this section, the Board considers the choice among those procedures to have been made when the employee timely files an appeal with the Board, timely files a written grievance under the negotiated grievance procedure, or seeks corrective action from the Special Counsel by making an allegation under 5 U.S.C. 1214(a)(1), whichever event occurs first.

* * * * *

§ 1201.37 [Amended]

7. Section 1201.37 is amended by revising the heading to read ''Witness fees''; by removing paragraph (a) in its entirety; by removing the heading of paragraph (b), and by redesignating paragraphs (b)(1), (b)(2), and (b)(3) as paragraphs (a), (b), and (c), respectively.

§ 1201.55 [Amended]

8. Section 1201.55 is amended at paragraph (b) by removing the phrase, ''and unless the motion is one for payment of attorney fees under §1201.37(a) of this part,'' in the first sentence.

§ 1201.111 [Amended]

9. Section 1201.111 is amended by removing the phrase, ''and a petition for judicial review.'' in paragraph (b)(6) and by adding in its place the phrase ''a petition for judicial review, a motion for attorney fees under section 1201.203 of this part, and where a claim for consequential damages or compensatory damages has been raised, the right to an addendum proceeding to determine consequential damages or compensatory damages, with the time to be established by the judge.''.

§ 1201.112 [Amended]

10. Section 1201.112 is amended by removing the semi-colon at the end of paragraph (a)(3) and by adding in its place the phrase '', consequential damages, or compensatory damages under subpart H of this part;''.

11. Section 1201.121 is amended by revising the heading to read as follows:

§ 1201.121 Scope of jurisdiction; application of subparts B, F, and H.

12. Section 1201.121 is further amended by revising paragraph (b) to read as follows:

* * * * *

(b) *Application of subparts B, F, and H.* Except as otherwise expressly provided by this subpart, the regulations in subpart B of this part apply to complaints or requests filed by the Special Counsel under this subpart. Subpart F of this part applies to enforcement proceedings in connection with Special Counsel complaints or requests decided under this subpart. Subpart H of this part applies to requests for attorney fees, consequential damages, or compensatory damages in connection with Special Counsel complaints decided under this subpart.

13. Section 1201.131 is revised to read as follows:

§ 1201.131 Procedures.

When an agency proposes an action against an administrative law judge, the regulations in subpart B of this part apply, unless these provisions expressly provide otherwise. Initial and subsequent pleadings, however, must be filed and served in accordance with § 1201.122 of this subpart. Subpart F of this part applies to enforcement proceedings in connection with actions against administrative law judges decided under this subpart. Subpart H of this part applies to requests for attorney fees or compensatory damages in connection with actions against administrative law judges decided under this subpart.

§1201.163 [Amended]

14. Section 1201.163 is amended at paragraphs (a) and (c) by removing ''29 CFR part 1613'' each place it appears and by adding in its place ''29 CFR part 1614''.

15. Part 1201 is amended by adding new subpart H to read as follows:

Subpart H—Attorney Fees (Plus Costs, Expert Witness Fees, and Litigation Expenses, Where Applicable), Consequential Damages, and Compensatory Damages

Sec.
1201.201 Statement of purpose.
1201.202 Authority for awards.
1201.203 Proceedings for attorney fees.
1201.204 Proceedings for consequential damages and compensatory damages.
1201.205 Judicial review.

Subpart H—Attorney Fees (Plus Costs, Expert Witness Fees, and Litigation Expenses, Where Applicable), Consequential Damages, and Compensatory Damages

§1201.201 Statement of purpose.

(a) This subpart governs Board proceedings for awards of attorney fees (plus costs, expert witness fees, and litigation expenses, where applicable), consequential damages, and compensatory damages.

(b) There are seven statutory provisions covering attorney fee awards. Because most MSPB cases are appeals under 5 U.S.C. 7701, most requests for attorney fees will be governed by § 1201.202(a)(1). There are, however, other attorney fee provisions that apply only to specific kinds of cases. For example, § 1201.202(a)(4) applies only to certain whistleblower appeals. Sections 1201.202 (a)(5) and (a)(6) apply only to corrective and disciplinary action cases brought by the Special Counsel. Section 1201.202(a)(7) applies only to appeals brought under the Uniformed Services Employment and Reemployment Rights Act.

(c) An award of consequential damages is authorized in only two situations: Where the Board orders corrective action in a whistleblower appeal under 5 U.S.C. 1221, and where the Board orders corrective action in a Special Counsel complaint under 5 U.S.C. 1214. Consequential damages include such items as medical costs and travel expenses, and other costs as determined by the Board through case law.

(d) The Civil Rights Act of 1991 (42 U.S.C. 1981a) authorizes an award of compensatory damages to a prevailing party who is found to have been intentionally discriminated against based on race, color, religion, sex,

national origin, or disability. Compensatory damages include pecuniary losses, future pecuniary losses, and nonpecuniary losses, such as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life.

§1201.202 Authority for awards.

(a) *Awards of attorney fees (plus costs, expert witness fees, and litigation expenses, where applicable).* The Board may order payment of:

(1) Attorney fees, as authorized by 5 U.S.C. 7701(g)(1), where the appellant or respondent is the prevailing party in an appeal under 5 U.S.C. 7701 or an agency action against an administrative law judge under 5 U.S.C. 7521, and an award is warranted in the interest of justice;

(2) Attorney fees, as authorized by 5 U.S.C. 7701(g)(2), where the appellant or respondent is the prevailing party in an appeal under 5 U.S.C. 7701, a request to review an arbitration decision under 5 U.S.C. 7121(d), or an agency action against an administrative law judge under 5 U.S.C. 7521, and the decision is based on a finding of discrimination prohibited under 5 U.S.C. 2302(b)(1);

(3) Attorney fees and costs, as authorized by 5 U.S.C. 1221(g)(2), where the appellant is the prevailing party in an appeal under 5 U.S.C. 7701 and the Board's decision is based on a finding of a prohibited personnel practice;

(4) Attorney fees and costs, as authorized by 5 U.S.C. 1221(g)(1)(B), where the Board orders corrective action in a whistleblower appeal to which 5 U.S.C. 1221 applies;

(5) Attorney fees, as authorized by 5 U.S.C. 1214(g)(2), where the Board orders corrective action in a Special Counsel complaint under 5 U.S.C. 1214;

(6) Attorney fees, as authorized by 5 U.S.C. 1204(m), where the respondent is the prevailing party in a Special Counsel complaint for disciplinary action under 5 U.S.C. 1215; and

(7) Attorney fees, expert witness fees, and litigation expenses, as authorized by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4324(c)(4).

(b) *Awards of consequential damages.* The Board may order payment of consequential damages, including medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages:

(1) As authorized by 5 U.S.C. 1221(g)(1)(A)(ii), where the Board orders corrective action in a whistleblower appeal to which 5 U.S.C. 1221 applies; and

(2) As authorized by 5 U.S.C. 1214(g)(2), where the Board orders corrective action in a Special Counsel complaint under 5 U.S.C. 1214.

(c) *Awards of compensatory damages.* The Board may order payment of compensatory damages, as authorized by section 102 of the Civil Rights Act of 1991 (42 U.S.C. 1981a), based on a finding of unlawful intentional discrimination but not on an employment practice that is unlawful because of its disparate impact under the Civil Rights Act of 1964, the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990. Compensatory damages include pecuniary losses, future pecuniary losses, and nonpecuniary losses such as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life.

§1201.203 Proceedings for attorney fees.

(a) *Form and content of request.* A request for attorney fees must be made by motion, must state why the appellant or respondent believes he or she is entitled to an award under the applicable statutory standard, and must be supported by evidence substantiating the amount of the request. Evidence supporting a motion for attorney fees must include at a minimum:

(1) Accurate and current time records;

(2) A copy of the terms of the fee agreement (if any);

(3) A statement of the attorney's customary billing rate for similar work if the attorney has a billing practice or, in the absence of that practice, other evidence of the prevailing community rate that will establish a market value for the attorney's services; and

(4) An established attorney-client relationship.

(b) *Addendum proceeding.* (1) A request for attorney fees will be decided in an addendum proceeding before a judge after issuance of a final decision in the proceeding on the merits, including a decision accepting the parties' settlement of the case.

(2) For purposes of this subpart, a ''proceeding on the merits'' is a proceeding to decide an appeal of an agency action under 5 U.S.C. section 1221 or 7701, an appeal under 38 U.S.C. 4324, a request to review an arbitration decision under 5 U.S.C. 7121(d), a Special Counsel complaint under 5 U.S.C. section 1214 or 1215, or an agency action against an administrative law judge under 5 U.S.C. 7521.

(3) The final decision in the proceeding on the merits may be an initial decision of a judge that has become final under section 1201.113 of this part or a final decision of the Board.

(c) *Place of filing.* Where the decision in the proceeding on the merits was issued by a judge in a MSPB regional or field office, a motion for attorney fees must be filed with the regional or field office that issued the decision. Where the decision in the proceeding on the merits was issued by the Board, a motion for attorney fees must be filed with the Clerk of the Board.

(d) *Time of filing; service.* A motion for attorney fees must be filed as soon as possible after a final decision of the Board but no later than 60 days after the date on which a decision becomes final. A copy of the motion must be served on the other parties or their representatives at the time of filing. A party may file a pleading responding to the motion within the time limit established by the judge.

(e) *Hearing; applicability of subpart B.* The judge may hold a hearing on a motion for attorney fees and may apply appropriate provisions of subpart B of this part to the addendum proceeding.

(f) *Review by the Board.* The judge will issue an initial decision in the addendum proceeding, which shall be subject to the provisions for a petition for review by the Board under subpart C of this part.

§ 1201.204 Proceedings for consequential damages and compensatory damages.

(a) *Time for making request.* (1) In all instances where a request for consequential damages or compensatory damages is made, it should be made as early as possible in a Board proceeding before an administrative judge or administrative law judge but no later than the first pleading filed with the three-member Board.

(2) The judge or the Board, as applicable, may waive the time limit for making a request for consequential damages or compensatory damages for good cause shown.

(b) *Service.* A copy of a request for consequential damages or compensatory damages must be served on the other parties or their representatives when the request is made. A party may file a pleading responding to the request within the time limit established by the judge or the Board, as applicable.

(c) *Discretion to decide in merits proceeding or addendum proceeding.* When a request for consequential damages or compensatory damages is made, the judge or the Board, as applicable, may:

(1) Consider the request during the proceeding on the merits and rule on the request in the decision on the merits if the judge or the Board, as applicable, determines that such action is in the interest of the parties and will promote efficiency and economy in adjudication; or

(2) Defer a decision on the request for an addendum proceeding. Except as provided in paragraph (e) of this section, the addendum proceeding will be held after issuance of a final decision in the proceeding on the merits. As used in this section, a ''final decision in the proceeding on the merits'' has the same meaning as in § 1201.203(b) of this part.

(d) *Initiation of addendum proceeding.* If a decision on a request for consequential damages or compensatory damages has been deferred for an addendum proceeding, the judge will schedule the proceeding after issuance of an initial decision that becomes final or a final Board decision.

(e) *Discretion of Board to order addendum proceeding.* Notwithstanding paragraphs (a) through (d) of this section, the Board, at its discretion, may order that an addendum proceeding to decide a request for consequential damages or compensatory damages be held prior to the issuance of a final decision on the merits. If the Board exercises this discretion, the Board order will provide for initiation of the addendum proceeding.

(f) *Hearing; applicability of subpart B.* The judge may hold a hearing on a request for consequential damages or compensatory damages and may apply appropriate provisions of subpart B of this part to the addendum proceeding.

(g) *Review by the Board.* (1) An initial decision issued by a judge under this section, whether in accordance with paragraph (c)(1) of this section or in an addendum proceeding, shall be subject to the provisions for a petition for review by the Board under subpart C of this part.

(2) A recommended decision issued by an administrative law judge in accordance with paragraph (c)(1) of this section shall be subject to the provisions of subpart D of this part.

(h) *EEOC review of decision on compensatory damages.* A final decision of the Board on a request for compensatory damages pursuant to the Civil Rights Act of 1991 shall be subject to review by the Equal Employment Opportunity Commission as provided under subpart E of this part.

§ 1201.205 Judicial review.

A final Board decision under this subpart is subject to judicial review as provided under 5 U.S.C. 7703.

Dated: April 1, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–8643 Filed 4–8–97; 8:45 am]

BILLING CODE 7400–01–U

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure for whistleblower appeals to implement the provisions of Public Law 103–424 (MSPB and Office of Special Counsel reauthorization of 1994) that: Added a new personnel action and amended another in the statutory provisions governing prohibited personnel practices; and added a requirement that the Board refer its findings to the Special Counsel when it determines in a whistleblower proceeding that a current Federal employee may have committed a prohibited personnel practice. The Board is also amending its rules of practice and procedure for whistleblower appeals to include a cross-reference to subpart H of part 1201 regarding awards of attorney fees and consequential damages. The purpose of these amendments is to provide guidance to the parties to MSPB cases and their representatives regarding the new and amended personnel actions, to refer parties and their representatives to subpart H of part 1201 for the procedures governing requests for attorney fees and consequential damages, and to provide public notice of the requirement that the Board refer certain prohibited personnel practice findings to the Special Counsel. The Board is implementing other provisions of Public Law 103–424 through an amendment to its rules at 5 CFR part 1201, which is being published simultaneously with this amendment.

DATES: Effective date April 9, 1997. Submit written comments on or before June 9, 1997.

ADDRESSES: Send comments to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419. Comments may be sent via e-mail to mspb@mspb.gov.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: Public Law 103–424, which reauthorized the Board and the Office of Special Counsel in October 1994, also included a number of provisions that affect cases involving prohibited personnel practices, especially actions based on whistleblowing. This amendment to the Board's rules at 5 CFR part 1209 reflects two of those provisions.

New and Amended Personnel Actions

Section 5 of Public Law 103–424 amended 5 U.S.C. 2302(a)(2)(A), the list of personnel actions that may form the basis for a prohibited personnel practice, to: (1) add a new personnel action, ''a decision to order psychiatric testing or examination;'' and (2) replace the existing provision, ''any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level,'' with an amended provision, ''any other significant change in duties, responsibilities, or working conditions.'' Because the Board's rules at 5 CFR 1209.4(a) incorporate the statutory list of personnel actions at 5 U.S.C. 2302(a)(2)(A), it is necessary to amend the Board's rules to reflect the changes made in the statutory provision by Public Law 103–424.

The Board has ruled that these amendments to 5 U.S.C. 2302(a)(2)(A) may not be applied retroactively to cases pending on the effective date of the amendments, October 29, 1994, where the personnel action occurred prior to the effective date, because the amendments enlarge the category of conduct that may form the basis of a prohibited personnel practice. See *Caddell* v. *Department of Justice,* 66 M.S.P.R. 347, 352–54 (1995), and *Briley* v. *National Archives and Records Administration,* 71 M.S.P.R. 211, 223–224 (1996).

Referrals to the Special Counsel. Section 4(c) of Public Law 103–424 amended 5 U.S.C. 1221(f) to add a new requirement that when the Board determines in a proceeding under section 1221 of title 5 (governing individual right of action appeals and certain other whistleblower appeals) that a current Federal employee may have committed a prohibited personnel practice, the Board is to refer the matter to the Special Counsel for investigation and possible prosecution under 5 U.S.C. 1215. The Board began making such referrals to the Special Counsel soon after this provision took effect on October 29, 1994. It is now amending its rules at 5 CFR part 1209 by adding a new subpart E to provide public notice that it is required to make such referrals.

Cross-Reference to Subpart H of Part 1201

This amendment also includes a change to 5 CFR 1209.3, ''Application of 5 CFR part 1201,'' to include a statement that requests for attorney fees and consequential damages in connection with appeals under part 1209 are governed by subpart H of part 1201.

Citations

All citations to MSPB decisions are to West Publishing Company's *Merit Systems Protection Board Reporter* (M.S.P.R.). This publication is available in many law libraries and some public libraries. It is also available in the MSPB Library, 1120 Vermont Avenue, NW, 8th Floor, Washington, DC, which is open to the public between 1:00 and 5:00 PM, Monday through Friday (excluding Federal holidays).

The Board is publishing this rule as an interim rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1209

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1209 as follows:

PART 1209—[AMENDED]

1–2. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8), and 7701.

3. Section 1209.3 is amended by adding at the end of the existing text the following sentence:

§ 1209.3 Application of 5 CFR part 1201.

* * * The Board will apply the provisions of subpart H of part 1201 regarding awards of attorney fees and consequential damages under 5 U.S.C. 1221(g) to appeals governed by this part.

4. Section 1209.4 is amended by removing ''or'' at the end of paragraph (a)(9), by redesignating paragraph (a)(10) as (a)(11) and revising it, and by adding a new paragraph (a)(10) to read as follows:

§ 1209.4 Definitions.

(a) * * *

* * * * *

(10) A decision to order psychiatric testing or examination; or

(11) Any other significant change in duties, responsibilities, or working conditions.

* * * * *

5. Part 1209 is amended by adding subpart E to read as follows:

Subpart E—Referrals to the Special Counsel

§ 1209.13 Referral of findings to the Special Counsel.

When the Board determines in a proceeding under this part that there is reason to believe that a current Federal employee may have committed a prohibited personnel practice described at 5 U.S.C. 2302(b)(8), the Board will refer the matter to the Special Counsel to investigate and take appropriate action under 5 U.S.C. 1215.

Dated: April 1, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–8644 Filed 4–8–97; 8:45 am]

BILLING CODE 7400–01–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service; Executive Office for Immigration Review

8 CFR Part 3

[INS 1788–96; AG Order No. 2071–97]

RIN 1115–AE47

Immigration and Naturalization Service and Executive Office for Immigration Review; Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures; Correction

AGENCY: Immigration and Naturalization Service and Executive Office for Immigration Review.

ACTION: Correction to interim regulation.

SUMMARY: This document contains a correction to the interim regulation, published Thursday, March 6, 1997 (62 FR 10312), relating to inspection and expedited removal of aliens, detention and removal of aliens, conduct of removal proceedings, and asylum procedures.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The interim regulation that is the subject of these corrections amends the regulations of the Immigration and Naturalization Service and Executive Office for Immigration Review to implement the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 governing expedited and regular removal proceedings, handling of asylum claims, and other activities involving the apprehension, determination, hearing of claims and ultimately the removal of inadmissible and deportable aliens. This rule also incorporates a number of changes which are part of the Administration's reinvention and regulation streamlining effort. On April 1, 1997, a correction notice (62 FR 15362, FR Doc. 97–8105) was published correcting those technical errors contained in the interim regulation. This notice corrects an additional technical error contained in the interim regulation.

Need for Correction

As published, the interim regulation contained errors which were in need of clarification.

Correction of Publication

Accordingly, the publication on March 6, 1997, of the interim regulation (INS No. 1788–96; AG Order No. 2071–97), which was the subject of FR Doc. 97–5250, is corrected as follows:

§ 3.23 [Corrected]

1. On page 10333, in the first column, in § 3.23(b)(1), the reference to ''§ 208.22(f)'' at the end of paragraph (b)(1) introductory text is removed and is replaced with a reference to ''§ 208.22(e)''.

Rosemary Hart,

Federal Register Liaison Officer.

[FR Doc. 97–8984 Filed 4–8–97; 8:45 am]

BILLING CODE 4410–87–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–132, Special Conditions No. 25–ANM–124]

Special Conditions: Lockheed Martin Aerospace Corp. Model L382J Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are for the Lockheed Martin Aerospace Corp. Model L382J airplane. This airplane will have a novel or unusual design feature(s) associated with the installation of a dual head up display (HUD) to be used as a primary flight display (PFD) for all regimes of normal operation. The HUD will satisfy the basic requirements of § 25.1321 and serve as the primary source of flight

director command information. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of Part 25 of the Federal Aviation Regulations (FAR).

EFFECTIVE DATE: May 9, 1997.

FOR FURTHER INFORMATION CONTACT: Dale Dunford, FAA, Flight Test and Systems Branch, ANM–111, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone 206–227–2239.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1992, Lockheed Martin Aerospace Co. applied for an amendment to their Type Certificate No. A1SO to include their new Model L382J. The Model L382J is a derivative of the L382B/E/G currently approved under Type Certificate No. A1SO, and features a new engine (with approximately the same rated horsepower, but heavily flat-rated) and propeller, both of which are controlled by a full authority digital engine control. Additionally, the flight deck is substantially modified by the installation of four liquid crystal flight displays, dual head-up displays, and Mil-Std 1553 data buses. The flight engineer position is deleted, requiring automation of some functions as well as redesign of the front and overhead panels. Some structure has been modified but the aerodynamics of the airplane are essentially unchanged. The latest Part 25 requirement will be used for all significantly modified portions of the Model 382J (as compared to the present L382), and, for the unmodified portions of the airplane, the applicable certification standard will be the Part 25 rules that were effective on February 1, 1965.

The existing rule, § 25.1321, did not anticipate the design features, symbology, chromatic limitations, and pilot view constraints associated with most HUDs. This particular HUD application is the first attempt to qualify the HUD as a PFD. Current head down displays (HDD) provide all primary and other information without requiring the flightcrew to transition from one lighting and information display format to another and are very tolerant of pilot head position regarding acquiring primary flight data. This HUD application would require the flight crewmember using the HUD to limit head position in order to ensure the ability to acquire the necessary flight information and to frequently transition to a different lighting condition and display format to acquire flight mode and navigation information. These proposed special conditions provide all the necessary requirements to determine acceptability of the HUD as a PFD. A proof of concept effort is required to substantiate that for the particular application there are no unsafe features.

Type Certification Basis

Under the provisions of § 21.101, Lockheed Martin Aerospace Corp. must show that the Model L382J meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1SO or the applicable regulations in effect on the date of application for the changes to the Model L382. In addition, the certification basis includes certain special conditions and later amended sections of Part 25 that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25 as amended) do not contain adequate or appropriate safety standards for the Model L382J because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model L382J will incorporate a novel or unusual design feature which is a dual head up display of primary flight information in a monochromatic format using appropriate symbology that may be different from similar information provided in the head down display.

As discussed above, these special conditions are applicable to the L382J. Should Lockheed Martin Aerospace Corp. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Discussion of Comments

Notice of Proposed Special Conditions No. SC–96–5–NM for the Lockheed Martin Aerospace Corp. Model L382J Airplane, was published in the **Federal Register** on September 17, 1996. One commenter submitted comments.

The Civil Aviation Authority of the United Kingdom submitted comments on the Notice of Proposed Special Condition for the L382J Dual Head-up Display (HUD) installation for use as primary flight displays (PFD) for all phases of flight.

The commenter suggests that paragraphs 1.e. and 2.b. imply a supplementary HUD, because of the requirement for the pilot to transfer attention between the HUD and the head down instrumentation. The commenter requests clarification of the intended function of the HUD, since this requirement to refer to other displays seems inconsistent with the intended function of the HUD as a PFD. The commenter also states that with such a requirement for this transfer in pilot attention, the scan task workload is significantly increased and should be separately assessed.

The FAA believes that pilot scan transitions between the HUD and instrument panel are a natural, necessary pilot function which must be accommodated and is not inconsistent with its use as a PFD. A PFD does not provide all information required by the pilot in the normal performance of duties. The pilot must also refer to other displays for awareness of navigation, communication, engine, and other system elements of information. The PFD HUD is not always the sole source of primary flight information in the cockpit, and FAA experience has shown that there are occasions when, though the HUD is proven fully functional, the pilot prefers to use the instrument panel PFD. Two prime cases are recovery from unusual attitudes, and when the sun is near the horizon, directly behind the HUD. The FAA recognizes there is a potential for scan transitions between the PFD HUD and instrument panel to lead to delays, hazardous misinterpretation, and excessive cognitive workload if the designs of these instruments are not mutually compatible. Therefore, the FAA includes this compatibility requirement in the special condition and intends to evaluate the integrated HUD/instrument panel design for task performance, workload and pilot error potential.

The commenter states that the HUD could not be approved as a PFD under the provisions of JAR 25.1303 and ACJ

25.1303. JAR 25.1303 requires that the presentation of instruments be ''clear and unambiguous'', and ACJ 25.1303 specifies that the primary attitude display should distinguish between ''earth and sky'' by the use of contrasting shades or colors. The commenter states that there is strong evidence that a monochrome HUD cannot provide for adequate recognition and recovery from unusual attitudes, and that the pilot must therefore use the color PFD on the instrument panel for this purpose. Hence, the HUD cannot be a PFD.

The FAA notes that there are some differences between the FAR and JAR language and associated advisory materials. In particular, the portion of JAR 25.1303 quoted by the commenter is not found in corresponding FAA documents. The FAA agrees with the fundamental concern expressed by the commenter, and in paragraph 1.d. of the special condition requires that all information be presented in a clear and unambiguous manner. However, the FAA is not convinced that color is an essential display feature of a PFD, and that the ACJ 25.1303 specification for the use of contrasting shades and colors for the primary attitude display is not found in FAA advisory materials. FAA AC 25–11, Transport Category Electronic Display Systems, states that the primary purpose of display color is to separate information, to make the display easier to interpret with less time, workload, and error. However, the document advises that symbol size, shape and location are also useful for this purpose, and the AC recommends that at least two of these features be employed for the display of critical information. The FAA believes that the PFD must be clear and unambiguous, but is willing to evaluate alternatives to the use of color in a monochrome PFD HUD.

With regard to the ability to use the PFD to recognize and recover from unusual attitudes, the FAA shares the concern of the commenter and specifies in paragraph 1.g. of the special condition that the HUD be demonstrated to be adequate for this purpose. In the past, the FAA has required unusual attitude recovery functionality of some transport HUD installations.

Compensating special features, in addition to the artificial horizon and pitch scale, were provided in these monochrome HUD designs, which the FAA evaluated in flight and found sufficient. Therefore, the FAA believes that with careful evaluation, a HUD PFD may be found suitable for the critical function of unusual attitude recognition and recovery. The FAA also acknowledges that many pilots may prefer the color PFD for unusual attitude recovery, as well as other flight conditions referred to above, therefore we have included the requirement to accommodate transition between the displays in paragraph 1.e.

The commenter states that a monochrome HUD cannot satisfy the color coding criteria of AC 25–11 which specify the identification of system limits and warnings with the color red.

The FAA agrees that the monochrome HUD cannot comply with color coding criteria found in AC 25–11, because no color coding is employed. The FAA, as stated previously, does not believe that the use of color is absolutely required. An FAA policy memorandum, entitled Low and High Speed Awareness Cues for Linear Tape Displays, issued by the Transport Airplane Directorate on September 12, 1996, states that other techniques, such as cross-hatching, may be used in a monchromatic HUD to provide the required distinction between zones of different meaning.

The other purpose of the color coding criteria is to prevent the use of hazardously misleading variations to the standard color coding, in particular the use of red, amber and green. Since the monochrome display does not assign any meaning to colors, it does not violate this intent of the coding criteria. As stated before, the FAA intends to evaluate the monochrome HUD for unsatisfactory delays, errors or workload in the interpretation of the displayed information. For example, the FAA intends to evaluate the monochrome display to provide equivalent cues for high and low speed awareness in accordance with §§ 25.1303 and 25.1541. Beyond this, the FAA is willing to entertain specific recommendations for monochrome display criteria.

The commenter states that for the dual HUD installation, the simultaneous use of both HUDs should not be permitted and a means to prevent simultaneous use should be provided. The commenter states that the HUD is so compelling that pilots will not scan other instruments as required for safe flight.

The FAA agrees that the crew must monitor cockpit instrumentation to maintain awareness of aircraft system status and flight parameters and to detect the onset of unsafe conditions. The FAA believes this monitoring function to be central to the pilot's airmanship responsibilities and training. A myopic concentration on a single task or instrument would be contrary to competent, disciplined performance of pilot duties, but the FAA does not have enough data to support the contention that the use of a HUD causes unsatisfactory pilot monitoring of aircraft systems. The use of a HUD, whether PFD or not, does not inherently prevent or hinder the pilot from scanning other instruments and displays.

The commenter states that during the cruise phase of flight, the pilot might be seated at a relaxed sitting position, away from the Design Eye Position, and unable to detect an upset condition with the HUD. This may prevent the approval of the HUD as a PFD.

The HUD, in most cases, is not as tolerant of variant head positions as other cockpit displays. The proposed special condition requires that the HUD be installed so that the Eyebox is laterally and vertically centered on the cockpit Design Eye Position (DEP). According to §§ 25.773 and 25.777, the DEP is the optimum, secure seating position from which the pilot can see the instruments and the outside view, and operate the airplane controls. The pilot responsible for flying the airplane must be properly seated at or near the DEP in order to monitor the displays and operate the controls. If that pilot is using the HUD as a PFD, then the relaxed seating position normally used by pilots in the cruise phase may not be satisfactory if the minimum monocular Field of View is not visible.

The special condition states minimum HUD eye box dimensions, in paragraph 2.g., and also states that a larger eyebox may be required for a PFD HUD. The HUD must also not place unreasonable, or physiologically burdensome limitations on head position when used extensively on long flights. Given these requirements, the FAA believes it is reasonable to require the pilot to be properly seated to perform his/her duties, even if the permissible displacements from the DEP are more limiting for use of the HUD than for use of head down displays.

The commenter states that since the head down displays would often be used to display only navigation/engine information, the pilots would not be able to cross monitor each other's primary flight information. The commenter states that this is not acceptable.

The FAA does not have a specific requirement that one pilot always be able to view the other pilot's primary flight display. The FAA requires that the display of hazardously misleading data and the loss of all indications of certain primary flight parameters be sufficiently improbable. The ability to view the other pilot's primary flight data can be a useful technique to detect misleading

information and to monitor airplane progress during some phases of flight. But there are other techniques including automatic parameter comparisons and annunciation of miscompares and excessive deviations. In some airplanes, a pilot may be able to temporarily select the other pilot's information for display. Therefore, the FAA does not believe that a head down PFD for each pilot must always be displayed.

The commenter states that a monochrome HUD PFD would be significantly cluttered and that the level of clutter must be carefully assessed.

The FAA is also concerned, wants clutter to be minimized (paragraph 1.d.), and intends to carefully assess the level of clutter in the HUD. Clutter is a concern both for the pilot's ability to see through the display to the outside view, and the pilot's ability to quickly and accurately pick out the desired/essential information from the clutter.

The commenter concludes that the application of Head Up Displays as stand alone Primary Flight Displays should not be approved because the monochrome HUD does not meet all current certification criteria for PFD. Therefore, the commenter states that a dual HUD installation must be supported by an installation of dual conventional, color, head down PFDs, simultaneously displayed to each pilot.

The FAA acknowledges the commenter's concerns and intends evaluate whether, and if so how, the dual-HUD installation should be supported by the head down display of primary flight data. The FAA intends to evaluate the adequacy of design features that provide automatic and on-demand selection of the PFD mode on the head down displays.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification for the Lockheed Martin Aerospace Corp. L382J airplanes.

1. Display Requirements

a. The HUD must provide adequate information to permit rapid evaluation of the airplane's flight state and position during all phases of flight. This must be shown to be adequate for manually controlling the airplane, and for monitoring the performance of the automatic flight control system. The monochrome HUD must be compliant with the display criteria contained in Advisory Circular 25–11, except for the color criteria. The HUD system adequacy for use while manually controlling the airplane shall be demonstrated and evaluated according to the rating levels outlined below. This task oriented evaluation must consider all normal, abnormal and emergency operations, with single and multiple failures not shown to be extremely improbable and is extended to all HUD display formats, unless use of specific formats is prohibited for specific phases of flight. The rating levels for this evaluation are:

(1) Satisfactory: Full performance criteria can be met with routine pilot effort and attention.

(2) Adequate: Adequate for continued safe flight and landing; full or specified reduced performance can be met, but with heightened pilot effort and attention.

(3) Controllable: Inadequate for continued safe flight and landing, but controllable for return to a safe flight condition, safe flight envelope and/or reconfiguration so that the handling qualities are at least adequate.

The pilot workload and compensation will be allowed to progressively vary with failure state, atmospheric disturbance level and flight envelope. Specifically, within the normal flight envelope, the ratings must not be less than adequate in moderate atmospheric disturbance for probable failures, and must not be less than adequate in light atmospheric disturbance for improbable failures.

b. The current mode of the flight guidance/automatic flight control system, shall be clearly annunciated in the HUD unless it is displayed elsewhere in close proximity to the HUD field of view and shown to be equivalently conspicuous. Likewise, other essential information and alerts which are related to displayed information and may require immediate pilot action must be displayed for instant recognition. Such information includes malfunctions of primary data sources, guidance and control, and excessive deviations which require a go around.

c. If a wind shear detection system, a ground proximity warning system (GPWS), or a traffic alert and collision avoidance system (TCAS) is installed, then the guidance, warnings, and annunciations required to be a part of these systems, and normally required, as part of the approved design, to be in the pilot's primary field of view, must be displayed on the HUD.

d. Symbols must appear clean-shaped, clear, and explicit. Lines must be narrow, sharp-edged, and without halo or aliasing. Symbols must be stable with no discernible flicker or jitter.

e. For all phases of flight, the HUD must update the positions and motions of primary control symbols with sufficient rates and latencies to support satisfactory manual control performance.

f. The HUD display must present all information in a clear and unambiguous manner. Display clutter must be minimized. The HUD symbology must not excessively interfere with pilots' forward view, ability to visually maneuver the airplane, acquire opposing traffic, and see the runway environment. Some data elements of primary flight displays are essential or critical, and must not be removed by any declutter function. Changes in the display format and primary flight data arrangement should be minimized to prevent confusion and to enhance the pilots' ability to interpret vital data.

g. The content, arrangement and format of the information must be sufficiently compatible with the head down displays to preclude pilot confusion, misinterpretation, or excessive cognitive workload. Immediate transition between the two displays, whether required by navigation duties, failure conditions, unusual airplane attitudes, or other reasons, must not present difficulties in data interpretation or delays/interruptions in the crew's ability to manually control the airplane or to monitor the automatic flight control system.

h. The HUD display must be demonstrated to be adequate for airplane recovery from unusual attitudes. This capability must be shown for all foreseeable modes of upset, including crew mishandling, autopilot failure (including ''slowovers''), and turbulence/gust encounters.

2. Installation Requirements

a. The arrangement of HUD display controls must be visible to and within reach of the pilot from any normal seated position. The position and

movement of the controls must not lead to inadvertent operation. The HUD controls must be adequately illuminated for all normal background lighting conditions, and must not create any objectionable reflections on the HUD or other flight instruments.

b. The display brightness must be satisfactory in the presence of dynamically changing background (ambient) lighting conditions. If automatic control is not provided, it must be shown that a single setting is satisfactory. When the brightness level is altered, the relative luminance of each displayed symbol, character, or data shall vary smoothly. In no case shall any selectable brightness level allow any information to be invisible while other data remains discernible. There shall be no objectionable brightness transients when transitioning between manual and automatic control. The HUD data shall be visible in lighting conditions from 0 fL to 10,000 fL. If certain lighting conditions prevent the crew to adequately seeing and interpreting HUD data (for example, flying directly toward the sun), accommodation must be provided to permit the crew to make a ready transition to the head down displays.

c. To the greatest extent practicable, the HUD controls must be integrated with other controls, including the flight director, to minimize the crew workload associated with HUD operation and to ensure flightcrew awareness of engaged flight guidance modes.

d. The installation of the HUD system must not interfere or restrict other installed equipment such as emergency oxygen masks, headsets, or microphones. The installation of the HUD must not adversely affect the emergency egress provisions for the flightcrew, or significantly interfere with crew access. The system also must not hinder the crew's movement while conducting any flight procedures.

e. The installation of the HUD system must not present the crew with any objectionable glare or reflection in any lighting conditions. This is equally applicable from glare or reflections visible on the HUD system itself, or that originating from the HUD system and visible in other areas such as the windshield. The installation of the HUD system must not significantly obstruct either pilot's external field of view when both combiners are deployed. The external view requirements of § 25.773 must be retained with both combiners deployed.

f. The HUD system must be designed and installed to prevent the possibility of pilot injury in the event of an accident or any other foreseeable circumstance such as turbulence encounter, hard landing, bird strike, etc. The installation of the HUD, including overhead unit and combiner, must comply with the head injury criteria of § 25.562, Amendment 25–64.

g. The design eyebox shall be laterally and vertically centered around the respective pilot's design eye position, and must be large enough that the minimum monocular field of view is visible at the following minimum displacements from the cockpit Design Eye Position:

Lateral: 1.5 inches left and right
Vertical: 1.0 inches up and down
Longitudinal: 2.0 inches fore and aft

These requirements must be met for pilots from 5′2″ to 6′3″ tall, while seated with seat belts fastened and with the pilot positioned at the design eye position (ref. § 25.777(c)). Larger eyebox dimensions may be required for meeting operational requirements for use as a full time primary flight display.

h. The HUD system combiner must not create any objectionable distortion of the pilot's external view. The optical qualities (accommodation, luminance, vergence) of the HUD shall be uniform across the entire field of view. When viewed by both eyes from any off-center position within the eyebox, non-uniformities shall not produce perceivable differences in binocular view. Notwithstanding compliance with these minimum eyebox dimensions, the HUD eyebox must be large enough to adequately serve as a primary flight display without inducing adverse effects on pilot vision and fatigue.

3. System Requirements

a. The HUD system must be shown to perform its intended function as a primary flight display during all phases of flight. The normal operation of the HUD system cannot adversely affect, or be adversely affected by other airplane systems. Malfunctions of the HUD system which cause loss of all primary flight information, including that displayed on HUDs and head down instruments, shall be extremely improbable.

b. The criticality of the HUD system's function to display flight and navigation data, including the potential to display hazardously misleading information, must be assessed according to §§ 25.1309 and 25.1333, Advisory Circular (AC) 25–11 paragraph 4.a., and AC 25.1309–1A. All alleviating flightcrew actions that are considered in the HUD safety analysis must be validated during testing for incorporation in the airplane flight manual procedures section or for inclusion in type-specific training.

c. Since the display of hazardously misleading information on more than one primary flight display must be extremely improbable, HUD system software which generates, displays or affects the generation or display of primary flight information shall be developed to Level A requirements, as specified by RTCA Document DO–178B, ''Software Considerations in Airborne Systems and Equipment Certification.''

d. The HUD system must monitor the position of the combiner and provide a warning to the crew when the combiner position is such that conformal symbols will be hazardously misaligned.

e. The HUD system must be shown adequate for airplane control and guidance during an engine failure during any phase of flight.

f. There must be no adverse physiological effects of long term use of the HUD system, such as fatigue or eye strain, that cause the pilot to have to revert to the HDD. Use of the HUD system also cannot require excessive cognitive workload or unreasonable limitations on head position.

g. The HUD system must be shown to comply with the high intensity radiated fields certification requirements specified in another special condition, not yet finalized.

Issued in Renton, Washington, on March 24, 1997.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 97–9152 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–5]

Removal of Class D Airspace, Marshall Army Airfield, Ft. Riley, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action removes the Class D airspace area at Marshall Army Airfield, Ft. Riley, KS. The Control Tower at Marshall Army Airfield is not in operation and will not be operational in the foreseeable future.

DATES: Effective date: 0901 UTC July 17, 1997.

Comment date: Comments must be received on or before May 15, 1997.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Operations Branch, Air Traffic Division, ACE–530, Federal Aviation Administration, Docket Number 97–ACE–5, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 am. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION: The control tower at Marshall Army Airfield, Ft. Riley, KS, has been closed and will not be operational in the foreseeable future. The Department of the Army has requested the Class D airspace be removed. However, the Class E2 and E4 surface area will be retained.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. This removal is required because the control tower is no longer operational. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–5.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D airspace

* * * * *

ACE KS D Ft. Riley, KS. [Removed]

* * * * *

Issued in Kansas City, MO, on March 12, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–9139 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–32]

Establishment of Class E Airspace; Hillsboro, ND, Hillsboro Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Hillsboro, ND. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 16 and a GPS SIAP to Runway 34 have been developed for Hillsboro Municipal Airport. Controlled airspace extending upward from 700 to

1200 feet above agound level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Hillsboro, ND (62 FR 3845). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Hillsboro, ND, to accommodate aircraft executing the GPS Runway 16 SIAP and the GPS Runway 34 SIAP at Hillsboro Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL ND E5 Hillsboro, ND [New]

Hillsboro Municipal Airport, ND
(lat. 47°21′34″N, long. 97°03′38″W)

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

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9135 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–33]

Modification of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E Airspace at St. Cloud, MN. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 5 and a GPS SIAP to Runway 23 have been developed for St. Cloud Regional Airport. Controlled airspace extending upward from 700 to 1,200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at St. Cloud, MN (62 FR 3841). The proposal was to add controlled airspace extending upward from 700 to 1,200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at St. Cloud, MN, to accommodate aircraft executing the GPS Runway 5 SIAP and the GPS Runway 23 SIAP at St. Cloud Regional Airport. Controlled airspace extending upward from 700 to 1,200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL MN E5 St. Cloud, MN [Revised]

St. Cloud Regional Airport, MN

(Lat. 45°32′43″ N, long. 94°03′30″ W)

St. Cloud VOR/DME

(Lat. 45°32′28″ N, long. 94°03′27″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the St. Cloud Regional Airport, and within 2.4 miles each side of the St. Cloud VOR/DME 118 radial extending from the 6.5-mile radius to 7.5 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9134 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–34]

Establishment of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at St. Cloud, MN. Recent initiation of part 135 air carrier operations and an increase in general aviation jet and turboprop aircraft operations have occurred at St. Cloud Regional Airport. Controlled airspace extending upward from the surface is needed to contain these aircraft executing instrument approach procedures. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at St. Cloud, MN (62 FR 3842). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at St. Cloud, MN, to accommodate aircraft executing the instrument flight procedures at St. Cloud Regional Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing these procedures. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MN E2 St. Cloud, MN [New]

St. Cloud Regional Airport, MN
(Lat. 45°32′43″N, long. 94°03′30″W.)
St. Cloud VOR/DME
(Lat. 45°32′28″N, long. 94°03′27″W)

Within a 4-mile radius of the St. Cloud Regional Airport, and within 2.4 miles each side of the St. Cloud VOR/DME 118 radial, extending from the 4-mile radius to 7.5 miles southeast of the airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois, on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9133 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–35]

Modification of Class E Airspace; Mackinac Island, MI, Mackinac Island Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Mackinac Island, MI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 26 has been developed for Mackinac Island Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Mackinac Island, MI (62 FR 3843). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Mackinac Island, MI, to accommodate aircraft executing the GPS Runway 26 SIAP at Mackinac Island Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL MI E5 Mackinac Island, MI [Revised]

Mackinac Island Airport, MI
(Lat. 45°51′54″ N, long. 84°38′14″ W)
Chippewa County International Airport, MI
(Lat. 46°14′52″ N, long. 84°28′15″ W)
Pellston VORTAC)
(Lat. 45°37′50″ N, long. 84°39′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mackinac Island Airport, and that airspace extending upward from 1,200 feet above the surface bounded on the north by the 22-mile radius of the Chippewa County International Airport, on the east by V45, and the south by lat. 45°45′00″ N and on the west by the 16.6-mile radius of the Pellston VORTAC.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9132 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–38]

Modification of Class E Airpace; Mineral Point, WI, Iowa County Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Mineral Point, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 04 has been developed for the Iowa County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, February 10, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Mineral Point, WI (62 FR 5937). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Mineral Point, WI, to accommodate aircraft executing the GPS Runway 04 SIAP at Iowa County Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL WI E5 Mineral Point, WI (Revised)

Iowa County Airport, WI
(lat. 42°53′07″N, long. 90°13′55″W)
Mineral Point, NDB
(lat. 42°53′17″N, long. 90°13′55″W)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of the Iowa County Airport and within 2.6 miles each side of the 029° bearing from Mineral Point NBD extending from the 7.2-mile radius to 7.4 miles northeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1967.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9131 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–4]

Modification of Class E Airspace; Phillips, WI, Price County Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Phillips, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 1 and a GPS SIAP to Runway 19 have been developed for Price County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, February 10, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Phillips, WI (62 FR 5938). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Phillips, WI, to accommodate aircraft executing the GPS Runway 1 SIAP and the GPS Runway 19 SIAP at Price County Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL WI E5 Phillips, WI [Revised]

Price County Airport, WI
(Lat. 45°42′32″N, long. 90°24′09″W)
Phillips, NDB
(Lat. 42°42′12″N, long. 90°24′47″W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Price County Airport, and within 1.9 miles each side of the 227° bearing from Phillips NDB extending from the 6.6-mile radius to 7 miles southwest of the airport, and within 1.9 miles each side of the 060° bearing from the Phillips NDB extending from the 6.6-mile radius to 7 miles northeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9130 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–5]

Modification of Class E Airspace; Detroit, MI, Romeo Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Detroit, MI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 36 has been developed for Romeo Airport. Controlled airspace extending upward from 700 to 1,200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, February 10, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Detroit, MI (62 FR 5939). The proposal was to add controlled airspace extending upward from 700 to 1,200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Detroit, MI, to accommodate aircraft executing the GPS Runway 36 SIAP at Romeo Airport. Controlled airspace extending upward from 700 to 1,200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

1. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL MI E5 Detroit, MI [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 43°00′00″ N, long. 82°25′00″ W; on the Canadian boundary to lat. 43°04′00″ N, long. 82°30′00″ W; to lat. 42°56′00″ N, long. 83°00′00″ W; to lat. 42°45′00″ N, long. 83°50′00″ W; to lat. 42°30′00″ N, long. 83°50′00″ W; to lat. 42°10′00″ N, long. 84°00′00″ W; to lat. 42°00′00″ N, long. 83°30′00″ W; thence east along the 42nd parallel to the Canadian boundary, thence along the Canadian boundary to point of beginning.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9129 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–27]

Amendment of Class E Airspace; Burlington, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Burlington, Colorado, Class E airspace to accommodate new Standard Instrument Approach Procedures (SIAPS) to the Kit Carson County Airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Operations Branch, ANM–532.1, Federal Aviation Administration, Docket No. 95–ANM–027, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 14, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Burlington, Colorado, to accommodate new SIAPS to the Kit Carson County Airport (62 FR 6894). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at Burlington, Colorado. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

ANM CO E5 Burlington, CO [Revised]

Burlington, Kit Carson County Airport, CO
(Lat. 39°14′41″ N, long. 102°17′05″ W)

That airspace extending upward from 700 feet above the surface within 10.5-mile radius of the Kit Carson County Airport; that airspace extending upward from 1,200 feet above the surface beginning at lat. 39°48′00″ N, long. 103°10′00″ W; to lat. 39°29′00″ N, long. 101°37′00″ W; to lat. 39°18′30″ N, long. 101°37′00″ W; to lat. 38°57′00″ N, long. 102°05′00″ W; to lat. 39°00′00″ N, long. 102°50′30″ W; to lat. 39°38′30″ N, long. 103°18′00″ W; thence to point of beginning, excluding the airspace within the State of Kansas.

* * * * *

Issued in Seattle, Washington, on March 25, 1997.

Richard E. Prang,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–9142 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–31]

Establishment of Class E Airspace; Monte Vista, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Monte Vista, Colorado, Class E airspace

to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to the Monte Vista Municipal Airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT:

Ted Melland, Operations Branch, ANM–532.1, Federal Aviation Administration, Docket No. 95–ANM–31, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone number: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 4, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Monte Vista, Colorado, to accommodate a new GPS SIAP to the Monte Vista Municipal Airport (62 FR 5194). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at Monte Vista, Colorado. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

ANM CO E5 Monte Vista, CO [New]

Monte Vista Municipal Airport, CO
(Lat. 37°31′43″ N, long. 106°02′46″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Monte Vista Municipal Airport; that airspace extending upward from 1,200 feet above the surface beginning at lat. 37°35′00″ N, long 106°16′00″ W; to lat. 37°55′00″ N, long. 106°05′00″ W; to lat. 37°59′00″ N, long. 105°55′00″ W; to lat. 37°56′00″ N, long. 105°42′00″ W; to lat. 37°07′00″ N, long. 105°23′00″ W; to lat. 37°08′00″ N, long. 105°49′00″ W; to lat. 37°16′00″ N, long. 106°02′00″ W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on March 25, 1997.

Richard E. Prang,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–9141 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AGL–7]

Establishment of Class E Airspace; Pine Ridge, SD, Pine Ridge Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Pine Ridge, SD. A Global Positioning System GPS standard instrument approach procedure (SIAP) to Runway 30 has been developed for Pine Ridge Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Pine Ridge, SD (62 FR 3846). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Pine Ridge, SD, to accommodate aircraft executing the GPS Runway 30 SIAP at Pine Ridge Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL SD E5 Pine Ridge, SD [New]

Pine Ridge Airport, SD
(Lat. 43°01′21″N, long. 102°30′40″W)

That airspace extending upward from 700 feet above the surface within a 10.9-mile radius of Pine Ridge Airport.

* * * * *

Issued in Des Plaines, Illinois on March 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–9136 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28865; Amdt. No. 1791]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be

altered to remove ''or GPS'' from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, were applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on March 21, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, 97.27, 97.33, 97.35 [Amended]

§ 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

****Effective May 22, 1997*

El Dorado, AR, South Arkansas Regional At Goodwin Field, VOR or GPS RWY 22, Amdt 13 CANCELLED
El Dorado, AR, South Arkansas Regional At Goodwin Field, VOR RWY 22, Amdt 13
Sterling, CO, Sterling Muni, NDB or GPS RWY 33, Amdt 2 CANCELLED
Sterling, CO, Sterling Muni, NDB RWY 33, Amdt 2
St. Augustine, FL, St. Augustine, VOR or GPS RWY 13, Amdt 5 CANCELLED
St. Augustine, FL, St. Augustine, VOR RWY 13, Amdt 5
Douglas, GA, Douglas Muni, NDB or GPS RWY 4, Amdt 2 CANCELLED
Douglas, GA, Douglas Muni, NDB or GPS RWY 4, Amdt 2
Houlton, ME, Houlton Intl, VOR or GPS RWY 5, Amdt 9 CANCELLED
Houlton, ME, Houlton Intl, VOR RWY 5, Amdt 9
Beatrice, NE, Beatrice Muni, VOR or GPS RWY 35, Amdt 6 CANCELLED
Beatrice, NE, Beatrice Muni, VOR RWY 35, Amdt 6
Houma, LA, Houma-Terrebonne, NDB or GPS RWY 18, Amdt 4A CANCELLED
Houma, LA, Houma-Terrebonne, NDB RWY 18, Amdt 4A
Jennings, LA, Jennings, VOR/DME or GPS RWY 8, Orig CANCELLED
Jennings, LA, Jennings, VOR/DME RWY 8, Orig
Las Cruces, NM, Las Cruces International, NDB or GPS RWY 30, Orig CANCELLED
Las Cruces, NM, Las Cruces International, NDB RWY 30, Orig
Roswell, NM, Roswell Industrial Air Center, NDB or GPS RWY 21, Amdt 15 CANCELLED
Roswell, NM, Roswell Industrial Air Center, NDB RWY 21, Amdt 15
Roswell, NM, Roswell Industrial Air Center, RNAV or GPS RWY 35, Amdt 2 CANCELLED
Roswell, NM, Roswell Industrial Air Center, RNAV RWY 35, Amdt 2
Antlers, OK, Antlers Muni, NDB or GPS RWY 35, Amdt 2A CANCELLED
Antlers, OK, Antlers Muni, NDB RWY 35, Amdt 2A
Durant, OK, Eaker Field, NDB or GPS RWY 35, Amdt 5A CANCELLED
Durant, OK, Eaker Field, NDB RWY 35, Amdt 5A
Fairview, OK, Fairview Muni, NDB or GPS RWY 17, Amdt 4 CANCELLED
Fairview, OK, Fairview Muni, NDB RWY 17, Amdt 4
Oklahoma City, OK, Clarence E. Page Muni, VOR/DME RNAV or GPS RWY 17R, Amdt 1 CANCELLED
Oklahoma City, OK, Clarence E. Page Muni, VOR/DME RNAV RWY 17R, Amdt 1
Oklahoma City, OK, Clarence E. Page Muni, VOR/DME RNAV or GPS RWY 35L, Amdt 1 CANCELLED
Oklahoma City, OK, Clarence E. Page Muni, VOR/DME RNAV RWY 35L, Amdt 1
Prague, OK, Prague Muni, NDB or GPS RWY 17, Amdt 1 CANCELLED
Prague, OK, Prague Muni, NDB RWY 17, Amdt 1
Perry, OK, Perry Muni, VOR/DME or GPS RWY 17, Amdt 2 CANCELLED
Perry, OK, Perry Muni, VOR/DME RWY 17, Amdt 2
Shawnee, OK, Shawnee Muni, NDB or GPS RWY 17, Amdt 1 CANCELLED
Shawnee, OK, Shawnee Muni, NDB RWY 17, Amdt 1
Tulsa, OK, Richard Lloyd Jones Jr., VOR or GPS RWY 1L, Amdt 4 CANCELLED
Tulsa, OK, Richard Lloyd Jones Jr., VOR RWY 1L, Amdt 4
Hilton Head Island, SC, Hilton Head, RNAV or GPS RWY 21, Amdt 4B CANCELLED
Hilton Head Island, SC, Hilton Head, RNAV RWY 21, Amdt 4B
Winnsboro, SC, Fairfield County, NDB or GPS RWY 4, Amdt 3 CANCELLED
Winnsboro, SC, Fairfield County, NDB RWY 4, Amdt 3
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 4, Amdt 3 CANCELLED
Houston, TX, Ellington Field, VOR/DME or TACAN RWY 4, Amdt 3
Baytown, TX, Baytown, VOR or GPS RWY 14, Orig-A CANCELLED
Baytown, TX, Baytown, VOR RWY 14, Orig-A
Baytown, TX, Baytown, VOR or GPS RWY 32, Orig-A CANCELLED
Baytown, TX, Baytown, VOR RWY 32, Orig-A
Hebbronville, TX, Jim Hogg County, NDB or GPS RWY 13, Amdt 2 CANCELLED
Hebbronville, TX, Jim Hogg County, NDB RWY 13, Amdt 2
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 4, amdt 3 CANCELLED
Houston, TX, Ellington Field, VOR/DME or TACAN RWY 4, Amdt 3
Lufkin, TX, Angelina County, VOR/DME RNAV or GPS RWY 7, Amdt 3 CANCELLED
Lufkin, TX, Angelina County, VOR/DME RNAV RWY 7, Amdt 3
Lufkin, TX, Angelina County, VOR/DME RNAV or GPS RWY 15, Amdt 4 CANCELLED
Lufkin, TX, Angelina County, VOR/DME RNAV RWY 15, Amdt 4
Lufkin, TX, Angelina County, VOR or GPS RWY 33, Amdt 13 CANCELLED
Lufkin, TX, Angelina County, VOR RWY 33, Amdt 13
Mc Allen, TX, Mc Allen Miller Intl, NDB or GPS RWY 13, Amdt 6 CANCELLED
Mc Allen, TX, Mc Allen Miller Intl, NDB RWY 13, Amdt 6
Nacogdoches, TX, A. L. Mangham Jr. Regional, NDB or GPS RWY 18, Amdt 1 CANCELLED
Nacogdoches, TX, A. L. Mangham Jr. Regional, NDB RWY 18, Amdt 1
Nacogdoches, TX, A. L. Mangham Jr. Regional, NDB or GPS RWY 36, Amdt 1 CANCELLED
Nacogdoches, TX, A. L. Mangham Jr. Regional, NDB RWY 36, Amdt 1
Plainview, TX, Hale County, VOR or GPS RWY 4, Amdt 8 CANCELLED
Plainview, TX, Hale County, VOR RWY 4, Amdt 8

[FR Doc. 97–9149 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28864; Amdt. No. 1790]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPS. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporry (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 21, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

§ 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs; identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/05/97	FL	Fort Myers	Southwest Flordia Intl	7/1197	ILS Rwy 6, Amdt 4A...
03/05/97	IL	Chicago	Chicago Midway	7/1193	ILS Rwy 4R Amdt 9...
03/05/97	IL	Chicago	Chicago Midway	7/1194	NDB or GPS Rwy 4R Amdt 12...
03/05/97	MN	Minneapolis	Minneapolis-St. Paul Intl (Wold-Chamberlian).	7/1190	ILS Rwy 22 Amdt 4A...
03/05/97	SD	Spearfish	Black Hillsclyde Ice Field	7/1217	GPS Rwy 12 Orig...
03/06/97	NC	Charlotte	Charlotte/Douglas Intl	7/1209	ILS Rwy 36L (CATS I, II, III), Amdt 12A...
03/06/97	SD	Spearfish	Black Hillsclyde Ice Field	7/1218	NDB or GPS–A Orig...
03/10/97	KS	Parsons	Tri-City	7/1241	NDB or GPS Rwy 17 Amdt 8...
03/10/97	KS	Parsons	Tri-City	7/1242	NDB or GPS Rway 35 Amdt 5...
03/10/97	KS	Parsons	Tri-City	7/1243	VOR/DME RNAV Rwy 35 Amdt 5...
03/10/97	KS	Parsons	Tri-City	7/1244	VOR/DME RNAV Rwy 17 Amdt 5...
03/10/97	KS	Parsons	Tri-City	7/1245	VOR–A Orig...
03/12/97	AZ	Phoenix	Phoenix-Deer Valley Muni	7/1294	GPS Rwy 7R Orig...
03/12/97	TX	Fort Worth	Fort Worth Alliance	7/1296	GPS Rwy 16 Orig...
03/12/97	TX	Fort Worth	Fort Worth Alliance	7/1298	ILS Rwy 34 Amdt 2...
03/12/97	TX	Fort Worth	Fort Worth Alliance	7/1299	GPS Rwy 34 Orig...
03/12/97	TX	Fort Worth	Fort Worth Alliance	7/1300	ILS Rwy 16 Amdt 2...
03/13/97	MI	Troy	Big Beaver	7/1337	VOR or GPS–B, Orig...
03/13/97	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	7/1317	Converging ILS Rwy 18R Amdt 3...
03/13/97	WI	Manitowoc	Manitowoc County	7/1322	VOR or GPS Rwy 17, Amdt 14...
03/17/97	CA	Marysville	Yuba County	7/1395	Vor Rwy 14 Amdt 9A...
03/17/97	CA	Marysville	Yuba County	7/1397	ILS Rwy 14 Amdt 4A...
03/17/97	CA	Marysville	Yuba County	7/1399	NDB or GPS Rwy 14 Amdt 3A...
03/17/97	CA	Marysville	Yuba County	7/1401	VOR or GPS Rwy 32 Amdt 10A...
03/17/97	DC	Washington	Washington Dulles Intl	7/1410	ILS Rwy 12, Amdt 6...
03/18/97	CT	Groton	Groton—New London	7/1423	VOR or GPS Rwy 5 Amdt 6...
03/18/97	CT	Groton	Groton—New London	7/1434	ILS Rwy 5 Amdt 10...
03/18/97	IN	Richmond	Richmond Muni	7/1434	ILS/DME Rwy 24 Amdt 2...
03/18/97	IN	Richmond	Richmond Muni	7/1435	VOR or GPS Rwy 24 Admt 12...
03/18/97	IN	Richmond	Richmond Muni	7/1436	VOR or GPS Rwy 6 Amdt 11...
03/18/97	IN	Richmond	Richmond Muni	7/1437	VOR or GPS Rwy 33 Amdt 1...
03/18/97	MI	Detroit	Detroit Metroplitan Wayne County	7/1440	ILS Rwy 27L Orig...

Phoenix

Phoenix-Deer Valley Muni
Arizona
GPS Rwy 7R Orig...
FDC Date: 03/12/97

FDC 7/1294/DVT/ FI/P Phoenix-Deer Valley Muni, Phoenix, AZ. GPS Rwy 7R Orig... S–7R—MDA 2020 HAT 562 all Cats. Phoenix Sky Harbor ALSTG MNMS... S–7R—MDA 2100 HAT 642 all Cats. This is GPS Rwy 7R Orig–A.

Marysville

Yuba County
California
VOR Rwy 14 Amdt 9A...
FDC Date: 03/17/97

FDC 7/1395/MYV FI/P Yuba County, Marysville, CA. VOR Rwy 14 Amdt 9A... Delete Beale AFB ALSTG MNMS. Add Sacramento Intl ALSTG MNMS. S–14—CATS A/B MDA 580, VIS ½ HAT 519, CAT C MDA 580, VIS 1, HAT 519, CAT D MDA 580 VIS 1¼, HAT 519, Circling—CAT A MDA 580, VIS 1, HAA 518; CAT B MDA 600, VIS 1 HAA 538; CAT C MDA 600, VIS 1½, HAA 538; CAT D MDA 700, VIS 2, HAA 638, Change note to read... When local ALSTG not received, use Sacramento, Intl ALSTG, Delete note. When neither received, PROC NA. ALT MNMS—standard NA when Marysville weather not avilable. This is VOR Rwy 14 Amdt 9B.

Marysville

Yuba County
California
ILS Rwy 14 Amdt 4A...
FDC Date: 03/17/97

FDC 7/1397/MYV/ FI/P Yuba County, Marysville, CA. ILS Rwy 14 Amdt 4A... Delete Beale AFB ALSTG MNMS. Add Sacramento Intl ALSTG MNMS. S–14—all CATS DH 322, VIS ½ HAT 261, S–LOC 14—CAT A/B MDA 540, VIS ½, HAT 479. CAT C MDA 540, VIS ¾, HAT 479, CAT D MDA 540, VIS 1, HAT 479, Circling—CAT A MDA 540, VIS 1, HAA 478; CAT B MDA 600, VIS 1 HAA 538; CAT C MDA 600, VIS 1½, HAA 538; CAT D MDA 700, VIS 2, HAA 638, Change note to read... When local ALSTG not received, use Sacramento Intl ALSTG. Delete note. When neither received, PROC NA. ALT MNMS—standard NA when Marysville weather not available. This is ILS Rwy 14 Amdt 4B.

Marysville

Yuba County

California

NDB or GPS Rwy 14 Amdt 3A...

FDC Date: 03/17/97

FDC 7/1399/MYV/ FI/P Yuba County, Marysville, CA. NDB or GPS Rwy 14 Amdt 3A... Delete Beale AFB ALSTG MNMS. Add Sacramento Intl ALSTG MNMS. S–14—CATS A/B MDA 580, VIS ¾ HAT 519, CAT D MDA 580, VIS 1½, HAT 519. Circling—CAT A MDA 580, VIS 1, HAA 519; CAT B MDA 600, VIS 1 HAA 538; CAT C MDA 600, VIS 1½, HAA 538; CAT D MDA 600, VIS 1½, HAA 538, CAT D MDA 700, VIS 2, HAA 638. Change note to read... When local ALSTG not received, use Sacramento Intl ALSTG, Delete note. When neither received, PROC NA. ALT

MNMS—standard NA when Marysville Weather not available. This is NDB or GPS Rwy 14 Amdt 3B.

Marysville

Yuba County
California
VOR or GPS Rwy 32 Amdt 10A...
FDC Date: 03/17/97

FDC 7/1401/MYV/ FI/P Yuba County, Marysville, CA. VOR or GPS Rwy 32 Amdt 10 A...Delete Beale AFB ALSTG MNMS. Add Sacramento Intl ALSTG MNMS. M–32—CATS A/B MDA 560, VIS 1 HAT 499, CAT C MDA 560, VIS 1 1/4, HAT 499, CAT D MDA 560 VIS 1 1/2, HAT 499. Circling—CAT A MDA 560, VIS 1, HAA 498; CAT B MDA 600, VIS 1 HAA 538; CAT C MDA 600, VIS 1 1/2, HAA 538; CAT D MDA 700, VIS 2, HAA 638. Change note to read... When local ALSTG not received, use Sacramento Intl ALSTG. Delete note. When neither received, PROC NA. ALT MNMS—Standard NA when Marysville weather not available. This is VOR or GPS Rwy 31 Amdt 10B.

Groton

Groton–New London
Connecticut
VOR or GPS Rwy 5 Amdt 6...
FDC Date: 03/18/97

FDC 7/1423/GON/ FI/P Groton–New London, Groton, CT. VOR or GPS Rwy 5 Amdt 6...Delete depiction of R–5202 in Plainview. This is VOR or GPS Rwy 5 Amdt 6A.

Groton

Groton–New London
Connecticut
ILS RWY 5 Amdt 10...
FDC Date: 03/18/97

FDC 7/1424/GON/ FI/P Groton–New London, Groton, CT. ILS Rwy 5 Amdt 10...Delete depiction of R–5202 in Plainview. This is ILS Rwy 5 Amdt 10A.

Washington

Washington Dulles Intl
District of Columbia
ILS Rwy 12, Amdt 6...
FDC Date: 03/17/97

FDC 7/1410/IAD/ FI/P Washington Dulles Intl, Washington, DC. ILS Rwy 12, Amdt 6...S–ILS–12 VIS 1/2 All CATS S–LOC–12 MDA/HAT 740/429 all CATS. VIS CAT C 3/4 CAT D 1. Delete note... For INOP MALSR increase S–LOC–12 CAT D VIS to RVR 5000. This is ILS Rwy 12 Amdt 6A.

Fort Myers

Southwest Florida Intl
Florida
ILS Rwy 6, Amdt 4A...
FDC Date: 03/05/97

FDC 7/1197/RSW/ FI/P Southwest Florida Intl, Fort Myers, FL. ILS Rwy 6, Amdt 4A...Delete Planview note... Radar required. Delete remarks note... CAT E procedure turn NA. Add Planview note... ADF or radar required. Add remarks note... CAT E procedure turn NA—radar required. This is ILS Rwy 6, Amdt 4B.

Chicago

Chicago Midway
Illinois
ILS Rwy 4R Amdt 9...
FDC Date: 03/05/97

FDC 7/1193/MDW/ FI/P Chicago Midway, Chicago, IL. ILS Rwy 4R Amdt 9...S–ILS–4R RVR 5000 all CATS. S–LOC–4R RVR 5000 CATS A, B; RVR 6000 CATS C, D. This is ILS Rwy 4R Amdt 9A.

Chicago

Chicago Midway
Illinois
NDB or GPS Rwy 4R Amdt 12...
FDC Date: 03/05/97

FDC 7/1194/MDW/ FI/P Chicago Midway, Chicago, IL. NDB or GPS Rwy 4R Amdt 12...S–4R RVR 5000 CATS A, B. This is NDB or GPS Rwy 4R Amdt 12A.

Richmond

Richmond Muni
Indiana
ILS/DME Rwy 24 Amdt 2...
FDC Date: 03/18/97

FDC 7/1434/RID/ FI/P Richmond Muni, Richmond, IN. ILS/DME Rwy 24 Amdt 2...Delete terminal route CAMMS to rid VORTAC. This is ILS/DME Rwy 24 Amdt 2A.

Richmond

Richmond Muni
Indiana
VOR or GPS Rwy 24 Amdt 12 . . .
FDC Date: 03/18/97

FDC 7/1435/RID/ FI/P Richmond Muni, Richmond, IN. VOR or GPS Rwy 24 Amdt 12 . . . Delete terminal route CAMMS to rid VORTAC. This is VOR or GPS Rwy 24 Amdt 12A.

Richmond

Richmond Muni
Indiana
VOR or GPS Rwy 6 Amdt 11 . . .
FDC Date: 03/18/97

FDC 7/1436/RID/ FI/P / Richmond Muni, Richmond, IN. VOR or GPS Rwy 6 Amdt 11 . . . Delete terminal route CAMMS to rid VORTAC. This is VOR or GPS Rwy 6 Amdt 11A.

Richmond

Richmond Muni
Indiana
VOR or GPS Rwy 33 Amdt 1 . . .
FDC Date: 03/18/97

FDC 7/1437/RID/ FI/P / Richmond Muni, Richmond, IN. VOR or GPS Rwy 33 Amdt 1 . . . Delete terminal route CAMMS to rid VORTAC. This is VOR or GPS Rwy 33 Amdt 1A.

Parsons

Tri-City
Kansas
NDB or GPS Rwy 17 Amdt 8 . . .
FDC Date: 03/10/97

FDC 7/1241/PPF/ FI/P Tri-City, Parsons, KS. NDB or GPS Rwy 17 Amdt 8 . . . Delete note . . . Use Chanute ALSTG; when not received, use Joplin ALSTG and increase all MDAS 60 feet and Denum FIX VSBY CAT D ¼ mile. MNM ALT . . . Denum INT 1900, delete profile note, * 1960 when using Joplin ALSTG. Add . . . Alternate MNMS standard, CAT C and D 1100–3. This is NDB or GPS Rwy 17 Amdt 8A.

Parsons

Tri-City
Kansas
NDB or GPS Rwy 35 Amdt 5 . . .
FDC Date: 03/10/97

FDC 7/1242/PPF/ FI/P Tri-City, Parsons, KS. NDB or GPS Rwy 35 Amdt 5 . . . Delete note . . . Use Chanute ALSTG; when not available, use Joplin ALSTG and increase all MDAS 60 feet and VHALE FIX VSBY CATS C and D 1/4 mile. MNM ALT . . . VHALE INT 1620, delete profile note, * 1680 when using Joplin ALSTG. Add . . . Alternate MNMS standard, CAT C 800–2¼, CAT D 800–2¼. This is NDB or GPS Rwy 35 Amdt 5A.

Parsons

Tri-City
Kansas
VOR/DME RNAV Rwy 35 Amdt 5 . . .
FDC Date: 03/10/97

FDC 7/1243/PPF/ FI/P Tri-City, Parsons, KS. VOR/DME RNAV Rwy 35 Amdt 5 . . . Delete . . . Joplin ALSTG MNMS. Delete note . . . Use Chanute ALSTG; when not available, use Joplin ALSTG. MNM ALT 2.20 ATD from Baraw WPT 1660, delete profile note, * 1740 when using Joplin ALSTG. Add . . . Alternate MNMS standard. This is VOR/DME RNAV Rwy 35 Amdt 5A.

Parsons

Tri-City
Kansas
VOR/DME RNAV Rwy 17 Amdt 5 . . .
FDC Date: 03/10/97

FDC 7/1244/PPF/ FI/P Tri-City, Parsons, KS. VOR/DME RNAV Rwy 17 Amdt 5 . . . Delete . . . Joplin ALSTG

MNMS. Delete note . . . Use Chanute ALSTG; when not available, use Joplin ALSTG. Add . . . Alternate MNMS standard. This is VOR/DME RNAV Rwy 17 Amdt 5A.

Parsons

Tri-City
Kansas
VOR–A Orig . . .
FDC Date: 03/10/97

FDC 7/1245/PPF/ FI/P Tri-City, Parsons, KS. VOR–A Orig . . . Delete note . . . Use Coffeyville ALSTG. Add . . . Alternate MNMS standard. This is VOR–A Orig–A.

Troy

Big Beaver
Michigan
VOR or GPS–B, Orig ...
FDC Date: 03/13/97

FDC 7/1337/3BB/ FI/P Big Beaver, Troy, MI, VOR or GPS–B, Orig ... Missed Approach Holding ... Hold NW, RT, 117/Inbound at DOCCK INT. Delete note ... After 2300 local activate LIRL and VASI 9–27—122.7 Chart VASI 9–27. This is VOR or GPS–B, Orig-A.

Detroit

Detroit Metropolitan Wayne County
Michigan
ILS RWY 27L Orig ...
FDC Date: 03/18/97

FDC 7/1440/DTW/ FI/P Detroit, Metropolitan Wayne County, Detroit, MI. ILS Rwy 27L Orig ... Delete all REF to MM. This is ILS Rwy 27L Orig-A.

Minneapolis

Minneapolis-St. Paul Intl (Wold-Chamberlain)
Minnesota
ILS Rwy 22 Amdt 44A ...
FDC Date: 03/05/97

FDC 7/1190/MSP/ FI/P Minneapolis-St Paul Intl (Wold-Chamberlain), Minneapolis, MN. ILS Rwy 22 Amdt 4A ... S–ILS 22 VIS RVR 5000 all CATS. S–LOC 22 VIS CATS A/B/C/ RVR 5000, CAT D RVR 6000. S–LOC 22 HALPN FIX MNMS—VIS RVR 5000 all CATS. Delete note ... For INOP MALSR, INCR S–LOC 22 CATS A and B and HALPN FIX S–LOC 22 CATS A, B, C, VIS to 10 mile. Delete note ... INOP table does not apply to S–ILS, Add note ... table does not apply to S–ILS 22 and S–LOC 22 CAT A and B. Add note ... for INOP MALSR increase HALPN FIX MNMS S–LOC 22 CAT D and E to RVR 6000. This is ILS Rwy 22 Amdt 4B.

Charlotte

Charlotte/Douglas Intl
North Carolina
ILS Rwy 36L (CATS I, II, III), Amdt 12A ...
FDC Date: 03/06/97

FDC 7/1209/CLT/ FI/P Charlotte/Douglas Intl, Charlotte, NC. ILS Rwy 36L (CATS I, II, III), Amdt 12A ... MIN GS INTCP ALT ... 3400. MARJO DME FIX ... MIN ALT 4600*, *2900 when directed by ATC. This is ILS Rwy 36L (CATS I, II, III), Amdt 12B.

Spearfish

Black Hills-Clyde Ice Field
South Dakota
GPS Rwy 12 Orig ...
FDC Date: 03/05/97

FDC 7/1217/SPF/ FI/P Black Hills-Clyde Ice Field, Spearfish, SD. GPS Rwy 12 Orig ... S–12 ... CAT C and MNMS NA. Circling ... CAT C and D MNMS NA. S–12 ... Ellsworth AFB ALSTG MNMS CAT C and D MNMS NA. Ellsworth AFB ALSTG Circling MNMS ... CAT C and MNMS NA. This is GPS Rwy 12 Orig-A.

Spearfish

Black Hills-Clyde Ice Field
South Dakota
NDB or GPS–A Orig ...
FDC Date: 03/06/97

FDC 7/1218/SPF/ FI/P Black Hills-Clyde Ice Field, Spearfish, SD. NDB or GPS–A Orig ... CAT C and D MNMS NA. Ellsworth ALSTG MNMS CAT C and D MNMS NA. This is NDB or GPS–A Orig A.

Forth Worth

Fort Worth Alliance
Texas
GPS Rwy 16 Orig ...
FDC Date: 03/12/97

FDC 7/1296/AFW/ FI/P Fort Worth Alliance, Fort Worth, TX. GPS Rwy 16 Orig ... Change Rwy ID to 16L. This is GPS Rwy 16L Orig-A.

Fort Worth

Fort Worth Alliance
Texas
ILS Rwy 34 Amdt 2 ...
FDC Date: 03/12/97

FDC 7/1298/AFW/ FI/P Forth Worth Alliance, Fort Worth, TX. ILS Rwy 34 Amdt 2 ... Change Rwy ID to 34R. This is ILS Rwy 34R Amdt 2A.

Fort Worth

Fort Worth Alliance
Texas
GPS Rwy 34 Orig ...
FDC Date: 03/12/97

FDC 7/1299/AFW/ FI/P Forth Worth Alliance, Fort Worth, TX ILS Rwy 34 Orig 2 ... Change Rwy ID to 34R. This is ILS Rwy 34R Orig-A.

Fort Worth

Fort Worth Alliance
Texas
ILS Rwy 34 Amdt 2 ...
FDC Date: 03/12/97

FDC 7/1300/AFW/ FI/P Fort Worth Alliance, Fort Worth, TX. ILS Rwy 16 Amdt 2 ... Change Rwy ID to 16L. This is ILS Rwy 16L Amdt 2A.

Dallas-Fort Worth

Dallas-Fort Worth Intl
Texas
Converging ILS Rwy 18R Amdt 3 ...
FDC Date: 03/13/97

FDC 7/1317/DFW/ FI/P Dallas-Fort Worth Intl, Dallas-Fort Worth, TX. Converging ILS Rwy 18R Amdt 3 ... Missed Approach ... Climbing to 5000 VIA DFW R–174 to JASPA INT/DFW 35 DME. This is converging ILS Rwy 18R Amdt 3A.

Manitowoc

Manitowoc County
Wisconsin
VOR or GPS Rwy 17, Amdt 14 ...
FDC Date: 03/13/97

FDC 7/1322/MTW/ FI/P Manitowoc County, Manitowoc, WI. VOR or GPS Rwy 17, Amdt 14 ... MNM ALT ... MTW 2.40 DME, 1340. MNMS ... S–17 MDA 1340/HAT 689 all CATS, VIS CAT C 1 1/2, CAT D 1 3/4. Circling ... MDA 1340/HAT 689 CATS A, B, C; VIS CAT C2. This is VOR or GPS Rwy 17, Amdt 14A.

[FR Doc. 97–9148 Filed 4–8–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28863; Amdt. No. 1789]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA); DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient

use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPS are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 21, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

§ 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV: § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; And § 97.35 COPTER SIAPs, identified as follows:

Effective April 24, 1997

Presque Isle, ME, Northern Maine Regional Arpt at Presque Isle, VOR or GPS RWY 19, Amdt 9
Presque Isle, ME, Northern Maine Regional Arpt at Presque Isle, VOR/DME RWY 1, Amdt 12
Mansfield, MA, Mansfield Muni, NDB Rwy 32, Amdt 6
Newark, NY, Newark Intl, ILS RWY 22R, Orig
Schenectady, NY, Schenectady County, ILS RWY 4, Amdt 4
Lancaster, PA, Lancaster, ILS RWY 8, Amdt 14

Effective May 22, 1997

Gustavus, AK, Gustavus, VOR/DME RWY 28, Orig
Dillingham, AK, Dillingham, GPS RWY 1, Orig
Dillingham, AK, Dillingham, GPS RWY 19, Orig
Half Moon Bay, CA, Half Moon Bay, GPS RWY 30, Orig
Canon City, CO, Fremont County, GPS RWY 29, Orig
Windsor Locks, CT, Bradley Intl, VOR RWY 15, Amdt 1

Windsor Locks, CT, Bradley Intl, GPS RWY 15, Amdt 2
Apalachicola, FL, Apalachicola Muni, NDB RWY 13, Orig
Apalachicola, FL, Apalachicola Muni, NDB RWY 31, Orig
Sterling Rockfalls, IL, Whiteside County Airport—Joseph H. Bittorf Field, ILS RWY 25, Amdt 10
Sterling Rockfalls, IL, Whiteside County Airport—Joseph H. Bittorf Field, NDB or GPS RWY 7, Amdt 5
Sterling Rockfalls, IL, Whiteside County Airport—Joseph H. Bittorf Field, LOC BC RWY 7, Amdt 5
Wabash, IN, Wabash Muni, GPS RWY 27, Orig
Bangor, ME, Bangor Intl, ILS RWY 15, Amdt 4
Bedford, MA, Laurence G. Hanscom Fld, NDB RWY 11, Amdt 21
Bedford, MA, Laurence G. Hanscom Fld, ILS RWY 11, Amdt 24
Sturgis, MI, Kirsch Muni, GPS RWY 18, Orig
Eveleth, MN, Eveleth-Virginia Muni, VOR/DME RNAV RWY 27, Amdt 2
Eveleth, MN, Eveleth-Virginia Muni, VOR/DME or GPS–A, Amdt 1
Hibbing, MN, Chisholm-Hibbing, VOR or GPS RWY 13, Amdt 12
Hibbing, MN, Chisholm-Hibbing, VOR or GPS RWY 31, Amdt 16
Hibbing, MN, Chisholm-Hibbing, LOC BC RWY 13, Amdt 11
Hibbing, MN, Chisholm-Hibbing, ILS RWY 31, Amdt 11
St Cloud, MN, St Cloud Regional, VOR/DME RWY 13, Amdt 8
St Cloud, MN, St Cloud Regional, VOR RWY 31, Amdt 11
St Cloud, MN, St Cloud Regional, ILS RWY 31, Amdt 2
St Cloud, MN, St Cloud Regional, NDB or GPS RWY 31, Amdt 2
Roswell, NM, Roswell Industrial Air Center, VOR or GPS–A, Amdt 8
Roswell, NM, Roswell Industrial Air Center, NDB RWY 21, Amdt 16
Roswell, NM, Roswell Industrial Air Center, ILS RWY 21, Amdt 17
Roswell, NM, Roswell Industrial Air Center, VOR/DME RNAV RWY 35, Amdt 3
Roswell, NM, Roswell Industrial Air Center, GPS RWY 21, Orig
Canandaigua, NY, Canandaigua, VOR–A, Orig
Burlington, NC, Burlington-Alamance Regional, VOR or GPS RWY 10, Amdt 7A, CANCELLED
Oakes, ND, Oakes Muni, GPS RWY 30, Orig
Batavia, OH, Clermont County, VOR or GPS–B, Amdt 5
Cincinnati, OH, Cincinnati-Blue Ash, NDB RWY 6, Amdt 1
Cincinnati, OH, Cincinnati-Blue Ash, NDB or GPS RWY 24, Amdt 1
Cincinnati, OH, Cincinnati-Blue Ash, GPS RWY 6, Amdt 1
Cincinnati, OH, Cincinnati Muni Airport-Lunken Field, LOC BC RWY 3R, Amdt 8
Cincinnati, OH, Cincinnati Muni Airport-Lunken Field, NDB or GPS RWY 21L, Amdt 12
Cincinnati, OH, Cincinnati Muni Airport-Lunken Field, NDB or GPS RWY 25, Amdt 7
Cincinnati, OH, Cincinnati Muni Airport-Lunken Field, ILS RWY 21L, Amdt 15
Roseburg, OR, Roseburg Regional, VOR–A, Amdt 6
Roseburg, OR, Roseburg Regional, GPS–A, Orig
Allentown, PA, Allentown Queen City Muni, VOR or GPS–B, Amdt 5
Lemmon, SD, Lemmon Muni, GPS RWY 29, Orig
St George, UT, St George Muni, GPS RWY 34, Orig
Marion/Wytheville, VA, Mountain Empire, LOC RWY 26, Amdt 1
Marion/Wytheville, VA, Mountain Empire, NDB RWY 26, Amdt 1
Richmond, VA, Richmond International, VOR RWY 34, Amdt 21
Richmond, VA, Richmond International, GPS RWY 34, Orig
Ephraim, WI, Ephraim-Fish Creek, GPS RWY 32, Orig

[FR Doc. 97–9147 Filed 4–8–97; 8:45 am]
BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Commission Records and Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is amending its rules relating to Commission records and information. The modifications implement the portions of the Electronic Freedom of Information Act Amendments of 1996 which become effective March 31, 1997. As these modifications involve solely agency procedure and practice, public comment is not being sought.

EFFECTIVE DATE: March 31, 1997.

ADDRESSES: Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; or by electronic mail to secretary@cftc.gov.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5120.

SUPPLEMENTARY INFORMATION:

I. Background—Need for Revisions

The Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048 (1996) (''EFOIA''), amended the Freedom of Information Act (''FOIA'') (5 U.S.C. 552) to facilitate the dissemination of agency records created and retained in electronic formats and to assist requesters in obtaining information in the form or format most useful to them. EFOIA provides dates by which certain provisions must be implemented. This notice sets forth the Commission's modifications of its regulations found at 17 CFR Part 145 to implement those EFOIA provisions with a March 31, 1997 effective date. EFOIA provisions with a later effective date will be treated subsequently.

A. Definitions

1. EFOIA Definition

Section 3 of EFOIA amends FOIA by modifying its definition of ''record.'' Consequently, the Commission is revising its definition of ''record'' found at 17 CFR 145.0 to conform to EFOIA usage. Furthermore, because the current definition is inconsistent with *United States Dep't of Justice* v. *Tax Analysts*, 492 U.S. 136, 144–145, 149–154 (1989) (court opinions in agency files held to be agency records), and the Commission's subsequent practice, the definition of ''record'' is also revised by deleting the sentence ''Further, the term 'records,' as used in this Part, does not include materials such as **Federal Register** notices or court filings that are available from public sources other than the Commission.''

2. Alphabetical Order

The definitional section of Part 145 is not in alphabetical order. The Commission believes that re-ordering the definitions alphabetically will make it easier for the user and will facilitate adding or deleting definitions in the future. Consequently, the new definitional section is alphabetized. Additionally, some of the existing definitions are redrafted to conform to the revised format.

B. Availability of Records

Under Section 5 of EFOIA, the Commission is required to make records available in any form or format requested if the Commission can readily reproduce them in that form or format. Accordingly, the Commission is amending § 145.7 to indicate that requesters should specify the form or format (including electronic formats) in which they prefer to receive a response. When requesters do not specify the form or format for a response, the Commission will respond in the form or format in which the document is most accessible to the Commission.

C. Reference Materials and Guides

In accordance with Section 11 of EFOIA, as of March 31, 1997, individuals may obtain a guide for requesting records or information from the Commission which includes an index of all publicly available information of the Commission; a description of major information and record locator systems maintained by the Commission; and guidance for obtaining various types and categories of public information from the Commission. These reference materials will be available at Commission offices for public inspection and copying, and by writing or telephoning the Commission. Consequently, the Commission is modifying §§ 145.2 and 145.7 to include information about access to these materials.

II. Related Matters

Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601, *et seq.* (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined, pursuant to 5 U.S.C. 605(b), that Part 145 rules relating to Commission records and information do not have a significant economic impact on a substantial number of small entities. Because they do not impose regulatory obligations on commodity professionals and small commodity firms, and because the amendments will enhance the FOIA process, the Commission does not expect the rule to have a significant economic impact on a substantial number of small business entities.

Accordingly, pursuant to Rule 3(a) of the RFA (5 U.S.C. 605(b)), the Chairperson, on behalf of the Commission, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comment from any member of the public who believes that these revisions would have a significant impact on small businesses.

List of Subjects in 17 CFR Part 145

Confidential business treatment, Freedom of information.

For the reasons set forth in the preamble, Title 17, Part 145 is amended as follows:

PART 145—COMMISSION RECORDS AND INFORMATION

1. The authority for Part 145 is revised to read:

Authority: Pub. L. 104–231, 110 Stat. 3048, Pub. L. 99–570, 100 Stat. 3207, Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); unless otherwise noted.

2. § 145.0 is revised to read as follows:

§ 145.0 Definitions.

For the purposes of Part 145 the following definitions are applicable:

Assistant Secretary—refers to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance.

Compliance Staff—refers to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's principal office in Washington, DC assigned to respond to requests for information and to handle various other matters under the Freedom of Information Act, the Privacy Act of 1974, and the Government in the Sunshine Act.

Public Records—in addition to the records described in § 145.1 (material published in the **Federal Register**) and in § 145.2 (records required to be made publicly available under the Freedom of Information Act), includes those records that have been determined by the Commission to be generally available to the public directly upon oral or written request from the Commission office or division responsible for the maintenance of such records. A compilation of Commission records routinely available to the public upon request appears in Appendix A to this Part 145.

Nonpublic records—are records not identified in § 145.1, § 145.2, or Appendix A of this Part 145. Nonpublic records must be requested, in writing, in accordance with the provisions of § 145.7.

Record—is any information or agency record maintained by the Commission in any format, including an electronic format. It includes any document, writing, photograph, sound or magnetic recording, videotape, microfiche, drawing, or computer-stored information or output in the possession of the Commission. The term ''record'' does not include personal convenience materials over which the Commission has no control, such as appointment calendars and handwritten notes, which may be retained or destroyed at an employee's discretion.

3. Section 145.2 is revised to read as follows:

§ 145.2 Records available for public inspection and copying; documents published and indexed.

Except as provided in § 145.5, pertaining to nonpublic matters, and in addition to those documents listed in Appendix A to Part 145, Compilation of Commission Records Available to the Public, the following materials are available for public inspection and copying during normal business hours at the Commission's Public Reading Room, located at the principal office of the Commission in Washington, DC and at the regional offices of the Commission:

(a) A guide for requesting records or publicly available information from the Commission which includes:

(1) An index of all publicly available information of the Commission;

(2) A description of major information and record locator systems;

(3) Guidance for obtaining various types and categories of public information from the Commission;

(b) Final opinions and orders of the Commission in the adjudication of cases, including concurring and dissenting opinions;

(c) Statements of policy and interpretations which have been adopted by the Commission and are not published in the **Federal Register**;

(d) Records released in response to FOIA requests that have been, or the Commission anticipates will be, the subject of additional FOIA requests;

(e) Administrative manuals and instructions that affect the public; and

(f) Indices providing identifying information to the public as to the materials made available pursuant to paragraphs (a) through (e) of this section.

4. § 145.7 is amended by adding an introductory paragraph and revising paragraph (a) to read as follows:

§ 145.7 Requests for Commission records and copies thereof.

Requests for Commission records and copies thereof shall specify the preferred form or format (including electronic formats) of the response. The Commission will accommodate requesters as to form or format if the record is readily available in that form or format. When requesters do not specify the form or format of the response, the Commission will respond in the form or format in which the document is most accessible to the Commission.

(a) *Public inquiries and inspection of public records.* Information concerning the nature and extent of available public records may be obtained in person, by telephone, via Internet (http://www.cftc.gov), or by writing to the Commission offices designated in §§ 145.2 and 145.6.

* * * * *

Issued by the Commission.

Dated: April 3, 1997.

Jean A. Webb,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 97–9003 Filed 4–8–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12–35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its Privacy Act regulation to add an exemption to the system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Rollins at (703) 697–8674 or DSN 227–8674.

SUPPLEMENTARY INFORMATION:

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

The Department of the Air Force is amending its Privacy Act regulation to add an exemption to a system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records. The proposed rule was published on January 28, 1997 at 62 FR 4025. No comments were received, therefore, the rule is being adopted as final.

List of subjects in 32 CFR Part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended as follows:

Part 806b – Air Force Privacy Act Program

1. The authority citation for 32 CFR Part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Appendix C to Part 806b is amended by adding paragraph (b)(20) as follows:

Appendix C to Part 806b-General and Specific Exemptions

* * * * *

(b) Specific exemptions.***

(20) *System identifier and name:* F111 AF JA B, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iv) *Reason:* (1) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this

could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

Dated: April 3, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 97–8971 Filed 4–8–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–97–009]

RIN 2115–AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulation for the operation of the Seabrook Highway bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.6 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 7 a.m. and noon and between the hours of 1 p.m. and 6:30 p.m., Monday through Friday, from April 14, 1997 until August 15, 1997. At all other times the bridge will open on signal. This action is necessary for the fender system to be replaced.

DATES: This temporary final rule is effective beginning at 7 a.m. on April 14, 1997 and ending at 6:30 p.m. on August 15, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday. The telephone number is (504) 589–2965. The Eighth Coast Guard District, Bridge Administration Branch, maintains the public docket for this temporary final rule.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address and telephone number given above.

SUPPLEMENTARY INFORMATION:

Discussion of Rule

The Coast Guard was not notified of the dates of the repair work in time to issue a notice of proposed rulemaking. The unsafe condition of the bridge fender system warrants the closures so that remedial work can be accomplished. For the same reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

Vertical clearance of the Seabrook highway bridge across the Inner Harbor Navigation Canal in the closed to navigation position is 46 feet above mean high water. Navigation on the waterway consists of tugs with tows, commercial fishing vessels, crane barges, jack-up boats, oil industry crew vessels, sailing vessels and other recreational craft. A crane barge will be required to occupy the majority of the navigation channel in order to reconstruct the fender system. The barge and related equipment will be removed from the channel from noon until 1 p.m. daily at which time the bridge may be opened to pass marine traffic. The west fender system of the bridge has sustained considerable damage from vessel strikes, compromising its ability to protect the bridge. Replacement of the fender system is necessary for the safety of vehicular and pedestrian traffic crossing the bridge.

The Coast Guard is temporarily changing the regulation for the operation of the Seabrook Highway bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.6 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 7 a.m. and noon and between the hours of 1 p.m. and 6:30 p.m., Monday through Friday from April 14, 1997 through August 15, 1997. At all other times the bridge will open on signal.

The Board of Commissioners of the Orleans Levy Board has requested this temporary final rule so that the west fender system can be replaced. The short term inconvenience, attributable to a delay of vessel traffic for a maximum of five and one-half hours, is outweighed by the long term safety benefits to be gained in replacing the bridge fender system.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule contains no collection-of-information requirements

under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2.g(5) of Commandant Instruction M16475.1B, this temporary final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46; and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

§ 117.458 [Amended]

2. Effective April 14, 1997, through August 15, 1997, § 117.458 is amended by suspending paragraph (b) and adding a new paragraph (d) to read as follows:

§ 117.458 Inner Harbor Navigation Canal.

* * * * *

(d) The draw of the Leon C. Simon Blvd. (Seabrook) bridge, mile 4.6 shall open on signal except that between the hours of 7 a.m. and noon and between the hours of 1 p.m. and 6:30 p.m., Monday through Friday, from April 14, 1997 to August 15, 1997, the draw need not be opened for the passage of vessels.

Dated: April 1, 1997.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 97–9055 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AI37

Medical; Nonsubstantive Miscellaneous Changes

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the medical regulations in 38 CFR part 17 by removing references to provisions that no longer exist, by correcting a number of citations, and by updating a position title. These are nonsubstantive changes.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: LeRoy E. Cossette, Chief, Policies and Operations, Health Administration Service (161A1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 273–8300. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This final rule consists of nonsubstantive changes and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule merely consists of nonsubstantive changes.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, 64.024, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: March 31, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth above, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.30 [Amended]

2. In § 17.30, paragraph (a)(1) is amended by removing ''§§ 17.60(f), 17.120, 17.123, and 17.123a'' and adding, in its place, ''§§ 17.160 through 17.166'', and by removing ''and except for veterans authorized outpatient care under § 17.60(e),''; paragraph (a)(2)(i) is amended by removing ''§ 17.60(a) and (b)'' and adding, in its place, ''§ 17.93(a)''; paragraph (a)(2)(ii) is amended by removing ''§ 17.54(c)'' each time it appears, and adding, in each place, ''§ 17.84(c)''; and paragraphs (a)(3) and (b) are amended by removing ''§ 17.142'' and adding, in its place, ''§ 17.143''.

§§ 17.44, 17.47, 17.49, 17.52, 17.55, 17.82, 17.101, 17.128, 17.142, 17.155, 17.156, 17.180, 17.240, 17.241, and 17.251 [Amended]

3. Sections 17.44(b), 17.47(a)(2), 17.49, 17.52(b) introductory text, 17.55(e), 17.82(a) introductory text, 17.101(a) and (b) introductory text, 17.128(e), 17.142 introductory text, 17.155(a) and (b)(2), 17.156 introductory text and (b), 17.180 introductory text, 17.240 introductory text (2 places), 17.241(a) and (e), and 17.251 are amended by removing ''Chief Medical Director'' wherever it appears and adding, in its place, ''Under Secretary for Health''.

§ 17.103 [Amended]

4. In § 17.103, paragraph (c)(2) is amended by removing ''17.62(b)'' and adding, in its place, ''17.101(b)''.

§ 17.145 [Amended]

5. In § 17.145, paragraph (a) introductory text is amended by removing ''§ 17.100(a)'' and adding, in its place, ''§ 17.143(a)''.

[FR Doc. 97–9027 Filed 4–8–97; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 20

Implementation of Global Package Link Service

AGENCY: Postal Service.

ACTION: Interim rules with request for comments.

SUMMARY: Global Package Link Service (GPL, formerly known as International

Package Consignment Service) is an international mail service designed for companies sending merchandise to other countries. Brazil, Chile, and Germany are now being added as additional destination countries. The Postal Service is also announcing changes in the minimum annual volumes required for GPL. Instead of minimum volume requirements for each country to which service is available, the Postal Service is establishing an annual minimum volume of 10,000 packages to all countries. An interim rule is being announced for merchandise return services for customers using GPL service to Japan and the United Kingdom. Finally, the Postal Service is reorganizing and simplifying the GPL regulations. Interim regulations have been developed and are set forth below for comment and suggested revision prior to adoption in final form.

DATES: The interim regulations take effect April 9, 1997. Comments must be received on or before May 9, 1997.

ADDRESSES: Written comments should be mailed or delivered to Global Package Link Service, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 370 IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Michelson at the above address. Telephone: (202) 268–5731.

SUPPLEMENTARY INFORMATION:

I. Introduction

In late 1994, with implementation of International Package Consignment Service (later renamed Global Package Link) to Japan (59 FR 65961, December 22, 1994), the Postal Service announced that, when feasible, it would expand the service to other destination countries based on customer requests. The Postal Service later expanded GPL by adding Canada and the United Kingdom as destination countries for qualifying customers, and is hereby further expanding GPL by adding Brazil, Chile, and Germany as destination countries for qualifying customers. The Postal Service is also changing other features of GPL. First, it is changing the annual minimum volumes per country to a single minimum volume of 10,000 packages to all countries. It is also establishing a merchandise return service for items sent to the United Kingdom and Japan. The Postal Service has also simplified the regulations governing GPL to make use of the service to multiple countries more uniform. Each of these changes is described below.

II. GPL to Brazil, Chile, and Germany

A. Qualifying Criteria

A customer who wants to use GPL to Brazil, Chile, and Germany will be required to enter into a service agreement with the Postal Service agreeing to meet each of the requirements for using GPL service. First, the customer must mail at least 10,000 GPL packages a year. (Volumes to all GPL countries may be counted toward this minimum. See part IV below.) Second, the customer must designate the Postal Service as its carrier of choice to each country for which it uses GPL service. Third, the customer must link its information systems with those of the Postal Service so that the Postal Service and the customer can exchange data transmissions concerning the customer's packages, and the Postal Service can extract, on an as-needed basis, certain information about the package by scanning the customer-provided barcode on each package.

In general, the information that must be made available to the Postal Service includes the order number; the package identification number; the buyer's name and address; the recipient's name and address; the total weight of the package; the total value of the package contents; the number of items in the package; and, for each item in the package, its SKU number, its value, and its country of origin. In practice, this requirement means that the customer will have to begin the necessary systems work by the time it begins using GPL, and then will have to assist the Postal Service in completing and maintaining the information systems linkages. The Postal Service will use the extracted information to prepare the necessary customs forms and package labels and to provide user-friendly tracking and tracing.

Arrangements between the Postal Service and the customer that are technical in nature also may appear in the GPL service agreement. For instance, the service agreement may describe the electronic data interface (EDI) or proprietary file format that will be used to transmit data between the customer and the Postal Service, as well as the frequency and schedule of transmissions. Similarly, the service agreement may describe the formats and frequencies for any exceptions, and performance reports that the Postal Service will provide to the customer.

B. Processing and Acceptance

If the plant at which the customer's GPL packages originate is located within 500 miles of a GPL processing facility, the Postal Service will verify and accept the packages at the customer's plant and transport them to the GPL processing facility according to a schedule agreed upon by the Postal Service and the mailer.

If the customer's plant from which the GPL packages will originate is located more than 500 miles from a Global Package Link processing facility, the customer can choose one of two processing options:

Option One

The customer will be required to present the packages to the Postal Service for verification at the customer's plant and transport them as a drop shipment to a GPL processing facility according to a schedule agreed upon by the Postal Service and the customer.

Option Two

The customer will process the packages using Postal Service-provided computer system workstations and sort and prepare the packages as required by the Postal Service. Then, the Postal Service will verify and accept the packages at the customer's plant according to a schedule agreed upon by the Postal Service and the mailer, and will transport the packages to a designated GPL processing facility for dispatch.

C. Customs Forms

Normally, all necessary customs forms will be automatically generated by the Postal Service computer workstations. Packages mailed to Brazil, Chile, and Germany through a GPL facility will not be required to bear customs forms when they are tendered to the Postal Service. The Postal Service will verify, accept, and transport these packages to a designated GPL processing facility. After scanning the customer-printed barcode on each package and correlating it with the package-specific information transmitted by the customer, the Postal Service will print the necessary customs forms and affix them to the customer's packages as part of the processing operation at the GPL Processing Facility. If the customer is more than 500 miles from a designated GPL facility and chooses option two, then the customs/GPL label will be affixed by the customer using Postal Service provided workstations.

D. Customs Clearance

The Postal Service has developed A Customs Pre-Advisory System (CPAS)

as part of GPL processing. This electronic system collects package-specific data to satisfy customs requirements as packages are processed using the USPS computer workstations located at a GPL facility. The system electronically advises the USPS delivery agent and customs of the contents of each package mailed. Since this advisory information arrives before the mail, CPAS facilitates and simplifies customs clearance. Electronic pre-notification of the package contents and automatic preparation of required customs declarations assures the fastest clearance through Brazilian, Chilean, or German customs and reduces costs for the customer and the Postal Service. To use CPAS, recipients of merchandise must designate the Postal Service and its customs broker as their agents for customs clearance.

Because of customs regulations in these countries concerning payment of duties at the time of clearance, the mailer may be asked to pre-fund a designated amount of duties before the first shipment, to be replenished after each subsequent shipment.

E. Delivery Options

(1) Brazil

The Postal Service will initially offer one delivery option in Brazil. This option will include home delivery, but will initially be limited to addresses in the cities of Sao Paulo and Rio de Janeiro. The weight limit for packages will be 66 pounds, and the service will provide tracking and tracing.

The Postal Service will transport GPL packages from the customer's plant or from the designated GPL processing facility to Brazil overnight, where they will receive expeditious customs clearance and be released to the delivery agent. From there, the packages will receive courier service and be delivered overnight. Normal delivery times will be two to three business days from dispatch from the U.S. to final delivery. Insurance, as provided under DMM S500, is included at no additional cost.

The Postal Service intends to expand this service to other areas in Brazil outside the cities of Sao Paulo and Rio de Janeiro, as the delivery agent expands its ability to provide an expedited, secure delivery service with tracking for individual packages. The Postal Service requests comments from customers regarding destination areas needed in Brazil.

(2) Chile

The Postal Service will initially offer one delivery option in Chile. This option will include home delivery, but will initially be limited to addresses in the cities of Santiago, Valparaiso, and Vina del Mar. The weight limit for packages will be 70 pounds, and the service will provide tracking and tracing.

The Postal Service will transport GPL packages from the customer's plant or from the designated GPL processing facility to Chile overnight, where they will receive expeditious customs clearance and be released to the delivery agent. From there, the packages will receive courier service and be delivered overnight. Normal delivery times will be two to three business days from dispatch from the U.S. to final delivery. Insurance, as provided under DMM S500, is included at no additional cost.

The Postal Service intends to expand this service to other areas in Chile outside the cities of Santiago, Valparaiso, and Vina del Mar, as the delivery agent expands its ability to provide an expedited, secure delivery service with tracking for individual packages. The Postal Service requests comments from customers regarding destination areas needed in Chile.

(3) Germany

The Postal Service will initially offer one delivery option in Germany. This option will include home delivery. The weight limit for packages will be 70 pounds, and the service will provide tracking and tracing.

The Postal Service will transport GPL packages from the customer's plant or from the designated GPL processing facility to Germany, where they will receive expeditious customs clearance and be released to the delivery agent. From there, the packages will receive courier service and be delivered in one to two days. Normal delivery times will be three to four business days from dispatch from the U.S. to final delivery. Insurance, as provided under DMM S500, is included at no additional cost.

F. Rates

The base rates for GPL service to Brazil, Chile and Germany are set forth below. The Postal Service will charge the base rates, in one pound increments, for the first 100,000 packages mailed by a customer in a 12-month period. Once the customer has mailed 100,000 packages to a country, postage for the rest of the customer's packages to that country (except Germany) in the remainder of that 12-month period will be reduced by 3 percent from the base rates.

III. Merchandise Return Service

A merchandise return service will be available to GPL customers mailing to Japan. The mail order company (MOC) or the Japanese recipient will be responsible for payment of shipping costs to the designated Japanese return center. The return center will open each box, inspect the contents, process the returns, and consolidate for shipment back to the United States. MOC will receive electronic notification of returns on a daily basis. The consolidated returns will be shipped on a mutually agreed upon schedule. The parcels will be uniquely identified and upon arrival in the U.S. will be sent to the MOC via the domestic parcel network. The return prices, per parcel, are detailed in the rate chart.

MERCHANDISE RETURN RATES

Pounds to	Price per item
1	$7.20
2	9.80
3	12.40
4	15.00
5	17.60
6	20.20
7	22.80
8	25.40
9	28.00
10	30.60
11	33.20
12	35.80
13	38.40
14	41.00
15	43.70
16	48.00
17	50.70
18	53.50
19	56.20
20	58.90
21	63.90
22	66.70
23	69.50
24	72.30
25	75.10
26	77.90
27	80.70
28	83.50
29	86.30
30	89.10
31	91.90
32	94.70
33	97.50
34	100.40
35	103.20
36	106.00
37	108.80
38	111.60
39	114.40
40	117.20
41	120.00
42	122.80
43	125.60
44	128.40

A return merchandise service will be available to GPL customers mailing to the U.K. The returns agent will open each box, inspect the contents, and process it for return to the U.S. The returns agent will apply for a refund of

duties and taxes from U.K. Customs. The packages will then be sent to the mailer's designated center for returns in the U.S. The return prices, per parcel, are detailed in the rate chart.

Weight not over (pounds)	Return price
1	$6.93
2	7.40
3	8.79
4	9.26
5	10.66
6	11.12
7	12.52
8	12.99
9	14.38
10	14.85
11	15.32
12	16.72
13	17.18
14	18.58
15	19.05
16	20.44
17	20.91
18	22.31
19	22.77
20	24.17
21	24.64
22	25.10
23	26.50
24	26.97
25	28.37
26	28.83
27	30.23
28	30.70
29	32.09
30	32.56
31	33.96
32	34.42
33	34.89
34	36.29
35	36.75
36	38.15
37	38.62
38	40.02
39	40.48
40	41.88
41	42.35
42	43.74
43	44.21
44	44.68
45	46.07
46	46.54
47	47.94
48	48.40
49	49.80
50	50.27
51	51.67
52	52.13
53	53.53
54	54.00
55	54.46
56	55.86
57	56.33
58	57.72
59	58.19
60	59.59
61	60.05
62	61.45
63	61.92
64	63.32
65	63.78
66	64.25

IV. Minimum Volumes

Minimum volumes to all GPL countries are now being set at a uniform level of 10,000 packages during a 12-month time period. In addition, volumes to any or all GPL destination countries will be applied toward fulfillment of this minimum. This is being done because the rationale for a minimum is that there are fixed costs involved in linking mailers to the GPL system and in providing transportation. Because these fixed costs do not vary depending upon the destination country, a uniform minimum is justifiable.

V. Reorganization of Global Package Link Regulations

The present GPL regulations are found in part 620 of the International Mail Manual and in the Country Pages of the IMM. Particularly with respect to the regulations in the Country Pages, the regulations are redundant and could be consolidated. All regulations that can be consolidated will now be found in 620. Only the GPL rate schedules and associated information will be included in the Country Pages. No substantive changes are made in this consolidation.

VI. Conclusion

Accordingly, the Postal Service hereby adopts GPL service to Brazil, Chile, and Germany, and merchandise return service from Japan and the United Kingdom, on an interim basis, at the rates set forth in the schedules below. The Postal Service also adopts on an interim basis the reorganization of the GPL regulations set forth below. Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning this interim rule.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Effective May 9, 1997, subchapter 620 of the International Mail Manual, Issue 17, is amended as follows:

6 Special Programs

* * * * *

621.3 Availability

Global Package Link service is available only to Brazil, Canada, Chile, Germany, Japan and the United Kingdom.

622 Qualifying Mailers

622.1 General

To qualify for Global Package Link service, a mailer must

a. Send a minimum of 10,000 packages a year;

b. Link its information system with that of the Postal Service;

c. Meet the general and specific preparation requirements for each country;

d. Designate the Postal Service as its carrier of choice to each country for which it uses Global Package Link service; and

e. Enter into a service agreement with the Postal Service.

Each service agreement must contain the following:

The customer's commitment to send at least 10,000 packages to any one or more Global Package Link destination country(s) by Global Package Link during the next 12 months. Combined volumes to any GPL destination country will count toward this 12-month minimum. A customer's failure to meet original volume requirements may result in termination, by the Postal Service, of the right to mail to other destination countries.

If the combined volume of packages to any or all Global Package Link Destination country(s) does not meet the minimum volume for the first 12 months following the effective date of the agreement, the USPS may terminate this agreement by giving the mailer 60 days written notice that it intends to terminate, unless the mailer can demonstrate how it will meet the minimum volume by country within the next year. If the volume frequently fails to meet the minimum volume requirement, this agreement shall be terminated by the USPS upon written notice 30 days in advance of the termination.

622.2 Linking Information Systems

The mailer must link its information system to that of the Postal Service so that (1) The Postal Service and the mailer can exchange data transmissions concerning the mailer's packages, and (2) by scanning the mailer provided

barcode on each package, the Postal Service can extract, on an as-needed basis, the following information about each package to produce necessary customs forms and package labels and to provide tracking and tracing:

a. Order number.
b. Package identification number.
c. Delivery option used for package if more than one level of service is available.
d. Buyer's name and address.
e. Recipient's name and address.
f. Total weight of package.
g. Total value of the package's contents.
h. Total number of items in each package.
i. Numbers of each item in package.
j. SKU or key-word description of each item.
k. Value of each item.
l. Country of origin of each item.

623 General

623.1 Special Services

[No change.]

623.2 Customs Documentation

Except for the acceptance option in 625.22, customs documentation will be produced by the Postal Service from data transmitted by the mailer. Mailers using the procedures in 625.22 are required to produce and affix customs documentation using the workstation provided by the Postal Service.

623.3 Size and Weight Limits

The weight limits for Global Package Link service are 70 pounds for Chile and Germany; 66 pounds for Brazil, Canada, and the United Kingdom; and 44 pounds for Japan. The Japan Economy Service maximum is 4 pounds. Japan Standard and Economy packages weighing less than 1 pound must bear the ''SMALL PACKET'' marking.

The maximum length of GPL packages is 60 inches and the maximum length and girth combined is 108 inches with the following exceptions: Maximum size for Germany is length 47 inches, height 23 inches, width 23 inches. Japan Economy maximum length is 24 inches; height, depth, and length combined is 36 inches. Japan Standard packages weighing less than 1 pound must adhere to the Economy size limitations. All packages must be large enough to accommodate the necessary labels and customs forms on the address side.

623.4 Postage

* * * * *

623.44 Base Rates

The Postal Service will charge the base rates, in 1-pound increments, for the first 100,000 packages mailed by the customer during a 12-month period.

RATE REDUCTIONS

Number of packages	Percent discount
Up to 100,000	Base Rate.
Over 100,000	3% off base rates (except Germany and U.K.: Germany, no discount; U.K., 2%). For Japan discounts see rate table in Japan Country page.

624 Preparation Requirements

[No change.]

625 Acceptance

625.1 Within 500 Miles of a Global Package Link Processing Facility

If the plant from which the customer's Global Package Link packages originate is located within 500 miles of a Global Package Link processing facility, the Postal Service will accept the packages at the customer's plant and transport them by truck to the Global Package Link processing facility according to a schedule agreed upon by the Postal Service and the customer.

625.2 More Than 500 Miles From a Global Package Link Processing Facility

If the customer's plant from which the Global Package Link packages will originate is located more than 500 miles from an Global Package Link processing facility, the customer may choose one of two processing options.

625.21

The customer will present the packages to the Postal Service for verification at the customer's plant and transport them as a drop shipment to a Global Package Link processing facility according to a schedule agreed upon by the Postal Service and the customer.

625.22

The customer will process the packages using Postal Service-provided computer system workstations and will sort and prepare the packages as required by the Postal Service. The Postal Service accepts the packages at the customer's plant and transports them to a designated air mail facility or air exchange office for onward conveyance according to a schedule agreed upon by the Postal Service and the customer.

626 Services Available

626.1 Delivery Options

Delivery options vary according to destination country, as set forth below.

626.11 Premium Service

Premium service is available to all countries (Air Courier for Canada). Packages sent through premium service are transported to the destination country by air where they receive special handling and expedited delivery. The mailer can track premium service packages through delivery. Reports of delivery performance are furnished to the mailer in the formats and at the frequencies agreed upon by the Postal Service and the mailer.

626.12 Standard Service

Standard service is available to Japan, Canada (Ground Courier for Canada), and the United Kingdom. Packages sent through standard service are transported to the destination country by air (or a combination of air/ground to Canada) for delivery. The mailer can track standard service packages through dispatch from the Global Package Link processing facility for Japan and through delivery for Canada and the United Kingdom.

626.13 Economy Service

Economy service is available to Japan and the United Kingdom. Packages sent through economy service are transported to the destination country by air for delivery. Tracking for Economy Service is not available in Japan and available only through the hand-over to the global partner in the United Kingdom.

626.14 Canada Ground Service

Ground Gateway Service will offer ground service to Canada from the designated Ground Gateway facilities and ground transportation to final destination in Canada. It will receive the same expeditious customs clearance as the Ground Courier Service (Standard). For details on special requirements of the Ground Gateway Service, see the Canada Country Page.

626.15 Processing Facilities

Global Package Link packages are processed at a designated Global Package Link processing facility. The Postal Service currently operates Global Package Link processing facilities at JFK International Airport in NYC and near or at airports in Dallas-Fort Worth, Chicago, Miami, Seattle, and San Francisco. Buffalo, NY serves as a facility for Ground Gateway-Canada service only. Seattle also serves as a

Ground Gateway-Canada facility. Other satellite facilities may be used as needed.

626.2 Merchandise Return Service

626.21 Japan

Merchandise return service is available from Japan. The mailer or the recipient is responsible for returning merchandise to the designated Japanese return center where packages will be opened and the contents consolidated for return to the United States. The mailer will receive a daily electronic notification of returns. Returned merchandise will be shipped to the mailer on a mutually agreed upon schedule.

626.22 United Kingdom

A return merchandise service will be available to Global Package Link customers mailing to the United Kingdom. The returns agent will open and inspect the contents of each box and process for return back to the U.S. The returns agent may apply for a refund of duties and taxes from United Kingdom Customs. The packages will then be sent to the mailer's designated center for returns in the U.S. The return prices, per parcel, are detailed in the Global Package Link rate charts in the Country Pages.

626.23 Canada

A return merchandise service will be available to GPL—Canada customers. The mailer or the Canadian recipient will be responsible for shipment costs back to the designated Canadian return center. The return center will open each box, inspect the contents, and process it for return back to the U.S., including applying to Revenue Canada for a refund of duties and taxes to. Upon arrival in the U.S., the parcels will be sent back to the mailer via the domestic parcel network. The return prices, per parcel, are detailed in the Canada Country page.

Insurance and Indemnity

626.31 Premium Service

Packages sent through premium service are insured against loss, damage, or rifling at no additional cost. Indemnity will be paid by the Postal Service in accordance with Domestic Mail Manual S500. Premium service packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay.

626.32 Standard Service

626.321 Japan and Canada

Packages sent through standard service to Japan that weigh more than one pound may be insured at an additional cost (See 320). Packages sent through standard service and Ground Gateway service to Canada are insured for the declared value, up to $100 Canadian. Standard service packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay.

626.322 United Kingdom

Packages sent through standard service to the United Kingdom are insured against loss, damage, or rifling at no additional cost. Indemnity up to $500.00 will be paid by the Postal Service in accordance with Domestic Mail Manual S500. Standard service packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay.

626.33 Economy Service

626.331 Japan

Packages sent through economy service to Japan may not be insured.

626.332 United Kingdom

Packages sent through economy service to the United Kingdom may be insured at an additional cost (see 320). Economy service packages are not insured against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay.

626.4 Customs Clearance

626.41 Customs Forms

Normally all necessary customs forms will be automatically generated by the Postal Service computer workstations. Packages mailed through a Global Package Link processing facility will not be required to bear customs forms when they are tendered to the Postal Service. After scanning the customer-printed barcode on each package and correlating it with the package-specific information transmitted by the customer, the Postal Service will print the necessary customs forms and affix them to the customer's packages as part of the processing operation at the Global Package Link processing facility. A customer utilizing the Global Package Link work station at a location more than 500 miles from a Global Package Link processing facility will be required to affix the customs documentation produced by the Global Package Link work station to each package.

626.42 Customs Clearance

The Postal Service has developed the Customs Pre-Advisory System (CPAS) as part of Global Package Link processing. This electronic system collects package-specific data to satisfy customs requirements as packages are processed using the USPS computer workstations located at Global Package Link processing facilities. The system electronically advises agents in the destination country of the contents of each package mailed. Mailers must provide the Postal Service with the harmonized customs codes for their merchandise for assessing duty. Mailers may obtain harmonized codes themselves or the Postal Service will obtain codes for them. Recipients of merchandise must designate the Postal Service and its agents as the recipients agents for customs clearance.

626.421 Catalog Harmonization Services

[Move from 626.9 to 626.421.]

All catalog harmonization services performed for the Global Package Link mailer by the Postal Service will be billed to the mailer at a rate of $1.25 per catalog item. If the catalog is changed in the future, the new items will also be charged at $1.25 per item. Mailers have the option of performing their own harmonization, provided it is done in a format compatible with the Postal Service's Customs Pre-Advisory System (CPAS) software.

626.43 Payment of Customs Duty

626.431 All Countries Except Japan

For all countries except Japan, the Postal Service will arrange payment of customs duty on behalf of the recipient at the time the merchandise enters the country of destination. Any banking costs or foreign exchange fees applicable to the customs payments will be charged back to the mailer. The Postal Service will notify the mailer electronically of the amount of duty and fees paid and the mailer will reimburse the Postal Service in a manner and within a time agreed between the mailer and the Postal Service. Because of the need to have funds available for customs at the time of clearance in Brazil, Chile and Germany, mailers must make an advance deposit prior to first mailing to cover anticipated duties and taxes in addition to postage. For subsequent mailings, this account must be replenished by the mailer after the actual amount of duties and taxes are assessed. The mailer is responsible for collecting duties and taxes from the recipient (this can be effected when payment for the order is made).

626.432 Japan

In Japan, any customs duties and fees will be collected from the recipient at the time of delivery.

[Delete 626.5 through 627. Section 629.9, Catalog Harmonization, moves to 626.421.]

3. Effective April 9, 1997, the Individual Country Listing for Brazil in the International Mail Manual Issue 17 is amended by adding the following information about Global Package Link to the end of the listing.

GLOBAL PACKAGE LINK TO BRAZIL RATE CHART (PREMIUM SERVICE)

Weight not to exceed (pounds)	Annual volumes	
	No discount under 100,000	More than 100,000
1	12.45	12.08
2	14.32	13.89
3	17.01	16.50
4	18.87	18.31
5	21.59	20.94
6	23.45	22.75
7	26.14	25.36
8	28.01	27.17
9	30.70	29.78
10	32.56	31.59
11	34.43	33.39
12	37.14	36.02
13	39.00	37.83
14	41.70	40.44
15	43.56	42.25
16	46.25	44.86
17	48.12	46.67
18	50.17	48.67
19	52.04	50.47
20	54.67	53.03
21	56.53	54.84
22	58.40	56.65
23	61.05	59.22
24	62.92	61.03
25	65.57	63.60
26	67.43	65.41
27	70.07	67.97
28	71.93	69.77
29	74.59	72.35
30	76.45	74.16
31	79.10	76.73
32	80.97	78.54
33	82.83	80.35
34	85.49	82.92
35	87.35	84.73
36	90.00	87.30
37	91.87	89.11
38	94.52	91.69
39	96.39	93.49
40	99.04	96.07
41	100.90	97.88
42	103.56	100.45
43	105.42	102.26
44	107.29	104.07
45	109.94	106.64
46	111.80	108.45
47	114.46	111.02
48	116.32	112.83
49	118.98	115.41
50	120.84	117.21

GLOBAL PACKAGE LINK TO BRAZIL RATE CHART (PREMIUM SERVICE)—Continued

Weight not to exceed (pounds)	Annual volumes	
	No discount under 100,000	More than 100,000
51	123.49	119.79
52	125.36	121.60
53	128.01	124.17
54	129.87	125.98
55	131.74	127.79
56	134.39	130.36
57	136.26	132.17
58	138.91	134.74
59	140.77	136.55
60	143.43	139.13
61	145.29	140.93
62	147.95	143.51
63	149.81	145.32
64	152.46	147.89
65	154.33	149.70
66	156.19	151.51

* * * * *

4. Effective April 9, 1997, the Individual Country Listing for Chile in the International Mail Manual Issue 17 is amended by adding the following information about Global Package Link to the end of the listing.

GLOBAL PACKAGE LINK TO CHILE RATE CHART (PREMIUM SERVICE)

Weight not to exceed (pounds)	Annual volumes	
	No discount under 100,000	More than 100,000
1	9.70	9.41
2	11.74	11.39
3	13.97	13.56
4	16.02	15.53
5	18.25	17.70
6	20.29	19.68
7	22.52	21.85
8	24.56	23.83
9	26.80	25.99
10	28.84	27.97
11	30.88	29.95
12	33.11	32.12
13	35.15	34.10
14	37.39	36.26
15	39.43	38.24
16	41.66	40.41
17	43.70	42.39
18	45.93	44.56
19	47.98	46.54
20	50.21	48.70
21	52.25	50.68
22	54.29	52.66
23	56.52	54.83
24	58.56	56.81
25	60.80	58.97
26	62.84	60.95
27	65.07	63.12
28	67.11	65.10
29	69.35	67.27

GLOBAL PACKAGE LINK TO CHILE RATE CHART (PREMIUM SERVICE)—Continued

Weight not to exceed (pounds)	Annual volumes	
	No discount under 100,000	More than 100,000
30	71.39	69.25
31	73.62	71.41
32	75.66	73.39
33	77.70	75.37
34	79.94	77.54
35	81.98	79.52
36	84.21	81.68
37	86.25	83.66
38	88.48	85.83
39	90.52	87.81
40	92.76	89.98
41	94.80	91.95
42	97.03	94.12
43	99.07	96.10
44	101.11	98.08
45	103.35	100.25
46	105.39	102.23
47	107.62	104.39
48	109.66	106.37
49	111.89	108.54
50	113.94	110.52
51	116.17	112.68
52	118.21	114.66
53	120.44	116.83
54	122.48	118.81
55	124.52	120.79
56	126.76	122.96
57	128.80	124.93
58	131.03	127.10
59	133.07	129.08
60	135.31	131.25
61	137.35	133.23
62	139.58	135.39
63	141.62	137.37
64	143.85	139.54
65	145.90	141.52
66	147.94	143.50
67	150.17	145.66
68	152.21	147.64
69	154.44	149.81
70	156.48	151.79

5. Effective April 9, 1997, the Individual Country Listing for Germany in the International Mail Manual Issue 17 is amended by adding the following information about Global Package Link to the end of the listing.

GLOBAL PACKAGE LINK TO GERMANY RATE CHART

Weight not to exceed (pounds)	Rate all volumes
1	10.74
2	12.35
3	13.96
4	15.57
5	17.18
6	18.80
7	20.41
8	22.02
9	23.63

GLOBAL PACKAGE LINK TO GERMANY RATE CHART—Continued

Weight not to exceed (pounds)	Rate all volumes
10	25.24
11	26.86
12	28.47
13	30.08
14	31.69
15	33.30
16	34.92
17	36.53
18	38.14
19	39.75
20	41.36
21	42.98
22	44.59
23	46.20
24	47.81
25	49.42
26	51.04
27	52.65
28	54.26
29	55.87
30	57.48
31	59.10
32	60.71
33	62.32

GLOBAL PACKAGE LINK TO GERMANY RATE CHART—Continued

Weight not to exceed (pounds)	Rate all volumes
34	63.93
35	65.54
36	67.16
37	68.77
38	70.38
39	71.99
40	73.60
41	75.22
42	76.83
43	78.44
44	80.05
45	81.66
46	83.28
47	84.89
48	86.50
49	88.11
50	89.72
51	91.34
52	92.95
53	94.56
54	96.17
55	97.78
56	99.40
57	101.01

GLOBAL PACKAGE LINK TO GERMANY RATE CHART—Continued

Weight not to exceed (pounds)	Rate all volumes
58	102.62
59	104.23
60	105.84
61	107.46
62	109.07
63	110.68
64	112.29
65	113.90
66	115.52
67	117.13
68	118.74
69	120.35
70	121.96

6. Effective April 9, 1997, the Individual Country Listing for Great Britain in the International Mail Manual Issue 17 is amended by deleting all Global Package Link regulations and replacing the rate chart for Global Package Link with the following rate chart, including rates for merchandise.

GLOBAL PACKAGE LINK TO GREAT BRITAIN AND NORTHERN IRELAND RATE CHART

[Replace current rate table with the following:]

Weight not over (pounds)	Price per item			
	Premium	Standard	Economy	Returns
1	$13.87	$11.17	$9.95	$6.93
2	15.21	12.46	11.19	7.40
3	16.54	13.75	12.43	8.79
4	17.88	15.04	13.67	9.26
5	19.21	16.32	14.91	10.66
6	20.55	17.61	16.15	11.12
7	21.88	18.90	17.39	12.52
8	23.71	20.18	18.63	12.99
9	25.08	21.47	19.87	14.38
10	26.63	22.76	21.11	14.85
11	28.00	24.05	22.35	15.32
12	29.37	25.33	23.59	16.72
13	30.96	26.62	24.82	17.18
14	32.34	27.91	26.06	18.58
15	33.96	29.20	27.30	19.05
16	35.35	30.48	28.54	20.44
17	36.99	31.77	29.78	20.91
18	38.66	33.06	31.02	22.31
19	40.61	34.35	32.26	22.77
20	42.04	35.63	33.50	24.17
21	43.47	36.92	34.74	24.64
22	44.90	38.21	35.98	25.10
23	46.33	39.49	37.22	26.50
24	47.76	40.78	38.46	26.97
25	49.19	42.07	39.70	28.37
26	50.62	43.36	40.94	28.83
27	53.44	44.64	42.18	30.23
28	54.91	45.93	43.42	30.70
29	56.38	47.22	44.66	32.09
30	57.85	48.51	45.90	32.56
31	59.31	49.79	47.14	33.96
32	60.78	51.08	48.38	34.42
33	62.25	52.37	49.62	34.89
34	63.72	53.65	50.86	36.29
35	65.19	54.94	52.10	36.75
36	66.66	56.23	53.34	38.15
37	68.13	57.52	54.58	38.62
38	69.59	58.80	55.82	40.02

GLOBAL PACKAGE LINK TO GREAT BRITAIN AND NORTHERN IRELAND RATE CHART—Continued

[Replace current rate table with the following:]

Weight not over (pounds)	Price per item			
	Premium	Standard	Economy	Returns
39	72.45	60.09	57.06	40.48
40	73.94	61.38	58.30	41.88
41	75.44	62.67	59.54	42.35
42	76.94	63.95	60.77	43.74
43	78.44	65.24	62.01	44.21
44	79.93	66.53	63.25	44.68
45	81.43	67.82	64.49	46.07
46	82.93	69.10	65.73	46.54
47	84.42	70.39	66.97	47.94
48	85.92	71.68	68.21	48.40
49	87.42	72.96	69.45	49.80
50	88.91	74.25	70.69	50.27
51	90.41	75.54	71.93	51.67
52	91.91	76.83	73.17	52.13
53	93.41	78.11	74.41	53.53
54	94.90	79.40	75.65	54.00
55	96.40	80.69	76.89	54.46
56	97.90	81.98	78.13	55.86
57	99.39	83.26	79.37	56.33
58	100.89	84.55	80.61	57.72
59	102.39	85.84	81.85	58.19
60	103.89	87.13	83.09	59.59
61	105.38	88.41	84.33	60.05
62	106.88	89.70	85.57	61.45
63	108.38	90.99	86.81	61.92
64	109.87	92.27	88.05	63.32
65	111.37	93.56	89.29	63.78
66	112.87	94.85	90.53	64.25

7. Effective April 9, 1997, the Individual Country Listing for Japan in the International Mail Manual Issue 17 is amended by adding the following rate chart for Global Package Link, including rates for merchandise return service.

GLOBAL PACKAGE LINK TO JAPAN

Weight not over (pounds)	Price per item ($)			
	Premium	Standard	Economy	Returns
1	14.35	6.64	5.43	7.20
2	15.69	9.23	9.35	9.80
3	17.80	13.63	13.27	12.40
4	19.91	15.74	17.20	15.00
5	22.02	20.14	.....	17.60
6	27.03	24.93	.....	20.20
7	29.39	29.86	.....	22.80
8	31.76	32.22	.....	25.40
9	34.12	37.15	.....	28.00
10	36.49	39.52	.....	30.60
11	38.85	41.88	.....	33.20
12	41.21	46.81	.....	35.80
13	43.58	49.17	.....	38.40
14	45.94	54.10	.....	41.00
15	48.31	56.47	.....	43.70
16	54.29	65.78	.....	48.00
17	56.82	68.32	.....	50.70
18	59.36	73.60	.....	53.50
19	61.89	76.13	.....	56.20
20	64.42	81.42	.....	58.90
21	71.42	89.55	.....	63.90
22	74.12	92.25	.....	66.70
23	76.83	97.88	.....	69.50
24	79.53	100.58	.....	72.30
25	82.23	106.22	.....	75.10
26	84.93	108.92	.....	77.90
27	87.63	114.56	.....	80.70
28	90.34	117.26	.....	83.50
29	93.04	122.89	.....	86.30
30	95.74	125.59	.....	89.10
31	104.59	139.43	.....	91.90

GLOBAL PACKAGE LINK TO JAPAN—Continued

Weight not over (pounds)	Price per item ($)			
	Premium	Standard	Economy	Returns
32	107.47	142.30	.....	94.70
33	110.34	145.17	.....	97.50
34	113.21	151.16	.....	100.40
35	116.08	154.03	.....	103.20
36	118.95	160.02	.....	106.00
37	121.82	162.89	.....	108.80
38	124.69	168.88	.....	111.60
39	127.56	171.75	.....	114.40
40	130.43	177.73	.....	117.20
41	141.15	191.23	.....	120.00
42	144.19	197.57	.....	122.80
43	147.23	200.61	.....	125.60
44	150.27	203.65	.....	128.40

Discounts for GPL service to Japan are as follows:

a. 25,000 to 100,000 packages: 0%

b. 100,001 to 250,000 packages: 4.75%

c. 250,001 to 500,000 packages: additional 5.75%

d. 500,001 to 1,000,000 packages: additional 6.00%

e. More than 1,000,000 packages: additional 6.25%

8. Effective April 9, 1997, the individual country listing for Canada is amended by removing the following Global Package Link information:

DESCRIPTION, DELIVERY OPTIONS, PROCESSING FACILITIES, PROCESSING AND ACCEPTANCE [Only the part not referring to Ground Gateway Acceptance], REQUIRED PACKAGE SPECIFIC INFORMATION, INSURANCE AND INDEMNITY, CATALOG HARMONIZATION, POSTAGE, SIZE AND WEIGHT LIMITS, CUSTOMS and PREPARATION REQUIREMENTS.

[The following items will be retained in the country page:]

PROCESSING AND ACCEPTANCE [Only the part explaining the Ground Gateway acceptance, including within 500 Miles and More than 500 miles.]

The Rate Chart [With the three levels of service, Air Courier, Ground Courier, Ground Gateway and return service rates.]

* * * * *

Stanley F. Mires,

Chief Counsel Legislative.

[FR Doc. 97–8861 Filed 4–8–97; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN40–01–6988a; FRL–5694–4]

Approval and Promulgation of State Implementation Plan; Minnesota; Enhanced Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves the State Implementation Plan (SIP) submitted by the State of Minnesota. The State's revision expands the types of testing and monitoring data, including stack and process monitoring, which can be used directly for compliance certifications and enforcement.

DATES: This ''direct final'' rule is effective June 9, 1997 unless Environmental Protection Agency (EPA) receives adverse or critical comments by May 9, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

Comments may be mailed to: Carlton T. Nash, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Brad J. Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION:

I. Background

In 1990, Section 114 of the Clean Air Act (Act) was amended to require the Administrator of EPA to promulgate rules implementing an enhanced monitoring and compliance program for major stationary sources of air pollution. EPA determined that certain SIPs may preclude EPA and the States from implementing such a program because the SIPs may be interpeted to limit the types of testing and monitoring data that may be used for determining compliance and establishing violations. Therefore, EPA issued a SIP call to those States whose SIPs may have limited the types of testing and monitoring data that may be used for determining compliance and establishing violations.

On March 24, 1994, EPA issued a SIP call to the State of Minnesota to revise its SIP. As part of the SIP call EPA provided draft SIP language to the State. The SIP call clarified that any monitoring approved for the source (and included in a federally enforceable operating permit) may form the basis of the compliance certification, and that any credible evidence may be used for purposes of enforcement in Federal court.

II. State Submittal

On March 14, 1995, the Minnesota Pollution Control Agency (MPCA) made an official plan submission in response to the EPA's SIP call. The submittal included the State's public notice requesting comments or a public hearing on the proposed rule changes. No public comments were received nor was there a request for a public hearing.

The submittal also included Minnesota Statute §§ 7007.0800 Subpart 6 and 7017.0100 Subpart 1 and 2. These rules were amended to comply with the new enhanced monitoring requirements.

III. Analysis of State Submittal

The model rule provided by the EPA consisted of two parts. The first part of the model rule concerned compliance certification, while the second part concerns enforcement.

A. Compliance Certifications

EPA's model rule concerning compliance certification provides that for the purpose of submission of compliance certifications the owner or operator is not prohibited from using an enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64, or any other monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit.

The amended rules submitted by MPCA clearly meet the requirements established in EPA's model rule. Subpart 6 of § 7007.0800 refers not only to the Federal SIP, but to all ''applicable requirements,'' which would include all MPCA rules that regulate emission permit sources. All Federal SIP provisions are by definition included with ''applicable requirements,'' in Subpart 7, § 7007.0100.

Similarily Subpart 6 of § 7007.0800 will cover not only all Federally enforceable permits, but also any monitoring method issued as part of a State permit even if it is not federally enforceable.

B. Enforcement

EPA's suggested language concerning enforcement provides that ''any credible evidence'' may be used for the purpose of establishing whether a person has violated the applicable sections of the SIP. In addition, EPA's model rule lists methods that are to be considered presumptively credible evidence of whether a violation occurred at a source, as well as which testing, monitoring or information gathering methods are presumptively credible.

The amended rules submitted by MPCA clearly meet the requirements established in EPA's model rule. The language added to § 7017, Subparts 1 and 2, gives evidentiary standing to essentially any monitoring method which a source is required to use by either an applicable requirement or a compliance document, and to any other credible evidence. The definitions of applicable requirement and compliance document are so broad as to include all the sources of monitoring requirements listed in EPA's model rule.

C. Concluding Statement

In large part the State's rule follows the EPA's model rule. In fact, the State only deviates from EPA's model rule by expanding its coverage. Minnesota's amendments go beyond the scope of the model rule to not just the specific situations that the EPA expressed concern about, but also similar situations coming under the MPCA's jurisdiction. Therefore, EPA believes this revision will enhance the State's capability for determining compliance with, and for establishing violations of, the underlying emission limitations.

IV. Action

The EPA is approving a revision to Minnesota's SIP. The revision expands the types of testing and monitoring data, including stack and process monitoring, which can be used directly for compliance certifications and enforcement.

V. Administrative Requirements

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

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

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

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

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

F. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 7, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(44) This revision provides for data which have been collected under the enhanced monitoring and operating permit programs to be used for compliance certifications and enforcement actions.

(i) Incorporation by reference.

(A) Minnesota Statutes, sections 7007.0800 Subpart 6.C.(5), 7017.0100 Subparts 1 and 2, both effective February 28, 1995.

[FR Doc. 97–8969 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA126–0030; FRL–5804–5]

Approval and Promulgation of Implementation Plans; California—Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action corrects language to Title 40 of the Code of Federal Regulations that appeared in two final rules published in the **Federal Register** on January 8, 1997 and one direct final rule published in the **Federal Register** on January 17, 1997.

EFFECTIVE DATE: This action is effective on April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1184.

SUPPLEMENTARY INFORMATION: On January 8, 1997 at 62 FR 1149 and 62 FR 1187, EPA published two final rulemaking actions approving various sections of the California State Implementation Plan (SIP). Also, on January 17, 1997 at 62 FR 2597, EPA published a direct final rulemaking action approving sections of the California SIP. All three of these actions resulted in amendments to 40 CFR Part 52, Subpart F. These amendments which incorporated material by reference into section 52.220, Identification of plan, subparagraph (c)(213) do not accurately reflect the three regulatory actions. These amendments are being corrected in this action. In addition, the January 17, 1997 action contained two omissions which appeared in 40 CFR 52.220, subparagraphs (c)(207)(i)(E) and (c)(225)(i)(E). These subparagraphs should have been identified as Monterey Bay Unified Air Pollution Control District. The identification of these two subparagraphs is also being corrected in this action.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 14, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by revising paragraphs (c)(207)(i)(E), (c)(213) and (c)(225)(i)(E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(207) * * *

(i) * * *

(E) Monterey Bay Unified Air Pollution Control District.

* * * * *

(213) California Statewide Emission Inventory submitted on March 30, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) 1990 Base-Year Emission Inventory for Ozone Nonattainment Areas in California.

(*i*) Sacramento, San Diego, San Joaquin Valley, South Coast, Southeast Desert, Ventura.

(*ii*) Santa Barbara.

(*iii*) Monterey Bay Area.

* * * * *

(225) * * *

(i) * * *

(E) Monterey Bay Unified Air Pollution Control District.

* * * * *

[FR Doc. 97–9007 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–5801–9]

Approval and Promulgation of Air Quality Implementation Plans; Vermont; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Volatile Organic Compounds not Covered by Other Category-Specific Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont. This revision establishes and requires Reasonably Available Control Technology (RACT) at major stationary sources of nitrogen oxide (NO_X) emissions and major stationary sources of volatile organic compound (VOC) emissions which are not subject to other category-specific VOC control regulations in Vermont. The intended effect of this action is to approve a number of regulatory amendments and source-specific RACT determinations in accordance with the Clean Air Act.

DATES: This action will become effective June 9, 1997, unless notice is received by May 9, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, (617) 565–2773, or Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: On August 9, 1993, the Vermont Agency of Natural Resources (''Vermont'' or ''VT ANR'') submitted to EPA a number of revisions to its State implementation plan (SIP). EPA is acting on several of those submittals. First, section 5–101 was amended to add a definition of ''Reasonably Available Control Technology.'' Second, subsection 5–251(2), ''Reasonably available control technology for large stationary sources'' was added which requires major stationary sources of NO_X to install, maintain, and use NO_X RACT. And third, Vermont also added subsection 5–253.20, ''Other Sources That Emit Volatile Organic Compounds,'' which defines RACT requirements for major stationary sources of VOC which are not subject to any other VOC regulations under Section 5–253.

Regarding NO_x RACT, there are three major stationary sources of NO_X emissions in Vermont. Two of the NO_X facilities are covered by federally enforceable permits which define ''most stringent emission rate'' (MSER) NO_X limitations. MSER limitations are not always considered equivalent to RACT limits. However, on June 6, 1994, Vermont submitted to EPA copies of the permits for Ryegate Power Station and Burlington Electric Department and EPA determined that these MSER limits were equivalent to, or more stringent than, NO_X RACT limits and technology standards. For the third major stationary NO_X source, on March 20, 1995, Vermont submitted a source-specific consent order which defined NO_X RACT for Simpson Paper Company's Gilman facility to EPA as a SIP revision.

Regarding VOC RACT, section 5–253 contains a number of VOC control regulations which were developed in response to EPA's issuance of control technique guideline (CTG) documents. These regulations define RACT for various categories of VOC sources. However, subsection 5–253.20 applies to major stationary sources of VOCs which are not covered by the CTG-based rules. In other words, subsection 5–253.20 is a non-CTG VOC RACT regulation. This regulation only applies to U.S. Samaica Corporation in Rutland, Vermont. On March 20, 1995, Vermont submitted a source-specific SIP revision defining non-CTG VOC RACT for U.S. Samaica's Rutland facility.

By this action, EPA is approving section 5–101, subsection 5–251(2), subsection 5–253.20, the source-specific NO_X RACT determination for Simpson Paper Company, and the source-specific VOC RACT determination for U.S. Samaica, and incorporating them into the Vermont SIP. This action will have a beneficial effect on air quality. It is expected to reduce NO_X emissions at Simpson Paper by 30 to 50%, and VOC by at least 81% at U.S. Samaica from an uncontrolled baseline. This action is being taken under Section 110 of the Clean Air Act.

I. Summary of SIP Revision

A. Clean Air Act Requirements

Sections 182(b)(2), 182(f), and 184(b) of the Clean Air Act (CAA) require States to develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of NO_X and VOC emissions in areas classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' ozone nonattainment areas, as well as in all areas of the Ozone Transport Region. These sections of the CAA, taken together, establish the requirements for Vermont to submit RACT regulations which cover major sources of VOC and NO_X statewide.

Section 182(b)(2) requires States located in areas classified as moderate ozone nonattainment areas to require implementation of RACT with respect to all major sources of volatile organic compounds (VOC). Additionally, section 182(f) states that, ''The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen.'' This RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications.

Unless already classified at a higher nonattainment level, section 184(b)(2) requires major stationary sources in the Ozone Transport Region to meet the requirements which would be applicable to major sources if the area were classified as a moderate nonattainment area. The State of Vermont is currently in attainment of the ozone National Ambient Air Quality Standard (NAAQS). However, section 184(a) of the CAA defines an Ozone Transport Region within the northeastern United States, which includes Vermont.

Section 302 of the CAA generally defines ''major stationary source'' as a facility or source of air pollution which has the potential to emit 100 tons per year or more of air pollution. This definition applies unless another provision of the CAA explicitly defines major source differently. Therefore, for NO_X, a major source is one with the potential to emit 100 tons per year or more in marginal and moderate areas, as well as in attainment areas in the OTR. For VOC emissions, section 184(b)(2) specifies that in the OTR a major stationary source is one with the potential to emit of 50 tons per year or more.

The amendments to section 5–101, section 5–251, and section 5–253, as well as the source-specific RACT

determinations for Simpson Paper and U.S. Samaica were submitted in response to the CAA requirements.

B. Regulatory Background

On January 23, 1991, EPA sent a letter notifying Vermont that the CAA mandated that within 2 years of enactment, States submit SIP revisions which require the implementation of RACT for all major stationary sources of VOC and NO_X. On January 26, 1993, the VT ANR submitted proposed amendments to sections 5–101, 5–251 and 5–253 of the Regulations to EPA for comment. Vermont held a public hearing on these rules on March 10, 1993. EPA submitted written comments on the proposed regulations on March 18, 1993. The regulations were adopted on July 9, 1993 and became effective on August 13, 1993.

Vermont submitted the adopted definition, non-CTG VOC RACT, and NO_X RACT regulations as a formal SIP submittal to EPA on August 9, 1993. On October 25, 1993, EPA sent Vermont a letter requesting that Vermont commit to submitting to EPA for approval source-specific RACT determinations for the RACT-subject sources as well. The SIP submittals for the RACT regulations were deemed technically and administratively complete by operation of law on February 10, 1994. Subsequently, on March 20, 1995, Vermont submitted 2 case-specific SIP revisions, defining NO_X RACT requirements at Simpson Paper Company's Gilman facility, and VOC RACT at U.S. Samaica's Rutland facility. On September 15, 1995, EPA sent a letter to Vermont deeming both case-specific submittals technically and administratively complete.

C. Description of Submittal

In this submittal, Vermont amended section 5–101 to include a definition for ''Reasonably Available Control Technology.'' Vermont also added subsection 5–251(2), ''Reasonably available control technology for large stationary sources,'' which establishes a requirement that RACT be installed and operated at all major stationary sources of NO_X by May 31, 1995. Additionally, Vermont added subsection 5–253.20, ''Other Sources That Emit Volatile Organic Compounds,'' which defines RACT requirements for major stationary sources of VOCs which are not covered by other VOC regulations in Vermont.

Regarding NO_X RACT, subsection 5–251(2) is completely generic, meaning that the rule does not set emission limitations or technology standards for any sources. Instead, the regulation requires sources to submit compliance plans to the State by November 15, 1993 and to install and operate RACT by May 31, 1995. Subsection 5–251(2)(d) allows equipment subject to a federally enforceable ''most stringent emission rate'' (MSER) NO_X limitation, which is similar to EPA's ''Best Available Control Technology'' (BACT) under 40 CFR 51.166, to be exempt from the RACT requirements. Since the regulation lacks specific NO_X emission limitations, technology standards, and compliance assurance requirements, all sources subject to subsection 5–251(2) must have RACT defined on a case-by-case basis by VT ANR. Such case-specific RACT determinations must then be approved by EPA as revisions to Vermont's SIP.

Although generic RACT rules would generally mean many source-specific SIP revisions, Vermont's NO_X RACT rules only apply to two wood fired boilers and one wood/gas fired boiler. Two of these sources are currently subject to federally enforceable MSER permit limits. First, a wood fired boiler using flue gas recirculation (FGR) in combination with selective non-catalytic reduction (SNCR) is required to meet an emission limit of 0.13 pound NO_X per million Btu (#NO_X/MBtu) heat input on an hourly basis, demonstrated with a continuous emission monitoring system (CEMS). And second, a wood/gas fired boiler using FGR and low-NO_X burners for gas firing and FGR and good combustion practices for wood firing is required to meet emission limitations of 0.25 #NO_X/MBtu for wood and 0.12 #NO_X/MBtu for gas on an hourly basis, demonstrated by CEMS.

The emission limits to which these sources are subject are consistent with EPA and the Northeast States for Coordinated Air Use Management (NESCAUM) recommendations for natural gas firing (i.e., 0.20 #/MBtu) at utility boilers. Although neither EPA or NESCAUM have developed recommended emission limits for wood firing, the current MSER limits (0.13 #NO_X/MBtu and 0.25 #NO_X/MBtu) are reasonable when compared to the EPA and NESCAUM recommendations for gas and oil firing, which range from 0.20 #NO_X/MBtu to 0.43 #NO_X/MBtu. These MSER limits can be considered to be at least as stringent as RACT for these sources. Therefore, the exemption under subsection 5–251(2)(d) is approvable.

The third major stationary source of NO_X in Vermont, Simpson Paper Company's Gilman facility, is subject to the NO_X RACT requirement of subsection 5–251(2). On January 4, 1995, VT ANR issued an administrative order defining NO_X RACT for this facility. This NO_X RACT determination consists of emission limitations and control technology requirements for the Zurn wood-fired boiler and, no additional control requirements for the four Babcock and Wilcox residual oil fired auxiliary boilers.

For the Zurn boiler, RACT was determined to be an emission rate limitation of 0.30 #NO_X/MBtu and a mass discharge rate limitation of 54 #NO_X/hour. These emission limitations must be met on a 24 hour rolling average. Compliance with the limitations is determined by a NO_X CEMS. Records are required to be kept for five years and quarterly reports to the VT ANR are also required. For Simpson's four oil-fired boilers, since they have historically operated at less than 1% of their capacity, Vermont has determined that they are auxiliary boilers and additional NO_X controls would not be cost effective.

Although neither EPA or NESCAUM have developed recommended emission limits for wood firing, limit of 0.30 #NO_X/MBtu are reasonable when compared to the EPA and NESCAUM recommendations for gas and oil firing, which range from 0.20 #/MBtu to 0.43 #/MBtu. Also, although 0.30 #NO_X/MBtu is higher than the two NO_X MSER limits mentioned above, as described earlier in the notice, the lower MSER limits were determined as part of the construction permit process for new emission units. The higher NO_X limit for the Zurn boiler is reasonable considering the technical and economic feasibility of retrofitting an older existing boiler.

Regarding VOC RACT, subsection 5–253.20 of the Vermont Regulations applies to stationary sources with the potential to emit of at least 50 tons of VOC which are not subject to other VOC regulations in section 5–253, which have been developed subsequent to EPA's development of Control Technique Guideline (CTG) documents. This non-CTG regulation defines RACT as either an overall reduction in uncontrolled VOC emissions of at least 81% by weight, or, for coating units, a daily weighted average of VOC content in the coatings of 3.5 pounds of VOC per gallon of coating applied (excluding exempt solvents). The rule also sets out process by which a facility can apply for an alternative RACT limit. However, subsection 5–253.20 does not contain specific compliance assurance requirements, such as emissions testing, monitoring, recordkeeping, and reporting requirements, which are required as part of an approvable RACT regulation. Therefore, for all sources subject to this regulation, Vermont must define these specific compliance

assurance requirements as part of case-specific RACT determinations and submit such determinations to EPA as revisions for approval into the Vermont SIP.

On November 15, 1993, Vermont sent a letter to EPA committing the State to submitting a case-specific SIP revision for the one major non-CTG VOC source subject to subsection 5–253.20. Accordingly, on March 20, 1995, Vermont submitted to EPA an administrative order for U.S. Samaica Corporation which requires the company to use incineration control devices, which achieve an 81% overall VOC control, on two of their process lines and to shut down their third process line by May 31, 1995. The administrative order also contains enforceable emissions testing, monitoring, recordkeeping, and reporting requirements.

II. Final Action

EPA is approving the following regulatory amendments into the Vermont SIP at this time. First, EPA is approving the amendment to section 5–101, which adds a definition for RACT to the Vermont regulations. Second, EPA is approving the addition of subsection 5–251(2), as well as the source-specific RACT determination for Simpson Paper Company, which together define NO_x RACT for Vermont. And finally, EPA is approving the addition of subsection 5–253.20, as well as the source-specific RACT determination for U.S. Samaica Corporation, which together define non-CTG VOC RACT for the State.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 9, 1997 unless adverse or critical comments are received by May 9, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 9, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment on the proposed rule rather than filing a petition for judicial review challenging the final rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 8, 1997.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart UU—Vermont

2. Section 52.2370 is amended by adding paragraph (c)(22) to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) * * *

(22) Revisions to the State Implementation Plan submitted by the Vermont Air Pollution Control Division on August 9, 1993 and March 20, 1995.

(i) Incorporation by reference.

(A) Letters from the Vermont Air Pollution Control Division dated August 9, 1993 and March 20, 1995 submitting revisions to the Vermont State Implementation Plan.

(B) Regulations, including section 5–101, ''Definitions,'' subsection 5–251(2), ''Reasonably available control technology for large stationary sources,'' and, subsection 5–253.20, ''Other Sources That Emit Volatile Organic Compounds,'' adopted on July 9, 1993 and effective on August 13, 1993.

(C) Administrative orders for Simpson Paper Company, in Gilman, Vermont, and, U.S. Samaica Corporation, in Rutland, Vermont, both adopted and effective on January 4, 1995.

3. In § 52.2381, Table 52.2381 is amended by adding a new entry to the end of existing state citation for section 5–101, ''Definitions,''; adding two new entries to the end of the existing state citation for section 5–251, ''Control of Nitrogen Oxides Emissions,'' and by adding new state citation for section 5–253.20, ''Other Sources That Emit Volatile Organic Compounds,'' to read as follows:

§ 52.2381 EPA—approved Vermont State regulations.

* * * * *

TABLE 52.2381.—EPA-APPROVED REGULATIONS

[Vermont SIP regulations 1972 to present]

State citation, title and subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.2370	Comments and unapproved sections
*	*	*	*	*	*
Section 5–101 Definitions	7/9/93	4/9/97	62 FR 17087	(c)(22)	Adds definition of reasonably available control technology (RACT).
*	*	*	*	*	*
Section 5–251 Control of nitrogen oxides emissions.	7/9/93	4/9/97	62 FR 17087	(c)(22)	Requires RACT for major stationary sources of NO_X.
	1/4/95	4/9/97	62 FR 17087	(c)(22)	NO_X RACT for Simpson Paper Company's Gilman facility
Section 5–253 control of volatile organic compounds.	7/9/93	4/9/97	62 FR 17087	(c)(22)	Requires RACT at non-CTG VOC sources.
	1/4/95	4/9/97	62 FR 17087	(c)(22)	Non-CTG VOC RACT for U.S. Samaica Corporation's Rutland facility.
*	*	*	*	*	*

[FR Doc. 97–9014 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5801–1]

Approval and Promulgation of Air Quality Implementation Plans; Reasonably Available Control Technology for Nitrogen Oxides for the State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NO_X). The intended effect of this action is to approve regulatory provisions and source specific orders which require major stationary sources of NO_X to reduce their emissions statewide in accordance with requirements of the Clean Air Act.

DATES: This action is effective June 9, 1997, unless notice is received by May

9, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Office Ecosytem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; as well as the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region 1, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) requires that States develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of nitrogen oxides (NO_X) in areas which have been classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the CAA.

These CAA NO_X requirements are further described by EPA in a notice entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' published November 25, 1992 (57 FR 55620). The November 25, 1992 notice, also known as the NO_X Supplement, should be referred to for more detailed information on NO_X requirements. Additional guidance memoranda which have been released by EPA should also be referred to for more information on NO_X requirements.

New Hampshire has three designated ozone nonattainment areas. First, the area which includes all of Merrimack County, part of Hillsborough County, and part of Rockingham County is classified as a marginal nonattainment area (see 40 CFR Part 81 for the list of affected towns). Second, all of Strafford County and part of Rockingham County is classified as a serious non-attainment area (see 40 CFR Part 81, § 81.330 for the list of affected towns). And third, the part of southern New Hampshire that is located within the Boston-Lawrence-Salem Consolidated Metropolitan Statistical Area (CMSA) is also classified as a serious nonattainment area (see 40 CFR Part 81, § 81.330 for the list of affected towns). Additionally, section 184(a) of the CAA also defines an ozone transport region within the northeastern United States, which includes all of the State of New Hampshire.

Section 182(b)(2) of the CAA requires States to require implementation of RACT with respect to all major sources of volatile organic compounds (VOCs). This RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications. Section 182(f) states that, ''the plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen.'' Additionally, section 184(b)(2) requires major stationary sources in the OTR to meet the requirements applicable to major sources if the area were classified as a moderate nonattainment area, unless already classified at a higher nonattainment level. These sections of the CAA, taken together, establish the requirements for New Hampshire to submit a NO_X RACT regulation which covers major sources statewide.

Section 302 of the CAA generally defines ''major stationary source'' as a facility or source of air pollution which has the potential to emit 100 tons per year or more of air pollution. This definition applies unless another provision of the CAA explicitly defines major source differently. Therefore, for NO_X, a major source is one with the potential to emit 100 tons per year or more in marginal and moderate areas, as well as in attainment areas in the OTR. However, for serious nonattainment areas, a major source is defined by section 182(c) as a source that has the potential to emit 50 tons per year or more.

In New Hampshire's Strafford County, in the part of Rockingham County that is classified as serious nonattainment, and in the Boston-Lawrence-Salem CMSA, a major stationary source of NO_X is a facility which has a potential to emit 50 tons per year or more of NO_X. Such a facility is therefore subject to NO_X RACT requirements. Throughout the rest of the State, a major stationary source of NO_X is a facility with the potential to emit 100 tons or more per year of NO_X. These sources would also be subject to NO_X RACT requirements. Part Env-A 1211 and the source-specific NO_X RACT determination, order number ARD–95–001 for Groveton Paperboard, Incorporated were submitted in response to the CAA requirement that RACT be required for all major sources of NO_X.

II. State Submittal

The New Hampshire Department of Environmental Services (New Hampshire or NHDES) submitted the NO_X RACT program as a number of revisions to the New Hampshire State implementation plan (SIP). First, on June 17, 1994, NHDES submitted a revision consisting of amendments to Chapter Env-A 1200, specifically Part Env-A 1211, ''Nitrogen Oxides (NO_X),'' which defines Reasonably Available Control Technology (RACT) requirements for sources of NO_X. Part Env-A 1211 also contains ''Phase II NO_X emission limits'' for certain types of utility boilers, which are required to be implemented by May 1, 1999.

In addition to the general NO_X RACT regulations in Part Env-A 1211, on July 7, 1995, New Hampshire submitted a source specific NO_X RACT determination for Groveton Paperboard, Incorporated, order number ARD–95–001, which covers processes subject to the miscellaneous NO_X RACT provisions of Part Env-A 1211. On September 18, 1995, New Hampshire submitted an emissions averaging plan, order number ARD–95–002, for Plymouth Cogeneration Limited Partnership, of Plymouth, New Hampshire. And similarly, on October 18, 1995, New Hampshire submitted an alternative NO_X RACT determination for Waterville Valley Ski Area Limited Partnership, order number ARD–95–003, as a revision to the SIP.

In addition to these SIP submittals, on December 21, 1992, New Hampshire submitted Chapter Env-A 900, Part Env-A 901 to EPA as a proposed SIP revision, which includes sections Env-A 901.06, ''NO_X Recordkeeping Requirements,'' and 901.07, ''NO_X Reporting Requirements.'' Sections Env-A 1211.03 through Env-A 1211.13 reference the requirements of sections Env-A 901.06 and Env-A 901.07 as part of the recordkeeping and reporting

requirements for sources subject to NO_X RACT.

III. Description of Submittal

The following is a description of the changes being approved in this action. For a more detailed discussion of New Hampshire's submittal and EPA's proposed action, the reader should refer to the Technical Support Document developed as part of this action. Copies of the Technical Support Document are found at the previously mentioned addresses.

A. Part Env-A 1211

New Hampshire's rule, Part Env-A 1211 Nitrogen Oxides is divided into twenty-two sections. Section 1211.01 defines terms used in the rule. Sections 1211.02 covers applicability of the regulation. Applicability is determined based on combined maximum heat input for each source type for: utility boilers, steam electric boilers, industrial boilers, stationary combustion turbines, stationary internal combustion engines, asphalt plant dryers, and incinerators. For wallboard dryers, calcining mills, calciners and gypsum rock dryers, as well as emergency generators, auxiliary boilers, load shaving units, and categories which fall under the definition of miscellaneous stationary source, emission units are subject to the rule if they are located at a facility which has potential NO_X emissions greater than 50 tons per year since January 1, 1990. However, 1211.10.02 allows sources where actual emissions have not exceeded the major source threshold since 1990, to avoid the requirements of the regulation if the source has been issued a permit or consent order limiting their emissions to less than 50 tons per year.

The New Hampshire NO_X emission limits are specified in sections Env-A 1211.03 through Env-A 1211.13, for utility boilers, steam electric boilers, industrial boilers, stationary combustion turbines, stationary internal combustion engines, asphalt plant dryers, incinerators, wallboard manufacturing, as well as emergency generators, auxiliary boilers, load shaving units. Generally, the limits are at least as stringent as EPA's recommendations in the NO_X Supplement. Although some of the individual limits are not as stringent, the statewide aggregate NO_X reduction from a 1990 baseline achieved by all the limits together is greater than 35 percent. Therefore the regulations are approvable as RACT. For a more detailed discussion of the specific emission limitations and requirements in Part Env-A 1211, as well as EPA's analysis of those requirements, the reader should refer to the Technical Support Document developed as part of this action. Copies of the Technical Support Document are found at the previously mentioned addresses.

Section 1211.14 defines the emission standards and control options for miscellaneous stationary sources. Section 1211.16 requires subject sources to submit a compliance schedule and requires such sources to install RACT by May 31, 1995. Section 1211.17 defines the requirements for the establishment of alternative RACT emission limits. Section 1211.18 allows emissions averaging for multiple sources under common ownership located in New Hampshire. Section 1211.19 defines the procedure for the issuance of a RACT order.

Section 1211.20 allows sources to reduce enough NO_X during the ozone season to achieve an annual NO_X reduction which is equivalent to the reduction which would be achieved by meeting a RACT limitation year-round. Generally this reduction is achieved by switching to a cleaner fuel during the ozone season (i.e., ''fuel switching''). The fuel-switching provisions of this rule are not a generic emissions averaging program, however. Therefore, section 1211.20 requires that fuel-switching requests be approved as case-specific SIP revisions.

Section 1211.21 defines the NO_X testing requirements. Section 1211.22 defines the monitoring requirements for NO_X RACT subject sources. NO_X RACT recordkeeping and reporting requirements are defined throughout Env-A 1211, in combination with the requirements found in sections Env-A 901.06, ''NO_X Recordkeeping Requirements,'' and Env-A 901.07, ''NO_X Reporting Requirements.''

Additionally, section Env-A 1211.15 requires the State to establish and implement ''Phase II NO_X limits'' for all applicable sources, except as provided for in Env-A 1211.03(f), or unless shown to be unnecessary by airshed modeling. Env-A 1211.03(f) defines Phase II NO_X limits and requires New Hampshire's Air Resource Division director to implement them for wet-bottom cyclone fired utility boilers with maximum net power output capacity greater than or equal to 320 megawatts, no later than May 1, 1999.

A public hearing was held on March 18, 1994 for these regulations.

NHDES filed the regulation with the Director of Legislative Services on May 20, 1994, and they became effective on that date. On June 17, 1994, New Hampshire submitted their adopted regulation as a formal SIP submittal to EPA. After reviewing the regulations, EPA sent New Hampshire a letter on July 12, 1994, stating that the rule had been found to be administratively and technically complete.

B. Miscellaneous NO_X RACT—Groveton Paperboard, Inc.

Groveton Paperboard, Incorporated, of Groveton, New Hampshire, produces wood pulp using a soda-based semi-chemical process. Spent pulping chemicals are concentrated by evaporation and then burned in a refractory lined rotary kiln. This recovery kiln is subject to section Env-A 1211.14, ''Emission Standards and Control Options for Miscellaneous Stationary Sources.'' Order number ARD–95–001 defines NO_X RACT for the kiln, including the use of their current control technology (i.e., process and combustion controls, Venturi scrubber, and wet electrostatic-precipitator), combined with limits on fuel usage: (a) black liquor solids, 16.5 gallons per minute; (b) #2 fuel oil, 2,160 gallons per day, at 0.4% sulfur by weight; (c) #6 fuel oil, 393 gallons per day, at 2.2% sulfur. The order also sets daily monitoring, record-keeping, and reporting, as well as the testing requirements of Env-A 1211.21(b).

A public hearing was held on April 11, 1995 and the final order was issued on May 10, 1995, and became effective on that date. Region I received the SIP submittal for Groveton Paperboard on July 7, 1995 and determined the submittal to be administratively and technically complete on September 12, 1995.

C. Emissions Averaging Plan—Plymouth Cogeneration, Ltd.

Plymouth Cogeneration Limited Partnership (PCLP), operates a cogeneration plant, i.e., a facility which produces both electricity and steam or hot water for commercial purposes, in Plymouth, New Hampshire. Order number ARD–95–002 allows PCLP to average emissions on a daily basis between a 1.2 megawatt (MW) diesel-fired electric generator, equipped with a selective catalytic reduction (SCR) unit, and a 1.3 MW diesel-fired generator in order to meet the NO_X emission limitations of section Env-A 1211.07 and Env-A 1211.13, respectively.

On July 25 and 26, 1995, New Hampshire held public hearings on the proposed order. The final order was issued on September 12, 1995, and became effective on that date. On September 18, 1995, New Hampshire submitted an alternative RACT determination for Plymouth Cogeneration Limited Partnership. On January 22, 1996, EPA deemed the

submittal to be administratively and technically complete.

D. Alternative NO_X RACT—Waterville Valley Ski Area, Ltd.

Waterville Valley Ski Area Limited Partnership (WVLP) owns and operates a ski area in Waterville Valley, New Hampshire, which includes NO_X emitting equipment utilized for snow production, building heating, and emergency services. Order number ARD–95–003, as revised September 19, 1995, requires no controls on the 19 residential boilers, but requires WVLP to remove all existing Catepillar IC engines and all I–R IC engines and replace them with electric compressors. For the three remaining Cummins diesel-fired engines (#4, #5, and #6), the order requires these engines to comply with the hourly emission limits of section Env-A 1211.07(c)(2)(b).

However, due to cost of the compressor replacement, the alternative RACT determination allows a relaxation of the annual testing requirements for the 3 remaining internal combustion (IC) engines. Therefore, for 3 remaining Cummins IC engines (#4, #5, & #6), the final order requires that a different Cummins engine be tested at least once every three years so that eventually, each engine is tested. Also, in lieu of testing these units, the order allows WVLP to use the results of emissions tests conducted on a specific engine at another location within previous 3 years. This is necessary since these engines are leased and frequently rotated for routine maintenance or to be used at other customers.

New Hampshire held a public hearing on July 26, 1995, and the final order was issued on September 19, 1995, and became effective on that date. On October 18, 1995, New Hampshire submitted an alternative NO_X RACT determination for Waterville Valley as a revision to the SIP. On January 22, 1996, EPA deemed the submittal to be administratively and technically complete.

E. NO_X Recordkeeping and Reporting—Env-A 901.06, Env-A 901.07

On December 21, 1992, New Hampshire submitted to EPA a number of amendments to Chapter Env-A 900, including Parts 901–903, as part of a package of regulations intended to fulfill the requirements concerning emission statements in section 182(c)(3)(B) of the Clean Air Act. Part Env-A 1211 references the requirements found in sections Env-A 901.06, ''NO_X Recordkeeping Requirements,'' and Env-A 901.07, ''NO_X Reporting Requirements'' as applicable NO_X RACT requirements as well. These regulatory sections, in combination with the other recordkeeping and reporting requirements throughout Part Env-A 1211, constitute adequate NO_X RACT recordkeeping and reporting provisions.

New Hampshire held a public hearing on the amendments to Chapter Env-A 900, including sections Env-A 901.06 and 901.07, on June 18, 1992. The regulations were adopted by the State on November 13, 1992. On February 19, 1993, EPA deemed the submittal administratively and technically complete.

F. Phase II NO_X Limits

Section Env-A 1211.15 states that unless EPA approves an attainment demonstration for New Hampshire which has shown by modelling that beyond-RACT NO_X reductions are not needed, New Hampshire's Air Resources Division (NHARD) Director will establish and implement ''Phase II NO_X limits'' for all applicable sources, except as provided for in Env-A 1211.03(f). Env-A 1211.03(f) requires the NHARD Director to implement Phase II NO_X emission limits for wet-bottom cyclone fired utility boilers with maximum net power output capacity greater than 320 MW no later than May 1, 1999. After that date, such boilers are required at all times to meet the equivalent of the following NO_X limits: (1) for boilers firing coal, or any combination of fuels with coal, a maximum daily emission of 15.4 tons; and, (2) for boilers firing any fuel or fuels, excluding coal, a maximum daily emissions of 3.8 tons. The limit of 15.4 tons per day represents a NO_X reductions beyond the requirements for RACT. Therefore, these limits are approvable as strengthening the SIP.

IV. Issues

There are two issues associated with this rulemaking action. The first issue is related to the miscellaneous RACT provisions of Part Env-A 1211. In addition to the regulations in Part Env-A 1211, New Hampshire has indicated that they have three sources with processes subject to the miscellaneous NO_X RACT provisions of the rule: Groveton Paperboard, of Groveton; Hampshire Chemical, of Nashua; and, Crown Vantage Corporation, of Berlin. Region I received the SIP submittal for Groveton Paperboard on July 7, 1995 and is approving that submittal in this action. However, New Hampshire has not yet submitted SIP revisions for Hampshire Chemical or Crown Vantage.

EPA believes that Part Env-A 1211 is still fully approvable as meeting the requirements of the CAA for several reasons. First, on November 7, 1996 EPA issued a RACT policy memorandum [1] which allows full approval for regulations which contain generic RACT provisions (e.g., Section Env-A 1211.14. for miscellaneous NO_X RACT sources), without requiring the submission of all of the adopted RACT limits, where certain conditions are met. Basically, the generic RACT policy states that the generic portion of the NO_X RACT rule can be fully approved if the NO_X emissions from the outstanding RACT determinations are, not from an electric utility source and, they constitute less than 5% of the overall non-utility NO_X emissions (i.e., a ''de minimis'' level of emissions). In the case of New Hampshire's Part Env-A 1211, the emissions remaining to be covered by the miscellaneous RACT determinations (i.e., Hampshire Chemical's kilns and oil heater and, Crown Vantage's lime kiln, space heaters, and dryer) constitute less than 1% percent of New Hampshire's baseyear non-utility NO_X emissions. Therefore, these remaining emission units can be considered de minimis, as described in EPA's generic RACT policy memorandum.

Second, the NO_X Supplement explicitly encourages States to structure their RACT requirements to inherently incorporate an emissions averaging concept, e.g., installing more stringent controls on some units in exchange for less stringent controls on other units (see 57 FR 55625). In other words, the NO_X Supplement encourages States to structure NO_X RACT requirements around an areawide aggregate NO_X reduction. EPA also issued a policy memorandum which discusses an acceptable aggregate RACT reduction of 30 to 50 percent NO_X reduction from a 1990 baseline. [2] The NO_X emission limits in Env-A 1211 and the miscellaneous NO_X RACT order for Groveton Paperboard achieve greater than a 35 percent statewide aggregate reduction in NO_X from a 1990 baseline at RACT subject sources, with or without any additional reduction from the remaining emission units.

Finally, section Env-A 1211.14 requires a facility owner subject to the

[1] On November 7, 1996, Sally Shaver, Director of EPA's Air Quality Strategies and Standards Division issued a policy memorandum entitled, ''Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirements and Certain NO_X RACT Requirements.''

[2] Memorandum from D. Kent Berry, Acting Director of the Air Quality Management Division of the Office of Air Quality Planning and Standards, to the Air Quality Directors of EPA's Regional Offices, entitled, ''Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT), March 14, 1994.''

miscellaneous RACT provisions to apply and obtain a RACT order. Approval of this regulation into the SIP will continue to obligate the regulated sources to apply for and implement NO_X RACT and, for the State to make a RACT determination for the remaining two miscellaneous NO_X RACT orders as expeditiously as practicable. Furthermore, approval of section Env-A 1211 into the SIP will also provide for enforceability of these requirements by EPA and citizens groups under section 304 of the CAA. Additionally, as described in EPA's November 7, 1996 generic RACT guidance, if EPA later determines that the sources remain unregulated, EPA could issue a SIP call or possibly a finding of failure to implement the SIP. Therefore, EPA believes the regulations are fully approvable as meeting the NO_X RACT requirements of the CAA.

The second issue is related to the NO_X recordkeeping and reporting provisions of Part Env-A 1211. Basically, Part Env-A 1211 cross-references sections Env-A 901.06 ''NO_X Recordkeeping Requirements'' and Env-A 901.07 ''NO_X Reporting Requirements'' as part of the applicable requirements for NO_X RACT subject sources. However, sections Env-A 901.06 and Env-A 901.07 were part of a package of regulations for which EPA proposed a limited approval/limited disapproval on September 20, 1994, primarily because the package did not require sufficient recordkeeping and reporting from certain VOC sources.

For the purposes of assuring compliance with the NO_X RACT limits of Env-A 1211, however, EPA considers sections Env-A 901.06 and Env-A 901.07 fully approvable as part of the NO_X RACT regulations. This approval is not intended to affect EPA's September 20, 1994 proposed action concerning the approvability of emission statement requirements in New Hampshire. The State must still address the deficiencies outlined in the September 20, 1994 **Federal Register** notice.

V. Final Action

EPA review of the NO_X RACT SIP submittals, including the NO_X RACT regulations Part Env-A 1211, the NO_X recordkeeping and reporting requirements found in sections Env-A 901.06 and Env-A 901.07, and the miscellaneous NO_X RACT for Groveton Paperboard Company, indicates that New Hampshire has sufficiently defined the NO_X RACT requirements for the State. Therefore, EPA is approving Part Env-A 1211, sections Env-A 901.06 and Env-A 901.07, and the source-specific NO_X RACT order, ARD–95–001, for Groveton Paperboard, as meeting the NO_X RACT requirements of the Clean Air Act. EPA is also approving: the emissions averaging plan for Plymouth Cogeneration Limited Partnership, order number AED–95–002; and, the alternative NO_X RACT for Waterville Valley Ski Area Limited Partnership, order number ARD–95–003, as revisions to the New Hampshire SIP at this time. New Hampshire must still submit adopted NO_X RACT limits for miscellaneous NO_X emitting equipment at Crown Vantage Corporation and Hampshire Chemical Company for EPA approval.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 9, 1997 unless adverse or critical comments are received by May 9, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 9, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 8, 1997.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(49) and (c)(50) to read as follows:

§ 52.1520 Identification of plan.

* * * * * *

(c) * * *

(49) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on June 17, 1994, and December 21, 1992.

(i) Incorporation by reference.

(A) Letters from the New Hampshire Air Resources Division dated June 17, 1994, and December 21, 1992, submitting revisions to the New Hampshire State Implementation Plan.

(B) Regulations Chapter Env-A 1200, Part Env-A 1211, ''Nitrogen Oxides (NO_X),'' effective on May 20, 1994, and Chapter Env-A 900, Part Env-A 901, sections Env-A 901.06 ''NO_X Recordkeeping Requirements,'' and Env-A 901.07, ''NO_X Reporting Requirements,'' effective on November 13, 1992.

(50) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on July 7, 1995, September 18, 1995, and October 18, 1995.

(i) Incorporation by reference.

(A) Letters from the New Hampshire Air Resources Division dated July 7, 1995, September 18, 1995, and October 18, 1995, submitting revisions to the New Hampshire State Implementation Plan.

(B) New Hampshire NO_X RACT Order ARD–95–001, concerning Groveton Paperboard Corporation, effective on May 10, 1995.

(C) New Hampshire NO_X RACT Order ARD–95–002, concerning Plymouth Cogeneration Limited Partnership, effective September 12, 1995.

(D) New Hampshire NO_X RACT Order ARD–95–003, concerning Waterville Valley Ski Area Limited, effective September 19, 1995.

For the State of New Hampshire:

3. In § 52.1525 Table 52.1525 is amended by adding new entries in numerical order to existing state citations ''Chapter Env-A 900, Part Env-A 901, section Env-A 901.06,'' and, ''Chapter 900, Part Env-A 901, section Env-A 901.07;'' and, by adding new state citations for ''Chapter Env-A 1200, Part Env-A 1211,'' ''Order ARD–95–001,'' ''Order ARD–95–002,'' and, ''Order ARD–95–003,'' to read as follows:

§ 52.1525 EPA—approved New Hampshire state regulations.

* * * * *

TABLE 52.1525—EPA—APPROVED RULES AND REGULATIONS—NEW HAMPSHIRE

Title/subject	State citation chapter	Date adopted by State	Date approved by EPA	Federal Register citation	52.1520	Comments
*	*	*	*	*	*	*
Record keeping requirements.	CH air 900, Part Env-A 901, section Env-A 901.06.	11/13/92	April 9, 1997	62 FR 17092	(c)(49)	Adds NO_X record keeping requirements.
Reporting requirements.	CH air 900, Part Env-A 901, section Env-A 901.07.	11/13/92	April 9, 1997	62 FR 17092	(c)(49)	Adds NO_X reporting requirements.
Nitrogen oxides emission limits.	CH air 1200 Part Env-A 1211.	5/20/94	April 9, 1997	62 FR 17092	(c)(49)	Adds NO_X RACT requirements.
Source specific order.	Order ARD–95–001.	5/10/95	April 9, 1997	62 FR 17092	(c)(50)	Source specific NO_X RACT order for Groveton Paperboard Corporation, in Groveton, NH.

TABLE 52.1525—EPA—APPROVED RULES AND REGULATIONS—NEW HAMPSHIRE—Continued

Title/subject	State citation chapter	Date adopted by State	Date approved by EPA	Federal Register citation	52.1520	Comments
Source specific order.	Order ARD–95–002.	9/12/95	April 9, 1997	62 FR 17093	(c)(50)	Source specific NO_X RACT order for Plymouth Cogeneration Limited Partnership, in Plymouth, NH.
Source specific order.	Order ARD–95–003.	9/19/95	April 9, 1997	62 FR 17093	(c)(50)	Source specific NO_X RACT order for Waterville Valley Ski Area Limited, in Waterville Valley, NH.
*	*	*	*	*	*	*

[FR Doc. 97–9109 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0001a; FRL–5802–2]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Utah; Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves a revision to Utah's State Implementation Plan (SIP) for Visibility Protection, as submitted by the Governor with a letter dated July 25, 1996. The revision was adopted by the State in 1993 to address comments received from the 1992 Utah Legislature's Administrative Rules Review Committee regarding the need to remove a visibility policy statement from a regulation format (since it was not a rule). The State responded by deleting the policy statement from the Utah Air Conservation Regulations and adding the text into the Visibility Protection SIP. This submittal was a necessary ''housekeeping'' step to bring the federally approved SIP up-to-date with administrative revisions that took place at the State in 1993.

DATES: This action will become effective on June 9, 1997 unless adverse comments are received by May 9, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be addressed to: Richard R. Long, Director, Air Program, EPA Region VIII at the address listed below. Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405; and Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, P.O. Box 144820, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Amy Platt, 8P2–A, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION:

I. Background

Section 169A of the Clean Air Act (CAA or Act),[1] 42 U.S.C. 7491, establishes as a National goal the prevention of any future, and the remedying of any existing, anthropogenic visibility impairment in mandatory Class I Federal areas[2] (referred to herein as the ''National goal'' or ''National visibility goal''). Section 169A calls for EPA to, among other things, issue regulations to assure reasonable progress toward meeting the National visibility goal, including requiring each State with a mandatory Class I Federal area to revise its SIP to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the National goal. CAA section 169A(b)(2). Section 110(a)(2)(J) of the CAA, 42 U.S.C. 7410(a)(2)(J), similarly requires SIPs to meet the visibility protection requirements of the CAA.

EPA promulgated regulations that require affected States to, among other things, (1) coordinate development of SIPs with appropriate Federal Land Managers (FLMs); (2) develop a program to assess and remedy visibility impairment from new and existing sources; and (3) develop a long-term (10–15 years) strategy to assure reasonable progress toward the National visibility goal. See 45 FR 80084, December 2, 1980 (codified at 40 CFR 51.300–51.307). The regulations provide for the remedying of visibility impairment that is reasonably attributable to a single existing stationary facility or small group of existing stationary facilities. These regulations require that the SIPs provide for periodic review, and revision as appropriate, of the long-term strategy not less frequently than every three years, that the review process include consultation with the appropriate FLMs, and that the State provide a report to the public and EPA that includes an assessment of the State's progress toward the National visibility goal. See 40 CFR 51.306(c).

The Utah Governor submitted a SIP revision for Visibility Protection with a letter dated April 26, 1985. The submittal met the requirements for visibility monitoring (40 CFR 51.305) and visibility New Source Review (40 CFR 51.307). EPA approved the submittal on May 30, 1986 (51 FR 19550).

On November 24, 1987 (52 FR 45132), EPA disapproved the SIPs of states, including Utah, that failed to comply with the requirements of the provisions of 40 CFR 51.302 (visibility general plan requirements) and 51.306 (visibility long-term strategy). EPA also incorporated corresponding Federal plans and regulations into the SIPs of these states pursuant to section 110(c)(1) of the CAA, 42 U.S.C. 7410(c)(1).

[1] The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

[2] Mandatory class I Federal areas include international parks, national wilderness areas, and national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section 162(a) of the Act (42 U.S.C. 7472(a)). Each mandatory Class I Federal area is the responsibility of a ''Federal land manager'' (FLM), the Secretary of the department with authority over such lands. See section 302(i) of the Act, 42 U.S.C. 7602(i).

The Governor of Utah submitted a SIP revision for visibility protection with a letter dated December 11, 1987. The submittal satisfied requirements for visibility general plan requirements (40 CFR 51.302) and visibility long-term strategy (40 CFR 51.306). EPA approved this SIP revision on January 17, 1989 (54 FR 1694), and this revision replaced the Federal plans and regulations in the Utah Visibility Protection SIP.

The April 26, 1985 submittal and December 11, 1987 submittal discussed above currently constitute the Utah Visibility Protection SIP.

II. This Action

With a letter dated July 25, 1996, the Governor of Utah submitted a revision to the Utah Visibility Protection SIP. This submittal was a necessary ''housekeeping'' step to bring the federally approved SIP up-to-date with administrative revisions that took place at the State in 1993.

In 1992, the Utah Legislature reviewed the State's air quality rules and requested that the Utah Air Quality Board's policy on scenic views be removed from the rules, since it was a policy statement and not a rule. The Board responded by deleting the pertinent section of the rules and adding the text to the Visibility Protection SIP. The changes became effective on March 29, 1993.

A. Analysis of State Submission

1. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

To entertain public comment, the Utah Air Quality Board (UAQB), after providing adequate notice, held a public hearing on January 28, 1993 to consider the proposed revisions to the Utah Visibility Protection SIP and Utah Air Conservation Regulations. Subsequent to the public hearing, the UAQB adopted the revisions on March 26, 1993, and the revisions became effective on March 29, 1993. The Governor of Utah submitted the revisions to EPA with a letter dated July 25, 1996.

2. Content of SIP Revision

a. Utah Air Conservation Regulation R307–5 Deleted and Text Added to Visibility Protection SIP

The Utah Legislature's Administrative Rules Review Committee reviewed R307–5 and found it to be a policy statement of the UAQB rather than a rule. In fact, the title of the rule was ''Policy of the Air Conservation Committee Concerning the Protection of Scenic Views Associated with the Mandatory Class I Areas from Significant Impairment for Visibility.'' This rule was deleted and the bulk of it was added to the text of the Utah SIP, Section 15,[3] Visibility Protection, in a new subsection 15.10. This policy statement, which had already been approved in rule format, is simply being transferred to the SIP text as follows.

> The State recognizes that visibility and the ability to see the great scenic views in Southern Utah is a rare and unique treasure and should be preserved, both for the benefit and pleasure of Utah residents, and to support our large tourist industry. In addition to the distance one can see, the clarity, color, and detail of the visible features are also important.
>
> The [Air Conservation] Committee recommends that the Governor of Utah seek the cooperation of the Western Governors' Association to establish a task force on regional haze. The task force should be composed of state air program directors and would provide a recommendation to the Governor on the management of regional haze. The task force would be expected to hold hearings, create work groups, involve local area governments and federal agencies (EPA and National Park Service) in developing information and formulating recommendations. Based on the recommendations of the task force, the governors would develop a policy on controlling regional haze for the protection of visibility in the western United States where visibility is an important ''treasure'' and resource.

EPA agrees that the above statement represents policy, not regulation, and therefore, the administrative ''housekeeping'' action of deleting the language from the Air Conservation Regulations and adding it to the text of the Visibility Protection SIP was appropriate. The revision is approvable.

b. Utah Air Conservation Regulation R307–2 Amended

As a result of revising the Visibility Protection section of the SIP to create a new subsection 15.10 that contains the policy regarding scenic views, R307–2 also was amended. This rule, R307–2, incorporates the entire Utah SIP by reference and was amended to reflect the revised adoption date by the UAQB for subsection 15.10. EPA is not acting on this amendment to R307–2 because EPA's action in this document is specific to the Visibility Protection section of the SIP and not the entire Utah SIP.

III. Final Action

EPA is approving a revision to the Utah Visibility Protection SIP as submitted to EPA with a letter dated July 25, 1996. This revision deletes R307–5, which contained the Utah Air Quality Board's policy statement on scenic views, and transfers the policy statement to the text of the Visibility Protection SIP in a new subsection 15.10. EPA is not acting on the amended R307–2.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 9, 1997 unless, by May 9, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 9, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10,

[3] Please note that Utah has renumbered its SIP since the State adoption of these revisions. Visibility protection is now in Section XVII of the SIP. However, the revision for the renumbering has not been acted on yet by EPA.

1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 1997.

Max H. Dodson,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.2320 is amended by adding paragraph (c)(36) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(36) The Governor of Utah submitted a revision to Utah's State Implementation Plan (SIP) for Visibility Protection with a letter dated July 25, 1996. The revision was made to add a new subsection 15.10 to the SIP to include a policy statement regarding scenic views which was deleted from the Utah Air Conservation Regulations.

(i) Incorporation by reference.

(A) Utah State Implementation Plan, Subsection 15.10, Policy of the Air Conservation Committee Concerning the Protection of Scenic Views Associated with Mandatory Class I Areas from Significant Impairment for Visibility, adopted on March 26, 1993, and effective on March 29, 1993.

(ii) Additional material.

(A) A July 25, 1996 letter from Michael O. Leavitt, Utah Governor, to Jack McGraw, EPA Region VIII Acting Regional Administrator, in which it was communicated, among other things, that the Utah Air Quality Board deleted R307–5 from the Utah Air Conservation Regulations. The deletion was effective March 29, 1993.

[FR Doc. 97–9108 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN68–2; FRL–5807–8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; withdrawal.

SUMMARY: On February 18, 1997 (62 FR 7157), the United States Environmental Protection Agency (USEPA) approved Indiana's October 25, 1994, request to revise the Indiana State Implementation Plan (SIP) to add or revise definitions in the SIP's general provisions, the applicability criteria of the rule for malfunctions and, the applicability criteria for State construction and operating permits. Also approved were revisions to Indiana's construction permit program including its ''Permit no defense'' provision. The USEPA is withdrawing this final rule because in a letter dated March 18, 1997, Indiana informed USEPA that a portion of the State's submittal—326 Indiana Administrative Code (IAC) 2–1–1(b)(1)(h)—is being considered for removal from the IAC. Further, adverse comments have been received on USEPA's rulemaking action.

EFFECTIVE DATE: April 9, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for

public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Alvin Choi, Permits and Grants Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–3507.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Sulfur dioxide, Volatile organic compounds.

Dated: March 28, 1997.

Valdas V. Adamkus,

Regional Administrator.

Therefore the amendment to 40 CFR part 52 which added § 52.770(c)(109) is withdrawn.

[FR Doc. 97–9146 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300471; FRL–5599–8]

RIN 2070–AB78

Imazapyr; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes tolerances for the residues of the herbicide imazapyr, [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridinecarboxylic acid], applied as the acid, in or on field corn. American Cyanamid submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 requesting the tolerances.

DATES: This rule becomes effective April 9, 1997. Written objections must be submitted by June 9, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300471], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to : opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300471]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IX of this document.

FOR FURTHER INFORMATION CONTACT: By Mail: Philip V. Errico, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 241, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305–6027; e-mail: errico.philip@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 12, 1996 (61 FR 66658)(FRL–5576–9) EPA issued a notice announcing that American Cyanamid, P.O. Box 400, Princeton, NJ 08543 had submitted pesticide petition 6F4641 which requested that the Administrator, pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), and in conformity with the Food Quality Protection Act (FQPA) of 1996, amend 40 CFR part 180 to establish tolerances for residues of imazapyr [2-[4,5-dihydro-4-methyl-4(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridinecarboxylic acid], applied as the acid in or on field corn grain, fodder, and forage at 0.05 ppm. The notice contained a summary of the petition prepared by the petitioner, American Cyanamid, including information and arguments to support their conclusion that the petition complied with FQPA. It was stated in the notice that the conclusions and arguments were not EPA's.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data listed below were considered in support of these tolerances.

I. Toxicology Profile

1. A battery of acute toxicity studies placing technical imazapyr in toxicity category I for eye irritation, category IV for oral LD_{50} and primary dermal irritation, category III for dermal and inhalation LD_{50}.

2. A 90–day rat feeding study at doses of 0, 15,000, or 20,000 ppm (males= 0, 1,248, or 1,695 milligrams per kilogram per day (mg/kg/day); females 0, 1,423, or 1,784 mg/kg/day) with a no-observed-effect level (NOEL) of 1,695 mg/kg/day the highest dose tested (HDT).

3. A 21-day rabbit dermal toxicity study at doses of 0, 100, 200, or 400 mg/kg/day which showed occasional statistically significant findings but these had no consistent pattern of toxicity. The NOEL was determined to be 400 mg/kg/day HDT.

4. A 1-year dog chronic toxicity study at doses of 0, 25, 125, or 250 mg/kg/day. The NOEL was 250 mg/kg/day HDT.

5. A 2–year rat chronic/carcinogenicity study at doses of 0, 1,000, 5,000, or 10,000 ppm (males= 0, 49.9, 252.6, or 503 mg/kg/day; females= 0, 64.2, 317.6, or 638.6 mg/kg/day) with a NOEL of 503 mg/kg/day HDT.

6. An 18–month mouse carcinogenicity study at doses of 0, 1,000, 5,000, or 10,000 ppm (males= 0, 126, 674, or 1,301 mg/kg/day; females= 0, 151, 776, or 1,639 mg/kg/day) with a NOEL of 1,301 mg/kg/day HDT.

7. A rat developmental toxicity study at doses of 0, 100, 300, or 1,000 mg/kg/day. At 1,000 mg/kg/day, the only clinical sign of toxicity in gravid dams was salivation. The NOEL for maternal toxicity is 300 mg/kg/day. There were no developmental findings in this study up to the limit dose of 1,000 mg/kg/day HDT.

8. A rabbit developmental toxicity study at doses of 0, 25, 100, or 400 mg/kg/day with a maternal and developmental NOEL of 400 mg/kg/day HDT.

9. A rat two-–generation reproduction study at dietary concentrations of 0,

1,000, 5,000, or 10,000 ppm (males= 0, 74.2, 380.5, or 738 mg/kg/day; females= 0, 94.3, 471.2, or 933.3 mg/kg/day) with a NOEL of 10,000 ppm HDT.

10. A metabolism study in rats indicated that imazapyr was rapidly absorbed and excreted by 7 days post-dosing, with the majority of the administered ^{14}C-label (90%) eliminated in the urine within 48 hours. Metabolite characterization studies showed that essentially all the test material was excreted unchanged. Two minor metabolites, CL 252,974 and CL 60,032, were detected in the urine or feces of treated rats; however, their contribution combined was less than or equal to 0.5% of the administered dose. An additional 12 unidentified metabolites were isolated, but they contributed less than 3% of the total dose.

11. Acceptable studies on gene mutation and other genotoxic effects: Ames Salmonella Assay; CHO/HGPRT Point Mutation Assay; *In vitro* CHO cell chromosome aberration assay; Dominant lethal assay; and Unscheduled DNA synthesis (UDS) yielded negative results.

II. Dose Response Assessment

1. *Reference dose*. The Reference Dose (RfD) represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The RfD is determined by using the toxicological end-point or the NOEL for the most sensitive mammalian toxicological study. To assure the adequacy of the RfD, the Agency uses an uncertainty factor in deriving it. The factor is usually 100 to account for both interspecies extrapolation and intraspecies variability represented by the toxicological data. The EPA has established an RfD of 2.5 mg/kg/day based on a NOEL of 250 mg/kg/day from a 1–year chronic dog feeding study.

2. *Carcinogenicity classification*. Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992), the EPA has classified imazapyr as Group ''E'', not a likely human carcinogen.

3. *Developmental toxicant determination*. The acceptable developmental studies (two-generation reproduction study in rats and prenatal developmental toxicity studies in rats and rabbits) provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to imazapyr.

III. Non-dietary (Residential and Occupational) Exposure Assessment

Imazapyr products marketed for residential use include total vegetation control products that are used for plot treatments or bare ground applications. These products are to be applied only where no plant growth is desired and are not to be used on lawns. Therefore, for these limited residential uses, the potential for exposure is minimal, and is expected to be non-chronic. These products are in Toxicity Categories II for eye irritation. Under the protective clothing requirements of the Worker Protection Standards (WPS), handlers of these products are expected to be adequately protected.

Imazapyr is also registered for use on non-food sites including railroad, utility, pipeline, and highway rights-of-way, utility plant sites, petroleum tank farms, pumping installations, fence rows, storage areas, non-irrigation ditchbanks, under asphalt, under pond liners, wildlife management areas, forestry site preparation, and other non-crop areas. These low rate uses entail minimal exposure potential for the general population. Use of protective clothing also reduces exposure.

Since imazapyr is a group E chemical (evidence of non-carcinogenicity for humans); the 21 day dermal study lacked any significant observable effects at the limit dose, and no adverse effects were observed in developmental toxicity studies in rats up to 1,000 mg/kg/day and rabbits up to 400 mg/kg/day, no toxicological endpoints for non-chronic residential exposures were identified. Therefore, non-chronic risk assessments are not required for occupational or non-occupational residential uses.

IV. Dietary Exposure Assessment

Use of a agricultural pesticide may result, directly or indirectly, in pesticide residues in food. Primary residues or indirect/inadvertent residues in agricultural commodities are determined by chemical analysis. To account for the diversity of growing conditions, cultural practices, soil types, climates, crop varieties and methods of application of the pesticide, data from studies that represent the commodities are collected and evaluated to determine an appropriate level of residue that would not be exceeded if the pesticide is used as represented in the studies.

1. *Plant/animal metabolism and magnitude of the residue*. The nature (metabolism) of imazapyr in plants and animals is adequately understood for the purposes of these tolerances. There are no Codex maximum residue levels established for residues of imazapyr on corn or the rotational crops. In all the plant and animal (poultry and ruminants) metabolism studies submitted, the residue of concern was the parent per se, imazapyr.

2. *Residue analytical methods*. The analytical method proposed as an enforcement method for field corn commodities is GS/MS Method M 2468.02. The method is suitable for detecting residues of the parent compound, imazapyr, in field corn forage, silage, grain, fodder, meal and oil. Tolerances for meat, milk, poultry, and eggs, are not required for this petition, therefore, an analytical method for the enforcement of animal tolerances is not needed.

V. Aggregate Exposure Assessment

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from pesticide residue in food, including water, and all other non-occupational exposures. The aggregate sources of exposure the Agency looks at includes food, drinking water or groundwater, and exposure from pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Acute dietary*. As part of the hazard assessment process, the Agency reviews the available toxicology database to determine the endpoints of concern. For imazapyr, the Agency does not have a concern for an acute dietary assessment since the available data do not indicate any evidence of significant toxicity from a 1 day or single event exposure by the oral route. Therefore, an acute dietary risk assessment was not required.

2. *Chronic dietary*. Using the Dietary Risk Evaluation System (DRES), a chronic exposure analysis was performed using tolerance level residues and 100 percent crop treated to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups. This exposure analysis showed that exposure from residues in/on corn for the U.S. population and all subgroups would be less than 1% of the RfD.

3. *Drinking water*. To determine the exposure from drinking water, the Agency applied modeling procedures. Using the estimated chronic drinking water values of 1 μg/L for surface water and 3 μg/L for ground water, the exposure to imazapyr from drinking water was calculated to be 3×10^{-5} milligrams per kilogram of body weight per day (mg/kg bw/day) for the U.S population (surface water), 1×10^{-4} mg/kg bw/day for children (surface water), 7×10^{-5} mg/kg bw/day for U.S. population (ground water), and 3×10^{-4} mg/kg bw/day for children (ground water). The calculations are included in the docket for this rulemaking.

4. *Non-dietary (residential and non-occupational) exposure.* Imazapyr is registered for residential and non-occupational uses. As part of the hazard assessment process, the Agency reviews the available toxicological database to determine the endpoints of concern. For imazapyr, the Agency does not have a concern for acute, short-term, or intermediate-term occupational or residential risk assessment since the available data do not indicate any evidence of significant toxicity by the dermal or inhalation routes, or from a 1 day or single event exposure by the oral route. Therefore, acute, short-term or intermediate-term non-occupational or residential risk assessment was not required.

As part of the hazard assessment process it was determined that a chronic residential assessment was not necessary. The exposures which would result from the use of imazapyr were determined to be of an intermittent nature. The frequency and duration of these exposures do not exhibit a chronic exposure pattern. The exposures do not occur often enough to be considered a chronic exposure i.e., a continuous exposure that occurs for at least several months. Therefore, chronic residential exposures were not aggregated with dietary exposures in estimating chronic risk.

5. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may be helpful in determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodology to resolve the scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although, at present, the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether imazapyr has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach, imazapyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imazapyr has a common mechanism of toxicity with other substances. After EPA develops methodologies for more fully applying common mechanism of toxicity issues to risk assessments, the Agency will develop a process (either as part of the periodic review of pesticides or otherwise) to reexamine those tolerance decisions made earlier.

The registrant must submit, upon EPA's request and according to a schedule determined by the Agency, such information as the Agency directs to be submitted in order to evaluate issues related to whether imazapyr shares a common mechanism of toxicity with any other substance and, if so, whether any tolerance for imazapyr needs to be modified or revoked.

VI. Determination of Safety for the U.S. Population and Non-Nursing Infants

A. U.S. Population and Non-Nursing Infants

Using the Dietary Risks Evaluation System (DRES) a chronic analysis was performed based on 100% of the crop treated and all residues at tolerance levels. Based on the dietary/water risk assessment, the proposed uses utilize less than 1% of the RfD for the U.S. population; less than 1% of the RfD for nonnursing infants under 1 year old; less than 1% for nursing infants under 1 year old; less than 1% for children 1 to 6 years old; and less than 1% for children 7 to 12 years old. The Agency concluded that no harm will occur to non-nursing infants, or any other members of the U.S. population from aggregate exposure to imazapyr.

B. Infants and Children

Risk to infants and children was determined by the use of two developmental toxicity studies in rats and rabbits and the two-generation reproduction study in rats discussed below. The developmental toxicity studies evaluates the potential for adverse effects on the developing organism resulting from exposure during prenatal development. The reproduction study provides information relating to effects from exposure to the chemical on the reproductive capability of both (mating) parents and on systemic toxicity.

The toxicological database for evaluating pre- and post-natal toxicity for imazapyr is considered to be complete at this time. In the rabbits, no evidence of maternal or developmental toxicity was observed at doses up to 400 mg/kg/day, highest dose tested HDT. In the rat developmental toxicity study, maternal (systemic) toxicity was noted (indicated by salivation) at 1,000 mg/kg/day HDT.

In the rat two-generation reproduction study, no evidence of toxicity was noted in either the adults or the offspring at dietary levels at or close to the limit dose.

FFDCA section 408 provides that the EPA shall apply an additional safety factor of 10 in the case of threshold effects for infants and children to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines, based on reliable data, that a different safety factor would be appropriate. The Agency believes that an additional safety factor for infants and children is not warranted. A complete set of developmental and reproductive studies have been submitted and EPA has found them to be acceptable. The NOEL used to calculate the RfD for the general U.S. population is 250 mg/kg bw/day derived from the 1–year chronic toxicity study in dogs. That NOEL is lower than the developmental NOELs for the teratology studies in rabbits and rats (1.6 and 4x, respectively), as well as lower than the

NOEL for the two-generation reproduction study in male and female rats (3.2 to 3.9x). The Agency does not believe the effects seen in the above studies are of such concern to require an additional safety factor. Accordingly, the Agency believes the RfD has an adequate margin of protection for infants and children. The percent RfD utilized by imazapyr is less than 1% for nursing infants (less than 1 year old), and for non-nursing infants and children 1 to 6 years old. EPA concluded that there is reasonable certainty that no harm will occur to infants and children from aggregate exposure to imazapyr.

VII. Other Considerations

1. *Endocrine effects.* No specific tests have been conducted with imazapyr to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occuring estrogen or other endocrine effects. However, there were no significant findings in other relative toxicity studies, i.e., teratology and multi-generation reproductive studies, which would suggest that imazapyr produces endocrine related effects.

2. *Data Gap.* Additional storage stability data are required to support the 18 and 27 month storage stability tabulated data, including storage temperature, analysis, raw data, representative chromatograms, and quality assurance (good laboratory practices).

VIII. Objections and Hearing Requests

The new FFDCA section 408 (g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under the new section 408 (e) and (l)(6) as was provided in the old section 408 and section 409. However, the period for filing objections is 60 days rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 9, 1997 file written objections to any aspect of this regulation and may also request a hearing with the Hearing Clerk, at the address given below (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector, (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI), Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

IX. Public Docket

A record has been established for this rulemaking under the docket number [OPP–300471] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rule-making record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

X. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 Pub.L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28. 1993), or special considerations as required by Executive Order 12898 (59 FR 7629), February 16, 1994).

Because tolerances established on the basis of a petition under section 408(d) of FFDCA do not require issuance of a proposed rule, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604(a), do not apply. Prior to the recent amendment of the FFDCA, EPA had treated such rulemakings as subject to the RFA; however, the amendments to the FFDCA clarify that no proposal is required for such rulemakings and hence that the RFA is inapplicable. Nonetheless, the Agency has previously assessed whether establishing tolerances or exemptions from tolerance, raising tolerance levels, or expanding exemptions adversely impact small entities and concluded, as a generic matter, that there is no adverse impact. (46 FR 24950, May 4, 1981).

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General

Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA, as amended.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agriculatural commodities, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: March 31, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a. and 371.

2. By adding § 180.500 to read as follows:

§ 180.500 Imazapyr; tolerances for residues.

Tolerances are being established for residues of the herbicide imazapyr, [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridinecarboxylic acid], applied as the acid or ammonium salt, in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, forage (silage)	0.05
Corn, field, grain	0.05
Corn, field, stover	0.05

[FR Doc. 97–9091 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–286]

Organization and Delegation of Powers and Duties Delegated to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is delegated to the Commandant, United States Coast Guard, the authority contained in the Antarctic Science, Tourism, and Conservation Act of 1996, to issue such regulations as are necessary and appropriate to implement the Protocol on Environmental Protection to the Antarctic Treaty relating to the prevention of marine pollution and emergency response action for vessels. In order that the Code of Federal Regulations reflect this delegation, a change is necessary.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: LCDR Ray Perry, Environmental Standards Division (G–MSO–4), (202) 267–2714, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593; or Ms. Gwyneth Radloff, Office of the General Counsel, C–50, (202) 366–9305, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 104–227 is the Antarctic Science, Tourism, and Conservation Act of 1996 (hereafter referred to as the Act). Section 106 of this Act amends section 6 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2405) by requiring the Secretary to issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*), to implement Annex IV of the Protocol on Environmental Protection to the Antarctic Treaty. It also requires the Secretary to issue such regulations as are necessary and appropriate, with the concurrence of the Director of the National Science Foundation, to implement Article 15 of the Protocol with respect to vessels. The Secretary of Transportation is delegating his authority under the Act to the Commandant of the Coast Guard.

This rule adds a specific delegation of authority to 49 CFR 1.46, thus amending the codification to reflect the Secretarial delegation of authority to the Commandant of the Coast Guard.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the Coast Guard's ability to implement international treaty obligations, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Pub. L. 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

1.46 [Amended]

2. Section 1.46 is amended by adding a new paragraph (hhh) to read as follows:

1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(hhh) Carry out the functions and exercise the authority vested in the Secretary by 16 U.S.C. 2405 to issue such regulations as are necessary and appropriate to implement the Antarctic Science, Tourism, and Conservation Act of 1996, Pub. L. No. 104–227, 110 Stat. 3034.

* * * * *

Issued at Washington, DC this 28th day of March, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97–9155 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 96–085; Notice 2]

Passenger Automobile Average Fuel Economy Standards; Final Decision To Grant Exemption

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

ACTION: Final decision.

SUMMARY: This final decision responds to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years (MYs) 1998 and 1999 and that a lower alternative standard be established. In this document, NHTSA establishes an alternative standard for Rolls Royce of 16.3 mpg for MYs 1998 and 1999.

DATES: *Effective date:* May 27, 1997. This exemption and the alternative standards apply to Rolls Royce for MYs 1998 and 1999.

Petitions for reconsideration: Petitions for reconsideration must be received no later than May 27, 1997.

ADDRESSES: Petitions for reconsideration of this rule should refer to the docket

number and notice number cited in the heading of this notice and must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. P.L. Moore, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Moore's telephone number is: (202) 366–5222.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202) 366–5253, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to 49 U.S.C. section 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

(1) Technological feasibility,

(2) Economic practicability,

(3) The effect of other Federal motor vehicle standards on fuel economy, and

(4) The need of the United States to conserve energy.

Section 32902(d)(2) permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

Proposed Decision and Public Comment

This final decision was preceded by a proposal announcing the agency's tentative conclusion that Rolls Royce should be exempted from the generally applicable MYs 1998 and 1999 passenger automobile average fuel economy standard of 27.5 mpg, and that an alternative standard of 16.3 mpg be established for Rolls Royce for MYs 1998 and 1999 (61 FR 46756; September 5, 1996). The agency did not receive any comments in response to the proposed decision.

NHTSA Final Determination

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Rolls Royce is 16.3 mpg for MY 1998 and 16.3 mpg for MY 1999, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this exemption, NHTSA hereby exempts Rolls Royce from the generally applicable passenger automobile average fuel economy standard for the 1998 and 1999 model years and establishes an alternative standard of 16.3 mpg for MYs 1998 and 1999 for Rolls Royce.

Regulatory Impacts

NHTSA has analyzed this decision, and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a ''rule,'' which term is defined as ''an agency statement of general applicability and future effect.'' This exemption is not generally applicable, since it applies only to Rolls Royce. If the Departmental policies and procedures were applicable, the agency would have determined that this action is not ''significant.'' The principal impact of this exemption is that Rolls Royce will not be required to pay civil penalties if they achieve a CAFE level equivalent to the alternative standard established in this notice. Since this decision sets an alternative standard at the level determined to be Rolls Royce's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which limit the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Rolls Royce's 1998 and 1999 model year automobiles cannot achieve better fuel economy than 16.3 mpg for MYs 1998 and 1999, granting this exemption will not affect the amount of gasoline consumed.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Rolls Royce. It relieves the company from having to pay civil penalties for noncompliance with the generally applicable standard for MY 1998 and 1999. Since the price of 1998 and 1999 Rolls Royce automobiles will not be affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In 49 CFR § 531.5, the introductory text of paragraph (b) is republished and paragraph (b)(2) is revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2
1990	12.7

Model year	Average fuel economy standard (miles per gallon)
1991	12.7
1992	13.8
1993	13.8
1994	13.8
1995	14.6
1996	14.6
1997	15.1
1998	16.3
1999	16.3

* * * * *

Issued on: April 2, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–8824 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 62, No. 68
Wednesday, April 9, 1997

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 447 and 457

Popcorn Crop Insurance Regulations; and Common Crop Insurance Regulations, Popcorn Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of popcorn. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Popcorn Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Popcorn Crop Insurance Regulations to the 1997 and prior crop years.

DATES: Written comments on this proposed rule will be accepted until close of business May 9, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order 12866, and therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The amendments set forth in this proposed rule contains information collection that requires clearance by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Popcorn Crop Insurance Provisions.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of popcorn that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,970 hours.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than larger entities. Under the current regulations, a producer is required to complete an application and an acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a

claim for indemnity. The insured also must annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

The provisions of this rule will not have retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.126, Popcorn Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring popcorn found at 7 CFR part 447 (Popcorn Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 447 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve 7 CFR part 447.

This rule makes minor editorial and format changes to improve the Popcorn Crop Insurance Regulations' compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring popcorn as follows:

1. Section 1—Add definitions for the terms ''base contract price,'' ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''merchantable popcorn,'' ''planted acreage,'' ''pound,'' ''practical to replant,'' ''processor,'' ''processor contract,'' ''production guarantee,'' ''timely planted'' and ''written agreement'' for clarification.

2. Section 3—Clarify that an insured may select only one price election for all the popcorn in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each popcorn type designated in the Special Provisions.

3. Section 4—Change the contract change date to November 30 for all counties that currently have April 15 cancellation and termination dates. This change is made to maintain an adequate time period between this date and the cancellation dates revised to correspond to the changes in the sales closing date to comply with the Federal Crop Insurance Reform Act of 1994, for producers to make informed risk management decisions.

4. Section 5—Change the cancellation and termination dates from April 15 to January 15 for certain Texas counties. The cancellation and termination dates for all other Texas counties and all other states are changed from April 15 to March 15. These changes are made to standardize the cancellation and termination dates with the sales closing dates.

5. Section 6—Require the insured to provide a copy of the processor contract to the insurance provider on or before on the acreage reporting date to establish liability and insurability before a loss is likely to occur.

6. Section 7(a)(4)—Permit consideration for requests for a written agreement to insure popcorn that is interplanted with another crop or planted into an established grass or legume.

7. Section 7(c)—Specify the requirements under which a popcorn producer who is also a processor may establish an insurable interest in the insured crop.

8. Section 8—Clarify that any acreage damaged prior to the final planting date to the extent that the majority of growers in the area would normally not further care for the crop must be replanted unless the insurance provider agrees that it is not practical to replant.

9. Section 9(a)—Add provisions for the insurance period to end when the popcorn should have been harvested or when enough popcorn is delivered to fulfill the producer's processor contract. This requirement is consistent with other crops produced under a processor contract.

10. Section 12—Require that representative samples of the unharvested crop must be 10 feet wide and extend the entire length of each field in the unit and cannot be harvested or destroyed until the earlier of our inspection or 15 days after harvest is completed.

11. Section 13(c)(1)(iv)—Require the insured to leave intact, and provide sufficient care for, representative samples when the insured does not agree with the appraisal on that acreage. Production to count for such acreage will be determined using the harvested production if the crop is harvested, or our reappraisal if the crop is not harvested.

12. Section 14—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment provides for individual written agreements consistent with FCIC's usual policy.

List of Subjects in 7 CFR Parts 447 and 457

Crop insurance, Popcorn, Popcorn crop insurance regulations.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 447 and 457, as follows:

PART 447—POPCORN CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 447 is revised to read as follows:

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

2. The subpart heading preceding Section 447.1 is revised to read as follows:

Subpart—Regulations for the 1987 Through the 1997 Crop Years

3. Section 447.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 447.7 The application and policy.

* * * * *

(d) The application for the 1987 and succeeding crop years is found at subpart D of part 400–General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Popcorn Insurance Policy for the 1987 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

4. The authority citation for 7 CFR part 457 continues to read as follows:

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

5. Section 457.126 is added to read as follows:

§ 457.126 Popcorn crop insurance provisions.

The Popcorn Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Popcorn Crop Insurance Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions.

Base contract price—The price stipulated on the contract executed between you and the processor before any adjustments for quality.

Days—Calendar days.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture or a successor agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those required by the popcorn processor contract and recognized by the Cooperative State Research, Education and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—Removing the grain or ear from the stalk either by hand or by machine.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Merchantable popcorn—Popcorn that meets the provisions of the processor contract.

Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Popcorn must initially be placed in rows far enough apart to permit mechanical cultivation. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Pound—Sixteen (16) ounces avoirdupois.

Practical to replant—In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, marketing windows, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant unless production from the replanted acreage can be delivered under the terms of the processor contract.

Processor—Any business enterprise regularly engaged in processing popcorn for human consumption, that possesses all licenses, permits or approved inspections for processing popcorn required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted popcorn within a reasonable amount of time after harvest.

Processor contract—A written agreement between the producer and a processor, containing at a minimum:

(a) The producer's commitment to plant and grow popcorn, and to deliver the popcorn production to the processor;

(b) The processor's commitment to purchase all the production stated in the contract;

(c) A date, if specified on the processor's contract, by which the crop must be harvested to be accepted; and

(d) A base contract price.

Production guarantee (per acre)—The number of pounds determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to replace the popcorn seed and then replacing the popcorn seed in the insured acreage with the expectation of growing a successful crop.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Written agreement—A written document that alters designated terms of a policy in accordance with section 15.

2. Unit Division.

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units, if for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period, other than as described in this section.

(c) Optional units will be available only if the processor contract stipulates the number of acres that are under contract and not a specific amount of production.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(e) All optional units must be identified on the acreage report for each crop year.

(f) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections

for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage and non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the popcorn in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each popcorn type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent (100%) of the maximum price election for one type, you must also choose 100 percent (100%) of the maximum price election for all other types.

4. Contract Changes.

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties Texas, and all Texas counties lying south thereof.	Jan. 15.
All other Texas counties and all other states.	Mar. 15.

6. Report of Acreage.

In addition to the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must provide a copy of the processor contract to us on or before the acreage reporting date.

7. Insured Crop.

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the popcorn in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That is planted for harvest as popcorn;

(3) That is grown under, and in accordance with the requirements of, a processor contract executed before the acreage reporting date and is not excluded from the processor contract at anytime during the crop year; and

(4) That is not (unless allowed by the Special Provisions or by written agreement):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(b) You will be considered to have a share in the insured crop if, under the processor contract, you retain possession of the acreage on which the popcorn is grown, and the processor contract provides for delivery of popcorn under specified conditions and at a stipulated base contract price, and you retain an insurable interest in the crop.

(c) A popcorn producer who is also a processor may be able to establish an insurable interest if the following requirements are met:

(1) The processor must meet the requirements as defined in these crop provisions and have an insurable interest in the popcorn crop;

(2) The Board of Directors or officers of the processor must have instituted a resolution that sets forth essentially the same terms as a processor contract. Such resolution will be considered a contract under the terms of the popcorn crop insurance policy; and

(3) Our inspection of the processing facilities determines that they satisfy the definition of a processor contained in these crop provisions.

8. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), any acreage of the insured crop damaged before the final planting date, to the extent that the majority of growers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant.

9. Insurance Period.

In lieu of the provisions contained in section 11 (Insurance Period) of the Basic Provisions (§ 457.8), regarding the end of the insurance period, insurance ceases on each unit or part of a unit at the earliest of:

(a) The date the popcorn:

(1) Was destroyed;

(2) Should have been harvested;

(3) Was abandoned; or

(4) Was harvested;

(b) The date you have harvested sufficient production to fulfill your processor contract;

(c) Final adjustment of a loss; or

(d) December 10 immediately following planting.

10. Causes of Loss.

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we do not insure against any loss of production due to:

(1) Damage resulting from frost or freeze after the date designated by the Special Provisions;

(2) Failure to follow the requirements contained in the processor contract; or

(3) Damage that occurs to unharvested production after you deliver the production required by the processor contract.

11. Replanting Payment.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent (90%) of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent (20%) of the production guarantee or 150 pounds, multiplied by your price election, multiplied by your insured share.

(c) When popcorn is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

12. Duties In The Event of Damage or Loss.

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

13. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result of section 13(b)(1) by the respective price election, by type if applicable;

(3) Totaling the results of section 13(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see subsection 13(c)) by the respective price election;

(5) Totaling the results of section 13(b)(4);

(6) Subtracting the result of section 13(b)(5) from the result in section 13(b)(3); and

(7) Multiplying the result of section 13(b)(6) by your share.

(c) The total production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 13(d));

(iv) Potential production on insured acreage that you intend to put to another use or abandon if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us, (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(3) Any production from yellow or white dent corn will be counted as popcorn on a weight basis and any production harvested from plants growing in the insured crop may be counted as popcorn production on a weight basis.

(4) Any ear production for which we cannot determine a shelling factor will be considered to have an 80 percent (80%) shelling factor.

(d) Mature popcorn may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point for moisture in excess of 15 percent (15%). We may obtain samples of the production to determine the moisture content.

(2) Popcorn production will be eligible for quality adjustment if, due to an insurable cause of loss that occurs within the insurance period, it is not merchantable popcorn and is rejected by the processor. The production will be adjusted by:

(i) Dividing the value per pound of the damaged popcorn by the base contract price per pound for undamaged popcorn; and

(ii) Multiplying the result by the number of pounds of such popcorn.

14. Written Agreements.

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on April 2, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–9008 Filed 4–8–97; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Parts 4279 and 4287

RIN 0570–AA25

Rural Venture Capital Demonstration Program

AGENCY: Rural Business-Cooperative Service (RBS), USDA.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: Section 761 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) adds section 381O to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) which authorizes a demonstration program using Federal loan guarantees to attract venture capital funds to rural areas. RBS is preparing to develop regulations to implement this program.

In order to afford the public the maximum opportunity to contribute to the development of this new program and to enable the Agency to consider as many options as possible, RBS is requesting comments to assist in drafting the proposed rule.

DATES: The advance notice of proposed rulemaking is subject to written comments received on or before May 9, 1997.

The Agency is limiting the comment period on this advanced notice to 30 days in order to expedite the rulemaking process. The proposed rule will have a longer comment period.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations and Paperwork Management Division, Rural Development, U.S. Department of Agriculture, Stop Box 0743, 1400 Independence Avenue SW., Washington, DC 20250–0743. All written comments will be available for public inspection during regular work hours at the above address. Comments may be submitted via the internet by addressing them to ''comments@rus.usda.gov'' and must contain ''venture'' in the subject.

FOR FURTHER INFORMATION CONTACT: Rick Bonnet, Senior Commercial Loan Specialist, RBS, U.S. Department of Agriculture, Stop 3221, 1400 Independence Avenue SW., Washington, DC 20250–3221, Telephone (202) 720–1804.

SUPPLEMENTARY INFORMATION:

Classification

This rule will be determined to be ''significant'' and will be reviewed by OMB under Executive Order 12866.

The statute calls for the Secretary of Agriculture to designate for each fiscal year up to 10 community development venture organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

To be eligible to participate in the demonstration program, an organization shall establish a rural business private investment pool (referred to as a 'pool') for the purpose of making equity investment in rural private business enterprises.

From amounts in the national reserve account of the Trust Fund authorized under Subtitle E—Rural Community Advancement Program, section 381E, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool. The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002. The term of a guarantee shall not exceed 10 years.

To be eligible to participate in the demonstration program, an organization shall submit a plan that describes potential sources and uses of the pool to be established by the organization; the utility of the guarantee authority in attracting capital for the pool; and, on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and business of the existing pool.

The Secretary shall conduct a competition for the designation and establishment of pools. In conducting the competition, the Secretary shall give priority to organizations that have a demonstrated record of performance or have a board and executive director with experience in venture capital, small business equity investment, or community development finance; propose to serve low-income communities; propose to maintain an average investment of not more than $500,000 from the pool of the organization; invest funds statewide or in a multicounty region; and propose to target job opportunities resulting from the investments primarily to economically disadvantaged individuals, as determined by the Secretary. To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.

Programs Affected

No program in the Catalog of Federal Domestic Assistance is impacted by this action.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, Rural Venture Capital Demonstration Program investments are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. RBS conducts intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Farmers Home Administration Programs and Activities.''

Comments Invited

Interested parties are invited to participate in the making of the proposed rule by submitting such written data, views, arguments, or proposal as they may desire. Comments and proposals may include illustrations or references to forms and procedures utilized in other program areas in the industry.

Comments are specifically solicited concerning the choice and relative importance of selection criteria, structuring of the guarantee, when and under what circumstances the Agency will make payment under the guarantee, requirements of the community development venture organization's proposed workplan, rights and restrictions of investors in the rural business private investment pools, requirements for the organizational structure of the community development venture organizations, Agency oversight responsibilities, investment pool management, and any other comments concerning this issue.

Dated: April 1, 1997.

Inga Smulkstys,

Acting Under Secretary for Rural Development.

[FR Doc. 97–8993 Filed 4–8–97; 8:45 am]

BILLING CODE 3410–XY–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Chapter IX

[No. 97–35]

Mission Achievement by the Federal Home Loan Banks

AGENCY: Federal Housing Finance Board.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Federal Housing Finance Board (Finance Board) is requesting public comment on ways in which the Federal Home Loan Banks (Banks) can further achieve their statutory mission to support housing finance and community investment and ways in which the Finance Board, as regulator of the Federal Home Loan Bank System (Bank System), could measure and ensure that the Banks achieve their mission.

DATES: Comments must be received in writing on or before May 9, 1997.

ADDRESSES: Comments should be mailed to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Jonathan Curtis, Senior Financial Analyst, Office of Policy, (202) 408–2866, or Brandon B. Straus, Attorney-Advisor, (202) 408–2589, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background and General Issues

A. Introduction

The Finance Board has a statutory mandate to supervise the Banks in order to ensure that they carry out their housing finance mission. See 12 U.S.C. 1422a(a)(3). The Federal Home Loan Bank Act (Bank Act) authorizes, and in some instances requires, the Banks to make advances and other credit products available to member and nonmember borrowers to support both housing finance and community investment. See *id.* sections 1430, 1430b. For instance, section 10(a) of the Bank Act authorizes the Banks to make advances to provide members with a source of funding to support housing finance. See *id.* section 1430(a). Sections 10(i) and 10(j) of the Bank Act require the Banks to establish two specific advances programs, an Affordable Housing Program (AHP) and a Community Investment Program (CIP), to promote affordable housing and community investment finance. See *id.* section 1430(j), (i). Section 10(j)(10) of the Bank Act authorizes the Banks to establish community investment cash advance programs in addition to the AHP and CIP. See *id.* section 1430(j)(10). In sum, the Finance Board believes it is clear from the Bank Act that the mission of the Banks is to support and promote housing finance and community investment.

The Finance Board is in the process of devolving to the Banks functions currently performed by the Finance Board in a number of areas that are more appropriately viewed as Bank

management and governance functions. As part of that process, the Finance Board has established clear regulatory standards within which the Banks must operate in making management decisions. The Finance Board believes this approach may be appropriate for regulation of the Banks' achievement of their mission. Comments are requested on whether the Finance Board should define and measure mission fulfillment for the Banks through a regulation. Could the goals of the Finance Board in promoting more focused mission activities by the Banks be fully achieved through some means other than a regulation, such as a policy statement including a non-exclusive list of activities that the Banks may undertake in order to achieve their statutory mission?

Should the Banks establish annual plans setting out their goals for identifying and implementing mission-focused activities, including the identification of unmet credit needs in the Bank's district? Should such plans serve as the benchmark for determining whether or not a Bank is fulfilling its mission? Are there other possible options for the identification and achievement of mission by a particular Bank and the Bank System, as a whole?

The Banks currently fulfill their mission, in part, through many of the advances the Banks make and through their activities under the AHP and the CIP. As further discussed below, the Finance Board believes that the Banks have an obligation to use their statutory powers to assist member and nonmember borrowers in meeting housing finance and community investment needs through means other than advances, the AHP, and the CIP. Several of the Banks have made efforts to fulfill this obligation through the establishment of pilot programs under the Banks' investment and incidental authorities, with the approval of the Finance Board, designed to assist members in meeting unmet credit needs in specific segments of the housing finance and community investment market. These initiatives are important first steps towards fulfillment of the Banks' broader mission, and the Finance Board continues to encourage the Banks to bring innovative programs to the agency. In addition, the Finance Board wishes to facilitate all of the Banks' establishing additional programs to support affordable housing and community investment finance by member and nonmember borrowers through community investment cash advance programs, through the Bank's investment and credit activities, and by providing technical assistance. The Bank's efforts should focus on assisting member and nonmember borrowers in meeting the housing and community investment needs in their communities, including the credit needs of low- or moderate-income families and small businesses.

The Finance Board recognizes that housing and community investment credit needs may be different in each Bank's district, and the Banks are in the best position to identify those needs. Furthermore, each Bank may have proven and innovative strategies to help member and nonmember borrowers meet those needs. Consequently, the Finance Board does not intend to substitute its judgment for the Banks on these matters. Among the purposes of this notice is to solicit comments, generally, on: (1) How the Banks could identify and meet unmet credit needs, and (2) how the Finance Board shall ensure that the Banks identify and meet those unmet credit needs.

B. Defining Mission-Focused Activities

There are five broad categories of activities through which the Banks carry out their mission. The Finance Board requests comments on the following questions related to these five categories of activities.

1. Regular Advances

Many of the Banks' regular advances support our nation's housing finance system in ways not otherwise provided by the mortgage markets. These regular advances further the Banks' mission. While the Finance Board wishes to find ways beyond regular advances for the Banks to focus their housing and community investment mission, there are special programs or products that may be offered through the traditional advances mechanism, such as discounts or rebates for members meeting certain affordable housing or community investment goals or advance-related donations to affordable housing providers. What kinds of special programs structured using regular advances, including letters of credit, should qualify as mission-focused activities?

2. AHP

Because the income limits (80 percent of area median income, or AMI) and the annual subsidy amount of the AHP are fixed by statute and full participation is required by all of the Banks, the Banks' AHP activities are by definition mission-focused activities. See 12 U.S.C. 1430(j). It is the Finance Board's belief that the Banks' statutory mission responsibilities cannot be satisfied solely by participating in the AHP.

3. CIP

The general parameters of the CIP, including income-targeting (115 percent of AMI) and pricing benefits, are also set by statute and are by definition a minimum standard of mission achievement, which the Finance Board seeks to expand beyond. See *id.* section 1430(i). The Bank Act does not prescribe the volume of CIP credit that the Banks must extend on an annual basis. The Finance Board specifically requests comment on whether and how the CIP could be used more aggressively in mission fulfillment.

4. Investments

The Banks may have the greatest flexibility for increased and more focused financial support of housing and community investment activities through their investment authority. The Finance Board has revised the Financial Management Policy for the Bank System to permit double-A investments, such as state housing finance agency bonds, that further the Banks' mission. In addition, the Finance Board recently approved three pilot programs that allow several Banks to purchase participations in targeted mixed-use and multifamily project loans and to purchase whole single-family loans from member institutions. The Finance Board specifically requests comment on what other types of investments the Banks could make that would be mission-focused and what types of housing and community credit needs are not being met that could be assisted through investment, rather than advance, products.

5. Other Activities

The Finance Board wishes to promote opportunities for the Banks to achieve their mission in non-financial or non-balance-sheet activities, for example, by offering technical assistance, educational programs and business development for affordable housing, or by offering grants or awards out of earnings to housing organizations. The Finance Board specifically requests comments on whether—and if so, what kinds of—non-financial, charitable or other non-balance sheet funding could be considered as mission-focused and included in determining a Bank's mission fulfillment.

II. Issues For Consideration

A. Specific Characteristics of Mission-Focused Activities

There are a variety of activities that the Banks might engage in as a means of carrying out their mission. The following is only a partial list of

alternatives from which the Banks might choose. Should the following activities be considered ways in which the Banks achieve their mission: (1) Providing products that are targeted to meet multiple policy objectives, such as low-income housing and mixed-income community revitalization; (2) pricing Bank products to encourage member institutions to be active in affordable housing and community revitalization; (3) developing strategies to encourage partnerships among and between members, nonmembers, housing and community development organizations, and government agencies; (4) providing technical and educational assistance to members and affordable housing and community development organizations?

The Finance Board also requests comment on how the Banks could use their cooperative structure to assist members in acquiring, developing, and implementing emerging technologies.

B. Measurement of Mission Achievement

The Finance Board requests comment on ways in which the Banks' mission achievement can or should be measured. One option would be for the Finance Board to establish, or require the Banks to establish, quantitative targets for specific mission-related activities undertaken by the Banks. However, the Finance Board understands that the efficacy of some mission-related activities, such as promoting public-private partnerships, may be difficult to measure quantitatively. Therefore, comments are requested on what other methods of measurement, such as qualitative measurements, may be appropriate for these kinds of activities. Comments also are requested on whether and through what medium the results of a Bank's performance in achieving its mission should be communicated to the public.

C. Role of Advisory Councils

Comments are requested on what role the Banks' Advisory Councils should play in achievement of the Banks' mission. Under statute, it is the role of the Advisory Council to provide guidance to a Bank on the low- and moderate-income housing programs and needs in the Bank's district and on the utilization of advances to meet these needs. See id. section 1430(j)(11). If the Banks were required to establish mission achievement plans, as discussed above, one option would be to require each Bank to provide its Advisory Council a reasonable period of time to review the mission achievement plan and provide its recommendations to the Bank's board of directors.

Comments received in response to this ANPRM will be reviewed and considered by the Finance Board in preparation of further action in connection with the issues discussed in this ANPRM. In addition, the Finance Board expects to hold a public hearing on these issues in the near future.

Dated: April 2, 1997.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 97–9049 Filed 4–8–97; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 516, 543, 545, 552, 556, 563

[No. 97–30]

RIN 1550–AA83

Application Processing

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: As a part of its ongoing effort to review and streamline its regulations, the Office of Thrift Supervision (OTS) is proposing to revise its regulations governing the comment procedures for certain specified applications and notices (collectively ''applications''). In addition to reorganizing the regulations, the OTS proposes to amend the existing procedures to expand the comment period on these applications, prescribe the information that comments must contain in order to be considered by the OTS in its evaluation of applications, and remove existing provisions that require the OTS to conduct an oral argument on applications under certain circumstances and replace these provisions with discretionary conference procedures.

DATES: Comments must be received on or before June 9, 1997.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 97–30. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Catherine Shepard, Senior Attorney, Regulations and Legislation Division, (202) 906–7275, Kevin Corcoran, Assistant Chief Counsel, Business Transactions Division, (202) 906–6962, Office of Chief Counsel; or Diana L. Garmus, Director, Corporate Activities Division, (202) 906–5683, Office of Thrift Supervision, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

OTS regulations governing applications for permission to organize a federal stock or mutual savings association, to establish or relocate a branch office of a federal savings association, and to engage in a transaction that is subject to the Bank Merger Act require applicants to follow the public comment and review procedures at 12 CFR 543.2 (e) and (f).

Currently, § 543.2 provides an opportunity for the public to submit communications in favor or in protest of applications, and permits the applicant to respond to any protest. Where a protest is timely submitted, meets specified criteria, and includes a request for oral argument, or if an applicant requests an oral argument, the regulation requires the OTS to conduct an oral argument on the merits of the application. The OTS may also hold an oral argument in the absence of any specific request, if it determines that additional proceedings are desirable.

Today, the OTS is proposing to revise these procedures. The proposed revisions, discussed more fully below, would consolidate the public comment procedures for the cited applications. The proposal would also expand existing public comment periods, prescribe the information that a comment must contain to be considered in the evaluation of applications, and delete existing provisions requiring the OTS to conduct an oral argument on applications under certain circumstances and replace these provisions with discretionary conference procedures. The OTS believes that these changes will make the application processing procedures easier to understand and apply. Additionally, the proposed discretionary conference procedures will conform OTS regulations more closely to those of the other federal banking agencies, in accordance with

section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

II. Description of the Proposed Rule

The OTS proposes to relocate and revise the public comment and related procedures for the applications described above. Currently, these procedures may be found in 12 CFR 543.2, which governs applications to organize federal mutual associations. The proposed rule would relocate these provisions to 12 CFR Part 516, which prescribes application processing guidelines and procedures. This relocation should make it easier for applicants and others to find relevant regulations and to determine what procedures must be followed. The provisions of the revised section are discussed more fully below.

Comment Procedure—Proposed § 516.5(a)(1)

Under this proposed paragraph, where a regulation incorporates the procedures set forth in § 516.5, public comments may be submitted only as provided by § 516.5(a), or as otherwise requested by the OTS. The proposed rule would further provide that the term ''comment'' includes any written submission that favors or opposes the application.

Comment Period—Proposed § 516.5(a)(2)

Under current § 543.2(e), anyone may submit a communication in favor or protest of an application to the OTS within 10 days of publication of a public notice of the filing of an application. This time period may be extended to 17 days after publication, if a request for extension is filed within the 10-day period. Applicants are permitted to file an answer to any protest until 10 days after the date for filing of such public comments.

The OTS believes that a longer comment period, without an automatic extension, would be less confusing and more workable. Accordingly, the proposed rule would extend the comment period to 25 days and would delete the automatic 7-day extension period. The OTS may still grant extensions on a case-by-case basis, where a comment addresses a significant regulatory concern and the commenter shows good cause why it was unable to submit the comment within the 25-day comment period. The length of any extension will also be determined on a case-by-case basis.

The proposed rule eliminates provisions permitting the applicant to file an answer to public comments within ten days of the close of the public comment period. The OTS will generally provide an appropriate opportunity for an applicant to respond to relevant comments by forwarding these comments to the applicant and requesting a response.

Comment Content Requirements—Proposed § 516.5(a)(3)

Under the existing rules, a protest is considered substantial if it is submitted in writing within the comment period, and states a reason for the protest that is consistent with one of the regulatory bases for denying an application. Additionally, a substantial protest must include: (i) A summary of the reasons for the protest; (ii) the specific matters in the application to which the protestant objects and the reasons for each objection; (iii) facts supporting the protest, including relevant economic or financial data; and (iv) any adverse effects on the protestant that may result from approval of the application. 12 CFR 543.2(e) (2) and (4).

Under the current rules, the term ''substantial'' serves a ministerial purpose. It simply serves as a means of separating comments that contain the required information (and, thus, may serve as the basis for a request for an oral argument) from those that do not. Unfortunately, some have misconstrued OTS findings that a comment is substantial as an indication that the OTS has evaluated the substance of the comment and has concluded that the comment is meritorious.

The proposed rule would remove the concept of a substantial protest. Instead, the rule merely describes what a comment must include to be considered by the OTS in the review of an application. Under the proposed rule, a comment must recite all relevant facts, including any economic or financial data, supporting the commenter's position. Comments in opposition must address at least one of the regulatory bases for denial, as set forth in the applicable regulations, recite relevant facts and supporting data addressing these bases, and address any adverse effects on the commenter or the community that may result from the approval of the application. This approach should make the drafting and review of comments more straightforward and less burdensome.

Conferences—Proposed § 516.5(b)(1)

Under existing rules, the OTS must conduct an oral argument if the applicant or anyone filing a substantial protest makes a timely request for the argument. At the oral argument, the parties may participate in person or through a designated representative. A transcript of the argument is made and included in the application file. *See* 12 CFR 543.2(f).

Oral arguments may assist in the disposition of issues raised by an application. These additional proceedings, however, are not necessary in every case, and can delay the application process without substantially enhancing the quality of the information available to evaluate the application.

Under the current rules, where a substantial protest is filed with a request for an oral argument, the OTS must, by regulation, hold an oral argument. Comparable regulations of the other federal banking agencies provide these regulators with greater flexibility. Instead of mandating additional proceedings at the request of the parties, these rules provide the agencies with discretion to conduct additional proceedings if the agency concludes that the proceedings would assist the decisionmaking process.[1]

Consistent with the rules of the other federal banking agencies, OTS's proposed rule would provide for additional proceedings only where the OTS determines that such proceedings would assist in the disposition of the application or would assist in the resolution of any issues raised by the application.

Instead of mandating specific procedures in the form of an oral argument, the proposed rule permits the OTS to arrange a conference between the applicant, commenters, and others. The rule does not prescribe procedures for the conference. Rather, it permits the OTS to select the procedure appropriate to the application on a case-by-case basis. For example, the OTS may determine, based on the facts or issues raised with regard to a particular application, that it should conduct a transcribed conference consisting of oral argument. For other applications, the OTS may decide to use very informal procedures, such as a conference telephone call. The proposed rule requires the OTS to provide an applicant and commenters with at least 10 days advance notice of the time,

[1] Currently, the OCC will generally grant a hearing request ''only if the OCC determines that written submissions would be inadequate or that a hearing would otherwise benefit the decisionmaking process. * * * [or] concludes that the hearing would be in the public interest.'' 61 FR 60342, 60365 (Nov. 27, 1996) (to be codified at 12 CFR 5.11). The FDIC arranges informal and formal hearings at its own discretion. 12 CFR 303.6(h) (1996). The FRB may hold a private or public meeting when ''appropriate.'' 12 CFR 262.25 (c) and (d) (1996).

location and procedures to be followed at any conference.

The OTS believes that these changes will improve the public comment process and will align its regulation more closely with the regulations of the other federal banking agencies.

In the past, participants in the application comment process have suggested that OTS should be required to distribute a document addressing the issues raised in the comments or at the oral argument. The OTS does not distribute such documents. The only document that the OTS routinely issues that may refer to the comments is the order or decision letter on the application.

Application Time Frames—Proposed § 516.5(b)(2)

The proposed rule would provide that applicable time periods for automatic approval of the application will be suspended if the OTS has notified the applicant that it intends to hold a conference.[2] Applicants are encouraged to arrange meetings with commenters at any time, independent of OTS involvement. Such meetings will not, however, suspend the time period for automatic approval.

Conforming Revisions

The proposed rule would include conforming revisions to various other regulations. These changes are summarized below.

Section 543.2 would be revised to reflect the relocation of the public comment procedures to Part 516. In addition, the public notice procedures at paragraph (d)(1) would be revised to require an applicant to publish the notice of the filing of an application for permission to organize no earlier than three days before and no later than the date of filing of the application. Paragraphs (c) and (d)(4) would be revised to reflect the fact that applications will no longer be filed before the publication of the public notice. Paragraph (d)(3) would be revised to delete the requirement that OTS must provide a notice of the filing of an application to persons who have filed a request for such notice. This section is duplicative of the requirement set forth at § 563e.6. Currently, 543.2(d)(3) also requires OTS to notify the state official who supervises savings associations in the state where the new association will be located. This notification requirement would be retained.

Paragraph (h)(1) would be revised to clarify that public notice and comment procedures, conference procedures, and approval conditions otherwise applicable to applications to organize federal associations would not apply to applications to organize interim federal associations. Applications that accompany the organization of the federal interim association, for example, merger applications or holding company applications, would continue to be subject to the requirements set forth under the applicable merger or holding company regulations. A similar revision would be made to section 552.2–2(a), which governs applications to organize interim federal stock savings associations.

Section 545.92 governs the establishment of branch offices by federal associations. This section currently incorporates the comment and oral argument procedures at § 543.2 (e) and (f). It also cross-references additional procedures from § 543.2 (c) and (d) that address the amendment of applications, the publication of public notices, and public inspection procedures. Rather than require the reader to refer to two different regulations to determine the procedures that apply to branch office applications, proposed § 545.92 would refer to the new comment procedures at § 516.5, and would restate in full appropriate additional procedures contained in existing § 543.2 (c) and (d).

The current procedures for branch applications that are subject to standard treatment under § 545.92 require the publication of a public notice within 10 days after OTS notifies the association that the application is complete. These procedures also state that such applications may, under certain circumstances, be deemed to be approved within 30 days of this OTS notification. Because these procedures would not accommodate the proposed 25-day public comment period, the OTS proposes to require the savings association to publish the public notice of all branch applications or notices no earlier than three days before and no later than the date of the filing of the application.

Section 545.95 addresses changes of permanent locations and redesignations of home and branch offices of federal associations. The current rule requires an applicant to post a notice of the application for 17 days from the date of publication of the newspaper notice—a period that is equal to the extended comment period under current 12 CFR 543.2(e)(1). The proposed rule would expand the time period for posting to 25 days to more closely track the revised comment period. The proposed rule would also update existing cross-references to § 545.92 procedures.

Section 552.2–1 governs procedures for the organization of federal stock associations. Currently, this regulation incorporates § 543.2(a) through (f) by reference. Rather than refer the reader to two regulations to determine the proper procedures for these applications, proposed § 552.2–1 would refer to the new comment procedures at § 516.5, and would restate in full any appropriate additional procedures contained at existing § 543.2(a) through (d). As in § 543.2, the public notice procedures contained in this section would be revised to require an applicant to publish notice of the filing of the application to organize no earlier than three days before, and no later than the date of filing of the application.

Sections 556.5 (policy statement on branching by federal savings associations) and 563.22 (merger consolidation, purchase or sale of assets, or assumption of liabilities) would be revised to include appropriate citations to the new comment procedures at § 516.5, rather than the existing procedures at § 543.2.

The OTS invites comment on all aspects of the proposal.

III. Executive Order 12866

The Director of the OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

IV. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule should enable the OTS to process applications received from all applicants, including small savings associations, and other small businesses, more expeditiously. It also allows all entities, including small entities, a longer period in which to submit comments on applications filed by savings associations.

V. Paperwork Reduction Act of 1995

The information collection requirements contained in this rule are found at 12 CFR 516.5, 543.2, 545.92, 545.95, 552.2–1, and 563.22. All of the collections of information, except those found in § 516.5, have been previously approved by the Office of Management and Budget and the burden under them remains unchanged under this rule

[2] This requirement is currently found at 12 CFR 516.2(c)(6). Since the proposed rule would include this provision at § 516.5(b)(2), § 516.2(c)(6) would be deleted. We note that the OTS also may extend the time for review under 12 CFR 516.2 (e) and (f).

(OMB Control Nos. 1550–0005, 1550–0006, and 1550–0016). The requirements in new § 516.5 were previously found in several of the sections mentioned above. New § 516.5 does not add any additional burden and will be added to the approved packages under OMB Control Nos. 1550–0005, 1550–0006, 1550–0015 and 1550–0032 by inventory correction worksheet at the final rule stage.

Comments on all aspects of the information collections should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, D.C. 20503 with copies to the OTS, 1700 G Street, NW., Washington, D.C. 20552.

The OTS invites comments on:

(1) Whether the collections of information are necessary for the proper performance of the agency's functions, including whether the information has practical utility;

(2) The accuracy of the agency's estimate of the burden of the information collections;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the information collection including the use of automated collection techniques or other forms of information technology.

Respondents/recordkeepers are not required to respond to the collections of information unless they display a currently valid OMB control number.

VI. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this proposed rule simplifies existing procedures and should reduce regulatory burden. The OTS has determined that the proposed rule will not result in expenditures by state, local or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 543

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 556

Savings associations.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision proposes to amend title 12, chapter V, of the Code of Federal Regulations as set forth below.

PART 516—APPLICATIONS PROCESSING GUIDELINES AND PROCEDURES

1. The authority citation for part 516 is revised to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

§ 516.2 [Amended]

2. Section 516.2(c)(6) is removed and reserved.

3. Section 516.5 is added to read as follows:

§ 516.5 Comment procedures.

(a) *Comments*—(1) *General.* If a regulation incorporates the procedures set forth in this section, public comments in connection with an application or notice (collectively referred to as applications) shall be submitted only as provided in this paragraph (a), or as otherwise requested by the OTS. A comment includes any written submission in favor of, or in opposition to, the application.

(2) *Submission.* Any person may file a written comment with the OTS within 25 days after an application is published for public comment. The OTS will not consider any comment received after the 25-day comment period, unless the commenter demonstrates good cause why it was unable to submit a timely comment, and the OTS concludes that the comment addresses a significant regulatory concern and will assist the agency in the disposition of the application.

(3) *Content.* To be considered by the OTS, a comment must recite all relevant facts, including any economic or financial data, supporting the commenter's position. Comments in opposition must address at least one of the regulatory bases for denial, as set forth in the applicable regulations, recite relevant facts and supporting data addressing these relevant bases, and address any adverse effects on the commenter or the community that may result from the approval of the application.

(b) *Conference.* (1) The OTS may arrange a conference between the applicant commenter(s), and other persons, if the OTS concludes that a conference will assist in the disposition of the application or in the resolution of any issues raised by the application. The OTS must provide the applicant and commenter(s) with at least 10 days notice of the time, location, and procedures to be followed at the conference.

(2) *Application time frames.* If the OTS has timely notified the applicant that it intends to hold a conference under paragraph (b) of this section, the time period for automatic approval of the application under § 516.2 shall be temporarily suspended until a record is developed sufficient to support a determination on the issues raised in the comments.

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

4. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

5. In § 543.2, paragraph (c) is removed and reserved and paragraphs (d)(1), (d)(3), (d)(4), (e), (f) and (h)(1) are revised to read as follows:

§ 543.2 Application for permission to organize.

* * * * *

(d) * * * (1) The applicant shall publish a public notice of the application to organize no earlier than three days before and no later than the date of filing of the application. The applicant shall publish the notice in a newspaper printed in the English language and having a general circulation in the community in which

the home office of the new association is to be located. If the OTS determines that the primary language of a significant number of adult residents of the community is a language other than English, the OTS may require that notice also be given simultaneously in the appropriate language(s).

* * * * *

(3) The OTS shall give notice of the application to the State official who supervises savings associations in the State in which the new association is to be located.

(4) The application and all related communications may be inspected by any person at the Regional Office during regular business hours, unless such information is exempt from public disclosure.

(e) *Submission of comments.* Comments on the application shall be submitted in accordance with the procedures specified in § 516.5(a) of this chapter.

(f) *Conference procedures.* The OTS may arrange a conference in accordance with § 516.5(b) of this chapter.

* * * * *

(h) * * * (1) Applications for permission to organize an interim Federal savings association are not subject to public notice and comment procedures, and conference procedures, and are not subject to paragraph (g)(3) of this section.

* * * * *

PART 545—OPERATIONS

6. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

7. In § 545.92, paragraphs (d), (e) heading, (e)(2), and (f) are revised, and paragraphs (i) and (j) are removed to read as follows:

§ 545.92 Branch offices.

* * * * *

(d) *Processing of applications/notices.* Processing of applications and notices shall be subject to the following procedures:

(1) *Publication.* (i) A Federal savings association shall publish a public notice of the branch application or notice no earlier than three days before and no later than the date of the filing of the application or notice. The applicant shall publish the notice in a newspaper printed in the English language and having a general circulation in the community in which the home office of the association is located and in the community to be served by the branch office. If the OTS determines that the primary language of a significant number of adult residents of either community is a language other than English, the OTS may require that notice also be given simultaneously in the appropriate language.

(ii) The public notice shall be in substantially the following form:

NOTICE OF ESTABLISHMENT OF A BRANCH OFFICE OR CHANGE OF LOCATION OF AN OFFICE

This is to inform you that [Association Corporate Title, City, Town, State and Zip Code] is filing [an] [application/notice] with the Office of Thrift Supervision (''OTS'') for permission to establish a branch office to be located [address of branch office]. This [application/notice] is filed under OTS regulations at 12 CFR 545.92 or 12 CFR 545.95.

Anyone may comment in favor of, or in opposition to, the [application/notice] within 25 days of the publication of this notice. To be considered by the OTS, your comments must be filed in writing within this time period. Your comment must recite all relevant facts, including any economic or financial data, supporting your position. If you submit a comment in opposition, you must address at least one of the regulatory bases for denial, as set forth in the applicable regulations, recite relevant facts and supporting data addressing these bases, and address any adverse effects on you or the community that may result from the approval of the [application/notice].

You must send three copies of your comment to the Regional Director, [insert name and address of the OTS Regional Office where the application/notice is filed]. You may view the [application/notice] and all comments filed at the OTS Regional Office, except to the extent that these materials may be exempt by law from disclosure. If you have any questions concerning these procedures, contact the OTS Regional Office.

(iii) Promptly after publication of the public notice, the savings association shall transmit copies of the public notice and publisher's affidavit of publication to the OTS.

(iv) The application or notice and all related communications may be inspected by any person at the Regional Office during regular business hours, unless such information is exempt from public disclosure.

(2) *Submission of application or notice.* A Federal savings association must comply with § 556.5 of this chapter and shall file the application required under § 516.3(b)(2) of this chapter or the notice required under § 516.3(a) of this chapter within three days of the publication of the public notice under paragraph (d)(1) of this section.

(3) *Submission of comments.* Comments on the application or notice shall be submitted in accordance with the procedures specified in § 516.5(a) of this chapter.

(4) *Conference procedures.* The OTS may arrange a conference in accordance with § 516.5(b) of this chapter.

(e) *Approval of branch application.*

* * *

(2) An application shall be deemed to be approved 30 days after notification that the application is complete, unless the OTS notifies the savings association that it intends to hold a conference under the procedures described in § 516.5(b) of this chapter, or that the OTS objects to the application on the grounds set forth under paragraph (e)(1) of this section.

(f) *Approval of branch notice.* A notice filed by a Federal savings association that qualifies for expedited treatment shall be deemed to be approved 30 days after its filing with the OTS, unless the OTS notifies the savings association that it intends to hold a conference under the procedures described in § 516.5(b) of this chapter; the OTS objects to the application on the grounds set forth in paragraph (e)(1) of this section; or the OTS determines to process the filing as an application under § 516.3(a)(3) of this chapter. If the OTS notifies the savings association that it intends to hold a conference, the savings association may not open a branch until the OTS provides a notification of its approval.

* * * * *

8. In § 545.95, paragraphs (a) and (b)(1)(ii) are revised to read as follows:

§ 545.95 Change of office location and redesignation of offices.

(a) *Eligibility.* A Federal savings association may change the permanent location of its home office or any approved branch office, or redesignate a home or branch office subject to the appropriate expedited or standard treatment procedures for establishing a branch office set forth in § 545.92 of this part.

(b) * * *

(1) * * *

(ii) The applicant shall post notice of the application for 25 days from the date of first publication in a prominent location in the office to be closed or redesignated.

* * * * *

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

9. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

10. Section 552.2–1 is amended by revising paragraph (a) to read as follows:

§ 552.2–1 Procedure for organization of Federal stock association.

(a) *Application for permission to organize.* Applicants may file an application for permission to organize a Federal stock association in accordance with this section. Recommendations by employees of the OTS regarding applications for permission to organize are privileged, confidential, and subject to § 510.5 (b) and (c) of this chapter. The processing of an application under this section shall be subject to the following procedures:

(1) *Publication.* (i) The applicant shall publish a public notice of the application no earlier than three days before and no later than the date of filing of the application. The applicant shall publish the notice in a newspaper printed in the English language and having a general circulation in the community in which the home office of the new association is to be located. If the OTS determines that the primary language of a significant number of adult residents of either community is a language other than English, the OTS may require that notice also be given simultaneously in the appropriate language(s).

(ii) Promptly after publication of the public notice, the applicant shall transmit copies of the public notice and publisher's affidavit of publication to the OTS in the same manner as the original filing.

(iii) The application and all related communications may be inspected by any person at the Regional Office during regular business hours, unless such information is exempt from public disclosure.

(2) *Notification to interested parties.* The OTS shall give notice of the application to the State official who supervises savings associations in the State in which the new association is to be located.

(3) *Submission of comments.* Comments on the application shall be submitted in accordance with the procedures specified in § 516.5(a) of this chapter.

(4) *Conference procedures.* The OTS may arrange a conference in accordance with § 516.5(b) of this chapter.

* * * * *

11. Section 552.2–2 is amended by revising paragraph (a) to read as follows:

§ 552.2–2 Procedures for organization of interim Federal stock association.

(a) Applications for permission to organize an interim Federal savings association are not subject to public notice and comment procedures, and conference procedures, and are not subject to § 552.2–1(b)(3) of this part.

* * * * *

PART 556—STATEMENTS OF POLICY

12. The authority citation for part 556 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1464, 1701j–3; 15 U.S.C. 1693–1693r.

13. Section 556.5 is amended by revising paragraph (c)(4) to read as follows:

§ 556.5 Branching by Federal savings associations.

* * * * *

(c) * * *

(4) *Comment procedures.* Comments on applications for branches must be submitted in writing and factually documented. Comment procedures are set forth in § 516.5 of this chapter, part 563e of this chapter, the OTS Application Processing Handbook, and other supervisory guidance issued by the OTS.

* * * * *

PART 563—OPERATIONS

14. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 3806; 42 U.S.C. 4106.

15. Section 563.22 is amended by revising paragraphs (e)(4) and (f)(3) to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

* * * * *

(e) * * *

(4) Applications submitted under paragraph (a) of this section shall be subject to the comment procedures specified in § 516.5(a) of this chapter, except that comments may be submitted at any time during the period described in paragraph (e)(2) of this section. The OTS may arrange a conference in accordance with § 516.5(b) of this chapter.

* * * * *

(f) * * *

(3) The OTS has notified the savings association that it intends to hold a conference as described in § 516.5(b) of this chapter;

* * * * *

Dated: March 31, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–8815 Filed 4–8–97; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 543

[No. 97–31]

RIN 1550–AB06

Incorporation, Organization, and Conversion of Federal Mutual Associations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Thrift Supervision (OTS) proposes to amend its regulations governing conversions to federal mutual savings associations to permit the direct conversion of all types of mutual depository institutions into federal mutual savings associations. This proposal would simplify the conversion process.

DATES: Comments must be received on or before June 9, 1997.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No, 97–31. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Scott Ciardi, Senior Analyst, Corporate Activities Division (202/906–6960); David A. Permut, Counsel (Banking and Finance) (202/906–7505) or Kevin A. Corcoran, Assistant Chief Counsel for Business Transactions (202/906–6962), Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Various types of depository institutions have expressed interest in converting to a federal savings association charter.[1] The OTS has

[1] Section 2(5) of the Home Owners' Loan Act defines ''federal savings associations'' to include

Continued

received, for example, inquiries from credit unions and commercial banks on the process of converting to a federal thrift charter. Depository institutions may determine that because their businesses focus on housing or consumer credit needs, these operations may be conducted most efficiently through a federal thrift charter. The Home Owners' Loan Act (HOLA)[2] sets forth the purposes of a federal thrift charter as providing for the deposit of funds and for the extension of credit for homes and other goods and services.[3]

The OTS has long taken the position that depository institutions should be free to operate under whatever charter best suits their business needs, consistent with safety and soundness. To that end, the OTS has granted federal savings associations explicit authority to convert directly to a bank charter,[4] and has promulgated regulations enabling stock depository institutions to convert directly to a federal stock savings association charter.[5] The purpose of today's proposed regulation is to permit mutual depository institutions to convert directly to a savings association charter.

II. Current Law

Sections 5(i) and 5(o) of the HOLA provide for direct conversions of, respectively, state savings associations and state-chartered savings banks that are Bank Insurance Fund members to a federal charter.[6] Separately, pursuant to Section 5(a) of the HOLA, the OTS has promulgated a regulation permitting the direct conversion to a federal stock savings association charter of any stock depository institution that is, or is eligible to become, a member of a Federal Home Loan Bank.[7]

Depository institutions in mutual or stock form also may convert to a federal association charter indirectly, by obtaining a new federal savings association charter, and causing the existing institution to combine with the new federal association in a merger or purchase and assumption transaction.[8] This method, however, is more burdensome to the applicant because it involves several different regulatory approvals.

Section 5(a) is a broad grant of authority to the Director of the OTS, encompassing (among other things) approval of direct conversions of mutual depository institutions to a federal mutual charter. Section 5(a) authorizes the Director of the OTS, under such regulations as the Director may prescribe, to provide for the organization, examination, operation and regulation of federal savings associations. Section 5(a) of the HOLA gives the OTS plenary authority to provide for the organization and regulation of federal savings associations, consistent with the ''best practices'' of thrift institutions in the United States and for the purpose of encouraging such institutions to provide credit for housing safely and soundly.[9]

In addition, recent revisions to HOLA provisions governing permissible investments (Section 5(c)), and to its definition of ''qualified thrift investment'' (Section 10(m)) reflect a congressional intent for federal savings associations and savings banks to have a significant role in many kinds of consumer finance, as well as in home mortgage lending.[10] The OTS believes that non-thrift depository institutions that conclude that their operations in providing credit for housing and other consumer-related purposes make the federal savings association charter the optimal charter should be able to convert to that charter without encountering unnecessary regulatory burdens.

The OTS already has amended its regulations to facilitate the direct conversion of stock depository institutions to federal stock savings associations.[11] The OTS has now determined, pursuant to its Section 5(a) authority, to amend its regulations to facilitate direct conversions of mutual depository institutions to a federal mutual thrift charter.

III. Proposed Amendments

The proposed rule would revise 12 CFR 543.8 and 543.9 to permit any type of mutual depository institution to convert to a federal mutual savings association. The proposed rule would apply all existing regulatory requirements currently applicable to direct conversions by state mutual associations and savings banks to this expanded class of applicants and would revise Sections 543.8 and 543.9 as described below. Proposed Section 543.8 would permit conversion subject to three requirements.

First, the institution must, upon consummation of the conversion, have deposits insured by the Federal Deposit Insurance Corporation (''FDIC''). *See also* § 543.9(c)(3).

Second, the depository institution, in accomplishing the conversion, must comply with all applicable state and federal statutes and regulations, and OTS policies, and obtain all necessary regulatory and member approvals. This provision requires, among other things, that the converting depository institution have authority to convert to a federal association under the statutes and regulations applicable to the converting institution, and the conversion be approved by a vote of its members pursuant to the laws applicable to the converting institution.

Third, depository institutions converting to a federal mutual association charter must conform with the investment limitations of Section 5(c) of the HOLA[12] within a time frame prescribed by the OTS. Section 552.2–6 of the OTS regulations already contains this requirement for federal stock associations.

The proposal also would revise Section 543.9(a) to set forth the filing requirements. Section 543.9(c) would be revised to eliminate the statement that the OTS will not consider the application of a converting institution not insured by the FDIC until the FDIC completes an eligibility examination. The OTS does not believe it is necessary to delay consideration of an application until the eligibility examination has been completed. Moreover, the OTS has the ability to deem a conversion application incomplete, if processing of the application hinges on the final results of the eligibility examination, under the application processing procedures at Section 516.2.

In addition, Section 543.9(c) would be revised to provide explicitly that the OTS will consider applications to convert to a federal mutual charter under the standards set forth at section 5(e) of the HOLA, as well as Section 543.2(g). Moreover the revised regulation would explicitly state that converting institutions that have been in existence as depository institutions for less than three years will be subject to all approval criteria and other requirements applicable to *de novo* federal associations.[13]

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federal savings associations and federal savings banks. Accordingly, references herein to federal savings associations include federal savings banks.

[2] 12 U.S.C. 1461 *et seq.*

[3] 12 U.S.C. 1464.

[4] 12 CFR 552.2–7.

[5] 12 CFR 552.2–6.

[6] 12 U.S.C. 1464 (i) and (o).

[7] 12 CFR 552.2–6.

[8] The authority for federal mutual and stock associations to engage in these types of transactions is set forth at 12 CFR 546.2 and 552.13, respectively.

[9] 12 U.S.C. 1464(a).

[10] *See* Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104–208, section 2303(a)–(e), (g), 110 Stat. 3009 (codified in portions of 12 U.S.C. 1464(b), (c), 1467a(m)).

[11] 12 CFR 552.2–6.

[12] 12 U.S.C. 1464(c).

[13] *See* 12 CFR 571.6.

IV. Solicitation of Comments

The OTS invites public comment on all aspects of the proposal.

V. Executive Order 12866

The Director of the OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

VI. Regulatory Flexibility Act Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposal, which will reduce regulatory burdens, will not have a significant economic impact on a substantial number of small entities, because small entities utilizing the regulation may be able to reduce the number of applications they must file in order to convert to a federal charter. Accordingly, an initial Regulatory Flexibility Analysis is not required.

VII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, or $100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to Section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 543

Conversions, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision proposes to amend chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

1. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Section 543.8 is amended by revising the heading and paragraph (a) to read as follows:

§ 543.8 Conversion of depository institutions to Federal mutual charter.

(a) With the approval of the OTS, any depository institution, as defined in § 552.13 of this chapter, that is in mutual form may convert into a Federal mutual savings association, provided that:

(1) The depository institution, upon conversion, will have deposits insured by the Federal Deposit Insurance Corporation;

(2) The depository institution, in accomplishing the conversion, complies with all applicable state and federal statutes and regulations, and OTS policies, and obtains all necessary member approvals; and

(3) The resulting Federal mutual association conforms within the time prescribed by the OTS to the requirements of section 5(c) of the Home Owners' Loan Act.

* * * * *

3. Section 543.9 is amended by revising paragraph (a) and the introductory text of paragraph (c) to read as follows:

§ 543.9 Application for conversion to Federal mutual charter.

(a) *Filing.* Any depository institution that proposes to convert to a Federal mutual association as provided in § 543.8 shall, after approval by its board of directors, file in accordance with § 516.1 of this chapter an application on forms obtained from the OTS. The applicant shall submit any financial statements or other information the OTS may require.

* * * * *

(c) *Action on application*. The OTS will consider such application and any information submitted therewith, and may approve the application in accordance with section 5(e) of the Home Owners' Loan Act and § 543.2(g)(1). Converting depository institutions that have been in existence less than three years will be subject to all approval criteria and other requirements applicable to *de novo* Federal associations. Approval of an application and issuance by the OTS of a charter will be subject to:

* * * * *

Dated: April 2, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–8952 Filed 4–8–97; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–139, Notice No. SC–97–2–NM]

Special Conditions: Ilyushin Aviation Complex Model Il–96T Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Ilyushin Aviation Complex Model Il–96T airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). This document contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

DATES: Comments must be received on or before May 27, 1997.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–139, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–139. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Hickey, FAA, International Program Manager, ANM–102, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2128.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The

proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–139.'' The postcard will be date stamped and returned to the commenter.

Background

Ilyushin Aviation Complex, 45 Leningradsky Prospect, Moscow, 125190, Russia, has applied for Russian type certification of their Model Il–96T airplane by the Aviation Register (AR) of the Interstate Aviation Committee in accordance with existing AR standards. The AR is authorized to perform airworthiness certification functions on behalf of the Commonwealth of Independent States, including the Russian government. In addition, Ilyushin applied for U.S. type certification of the Model Il–96T on February 16, 1993.

Section 21.29 of 14 CFR part 21 of the Federal Aviation Regulations (FAR) prescribes a reciprocal bilateral agreement between the U.S. and exporting country as a requirement for consideration of U.S. design or airworthiness approval of an imported aeronautical product. Such agreements are known as bilateral aviation safety agreements (BASA). Although the U.S. does not presently have a BASA with Russia providing reciprocal acceptance of transport category airplanes, the FAA is working with the AR and Russian government officials to conclude an agreement of this nature. FAA Advisory Circular (AC) 21–23, Airworthiness Certification of Civil Aircraft, Engines, Propellers, and Related Products Imported to the United States, provides further guidance in this regard.

A BASA with Russia may be concluded following successful completion of an assessment by the FAA and the AR of each other's technical competence and regulatory capability for performing airworthiness certification functions. The scope of the agreement is defined by each authority in Implementation Procedures. FAA type certification of the Model Il–96T transport airplane is therefore conditional upon successful implementation of a BASA with Russia, providing acceptance of transport category airplanes.

One of the key elements of any BASA assessment program is the shadow certification program. Under the Russian shadow certification program, FAA specialists are ''shadowing'' their AR counterpart specialists during AR certification of an example of the aeronautical product that the BASA is intended to cover. This program is intended to provide FAA assessment specialists with ample opportunity to evaluate the AR certification process and the AR specialists' technical competencies to support the airworthiness authority responsibilities inherent in a bilateral agreement. The Ilyushin Model Il–96T was selected as the product for this shadow certification which, if successful, would lead to a U.S.-Russia BASA. Conclusion of the BASA and related implementation procedures would, in turn, be followed by issuance of a U.S. type certificate for that model.

Under the anticipated provisions of the future BASA, the AR has elected to certify that the Model Il–96T complies with the AP–25 type certification standards, plus any additional requirements identified by the FAA to ensure an equivalent level of safety to that provided by the U.S. type certification standards. The AP–25 airworthiness standards, which were developed as the successor to the NLGS–3 standards of the former Soviet Union, were approved by the AR in November 1993 and implemented in Russia in July 1994. These standards have also been accepted by many of the other Commonwealth of Independent States for type certification of transport category airplanes. They were established after extensive harmonization with part 25 of the FAR and the European Joint Airworthiness Requirements (JAR)–25. The AP–25 standards are similar to part 25 of the FAR; however, there are certain specified differences in the requirements of the two documents.

Based on the application date of February 16, 1993, the U.S. type certification standards are part 25 of the FAR, as amended by Amendments 25–1 through 25–77, and the special conditions proposed in this notice. In addition, the type certification basis includes the sections of part 25, as amended by Amendment 25–80, pertaining to lightning protection. Compliance with those sections is required under the provisions of § 21.17(a)(1)(ii).

Because the AR has elected to certify that the Model Il–96T complies with the Russian type certification standards, the FAA will make a comparison of the Russian type certification basis and the U.S. type certification standards described above. Based on this comparison, the FAA will prescribe any additional requirements that are necessary to ensure that the Model Il–96T meets a level of safety equivalent to that provided by the U.S. type certification standards. For U.S. clarification of the Model Il–96T, the FAA will therefore accept the Russian type certification basis, plus any additional requirements, and the special conditions proposed in this notice. As the program progresses, other features of the Model Il–96T may be determined to be novel or unusual. The equivalent certification basis may therefore include other special conditions or exemptions not pertinent to the special conditions proposed in this notice.

Since noise certification and emission requirements are beyond the scope of the possible future bilateral agreement, the FAA will make findings of compliance with the applicable U.S. noise, fuel venting, and exhaust emission requirements. The U.S. noise certification basis for the Model Il–96T is 14 CFR part 36 of the FAR, as amended by Amendments 36–1 through 36–21, and any subsequent amendments that are applicable on the date on which the U.S. type certificate is issued. In addition to compliance with part 36, the statutory provisions of Public Law 92–574, ''Noise Control Act of 1972,'' require that the FAA issue a finding of regulatory adequacy pursuant to Section 611 of that Act. The Model Il–96T must also comply with the fuel venting and exhaust emission requirements of 14 CFR part 34 of the FAR, as amended by Amendment 34–1, and any subsequent amendments that are applicable on the date the type certificate is issued.

Special conditions are prescribed under the provisions of § 21.16 of the FAR when the applicable regulations for type certification do not contain adequate or appropriate standards because of novel or unusual design features. As discussed below, the new Ilyushin Model Il–96T airplane incorporates a number of such design features.

Il–96T Design Features

General

The Model Il–96T airplane presented for U.S. type certification is a long range, four engine, transport category cargo airplane powered by four (4) Pratt & Whitney PW2337 engines with 37,500 lbs. thrust ratings and incorporating Rockwell/Collins avionics. It is

designed to be flown by a two-man crew; however, it incorporates seats for 2 additional crewmembers. The airplane is intended for cargo operation only and is designed to carry cargo on main and lower decks. The aircraft cargo loading system includes a large main deck cargo door (15.91 feet × 9.43 feet) and two lower deck cargo doors (8.69 feet × 5.74 feet). The main cargo compartment on the upper deck has a volume of 20,480 cubic feet and can accommodate 25 P–6 pallets. The two cargo compartments on the lower deck have a total volume of 6,900 cubic feet, and can accommodate a total of 32 LD–3 containers or 9 P–6 pallets. The Il–96T has a maximum takeoff weight of 595,240 lbs. and a maximum landing weight of 485,000 lbs. The maximum cruise altitude is 43,000 feet.

The structure of the Il–96T is generally of conventional design and construction. The landing gear system employs a center landing gear for use during ground handling conditions with heavy airplane weights. The structural design also makes use of an electronic flight control system which provides the potential for a wide range of structural and system interactions.

The Model Il–96T flight control system is an electro-hydromechanical system utilizing both fly-by-wire (FBW) and conventional mechanical (cables and push-pull rods) linkages between pilot control column and control surface hydraulic actuators in two simultaneously operated and synchronized channels. The conventional mechanical channel, in normal operation, functions as a passive redundancy of the FBW channel and provides feedback to the pilots via the Automatic Feel Load System.

Hydraulic power to the flight control system is simultaneously provided by four independent hydraulic systems. Functions are shared among these systems in order to ensure airplane control in the event of loss of one, two, or three systems. The four systems are pressurized by variable displacement pumps driven by the engine accessory gearbox. In addition, the systems can be powered by electrically driven pumps. A ram air turbine (RAT)-driven pump is available as an emergency hydraulic power source.

Normal electrical power is supplied by four constant frequency generators, one on each engine. An auxiliary power unit (APU) providing electrical and hydraulic supply is available for ground use only and is not used in flight. Five batteries provide an alternative source of electrical power for loads required to continue safe flight and landing in the case of failure of four generators.

The engine control system consists of a dual-channel electronic engine control (EEC) mounted on the fan case of each engine. Each EEC interfaces with various airplane computer systems. The EEC provides gas generator control, engine limit protection, power management, thrust reverser control, and engine parameter inputs for the flight deck displays. The engine EEC and associated airplane related systems form the complete propulsion control system.

Pitch and roll control inputs are made through conventional flight deck central control columns. The flight instruments are displayed on six cathode ray tube (CRT) displays. Two CRT's are mounted directly in front of both the pilot and copilot and display primary flight instruments and navigational information. The other two CRT's are located in the center of the instrument panel and display engine parameters, warnings, and system diagnostics.

The proposed type design of the Model Il–96T contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

Airframe

1. Center Landing Gear

The Ilyushin Il–96T landing gear arrangement includes a center braking landing gear under the fuselage. The center main landing gear does not differ from that of the right or left main landing gear in construction and performs the same functions. The current landing gear design criteria are applicable to conventional landing gear arrangements. Therefore, to provide additional taxi, takeoff, and landing criteria for this arrangement, Special Condition No. 1 is proposed.

2. Design Maneuver Requirements

In a conventional airplane with a hydro-mechanical flight control system, pilot inputs directly affect control surface movement (both rate and displacement) for a given flight condition. In the Il–96T, the pilot's control and the flight control surfaces are connected through the electronic flight control system, which introduces additional surface movements based on its design control laws. The control surface movement during maneuvers differs from the pilot control displacements in terms of both rate and displacement. The additional effects of the electronic flight control system are not reflected in the current FAR. Therefore, Special Condition No. 2 is proposed.

3. Interaction of Systems and Structure

The Ilyushin Model Il–96T is equipped with an electrical flight control system and a load alleviation system that effects both gust and maneuver loads. These systems can directly, or as a result of failure or malfunction, affect structural performance. This degree of system and structures interaction was not envisioned in the structural design regulations of part 25 of the FAR for transport airplanes. To provide comprehensive criteria in which the structural design safety margins are dependent on systems reliability, Special Condition No. 3 is proposed.

Systems

4. Protection from Unwanted Effects of High Intensity Radiated Fields (HIRF)

The use of fly-by-wire designs to command and control engines and flight control surfaces increases the airplane's susceptibility to HIRF sources external to the airplane. The airworthiness regulations do not provide adequate requirements for protection from unwanted effects of HIRF.

High intensity radiated fields have the potential to cause adverse and potentially hazardous effects on fly-by-wire systems if design measures are not taken to ensure the immunity of such systems. This is particularly true with the trend toward increased power levels from ground based transmitters and the advent of space and satellite communications.

The Model Il–96T is being designed with electrical interfaces between crew inputs and (1) the flight control surfaces, and (2) the engines. The interfaces, and the interconnection among the electronic subsystems controlling these functions, can be susceptible to disruption of both command/response signals and the operational mode logic as a result of electrical and magnetic interference. Traditional airplane designs have utilized mechanical means to connect the primary flight controls and the engine to the flight deck. This traditional design results in control paths that are substantially immune to the effects of HIRF. A special condition is required to ensure that critical and essential systems be designed and installed to preclude component damage and system upset or malfunction due to the unwanted effects of HIRF. Therefore, Special Condition No. 4 is proposed.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

These special conditions would be applicable initially to the Ilyushin Model Il–96T airplane. Should Ilyushin Aviation Complex apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Ilyushin Aviation Complex Model Il–96T series airplanes.

1. Center Landing Gear

Notwithstanding § 25.477 of the FAR, the requirements of §§ 25.473 and 25.479 through § 25.485 apply, except as noted:

(a) In addition to the requirements of § 25.473, landing should be considered on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations. The maximum loads determined from these two conditions must be applied to each main landing gear and to the center landing gear.

(b) The requirements of § 25.483 apply and, in addition, the condition represented by the following figure also applies:

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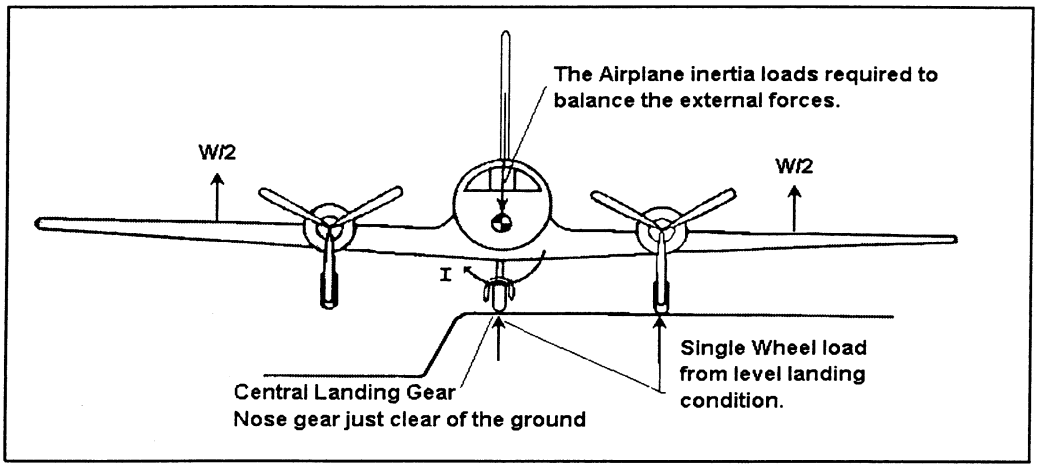
Figure 1. Center gear landing Condition



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(c) In lieu of the requirements of § 25.485, the following apply:

(1) The airplane is considered to be in the level attitude with only the main and central wheels contacting the ground.

(2) Vertical reactions of one-half of the maximum vertical reaction obtained at each main and center gear in the level landing conditions should be considered. The vertical loads must be combined with side loads that for the main gear are 0.8 of the vertical reaction (on one side) acting inward and 0.6 of the vertical reaction (on the other side) acting outward, and for the center gear are 0.7 of the vertical reaction acting in the same direction as main gear side loads. (Drag load=0)

(d) In addition to the requirements of § 25.489, ''Ground handling conditions,'' the following applies: The airplane should be considered to be on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations. The ground reactions must be distributed to the individual landing gear units in a rational or conservative manner (zero life, shock struts in the static position).

(e) In lieu of the requirements of § 15.503, the following apply:

(1) The airplane is assumed to pivot about one of the outer main gears with brakes locked on the selected gear. The limit vertical load factor must be 1.0 and the coefficient of friction must be 0.8.

(2) The airplane is assumed to be in static equilibrium, with the loads being applied at the ground contact points.

(3) All of the main gear units must be designed for the scrubbing or torsion loads, or both, induced by pivoting during ground maneuvers produced by:

(i) Towing at the nose gear, no brakes applied; and

(ii) Application of symmetrical or unsymmetrical forward thrust to aid pivoting and with or without breaking on the outside main gear closest to the pivot center.

(f) The following applies to the center landing gear in lieu of § 25.723, ''Shock, absorption tests'':

(1) The center landing gear should not fail in a test demonstrating its reserve energy absorption capacity at design landing weight, assuming airplane lift no greater than the airplane weight acting during an impact simulating:

(i) A center landing gear descent velocity of 120 percent of the maximum aircraft descent velocity at the time of center landing gear ground contact; or

(ii) A 12 fps airplane landing impact taking into account both the main and center landing gears acting during the impact, whichever is more critical.

2. Design Maneuver Requirements

(a) *Maximum elevator displacement at* V_A. In lieu of compliance with § 25.331(c)(1) of the FAR, the airplane is assumed to be flying in steady level flight (point A1 within the maneuvering envelope of § 25.333(b)) and, except as limited by pilot efforts specified in § 25.397 concerning pilot effort forces, the cockpit pitching control device is suddenly moved to obtain extreme positive pitching acceleration (nose up). In defining the tail load condition, the response of the airplane must be taken into account. Airplane loads which occur subsequent to the point at which the normal acceleration at the center of gravity exceeds the maximum positive limit maneuvering factor, n, need not be considered.

(b) *Pitch maneuvering loads induced by the system*. In addition to the requirements of § 25.331(c) of the FAR, it must be established that pitch maneuver loads induced by the system itself (e.g. abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(c) *Roll maneuver loads*. In lieu of compliance with § 25.349(a) of the FAR, the following conditions, speeds, spoiler and aileron deflections (except as the deflections may be limited by pilot effort) must be considered in combination with an airplane load factor of zero and of two-thirds of the positive maneuvering factor used in design. In determining the required aileron and spoiler deflections, the torsional flexibility of the wing must be considered in accordance with § 25.301(b).

(1) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular acceleration must be investigated. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, sudden deflection of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than that obtained in paragraph (2).

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than one third of that obtained in paragraph (2) of this paragraph.

(5) It must also be established that roll maneuver loads induced by the system itself (i.e., abrupt changes in orders made possible rather than mechanical combination of different inputs) are acceptably accounted for.

(d) *Yaw maneuver loads*. In lieu of compliance with § 25.351 of the FAR, the airplane must be designed for loads resulting from the conditions specified in subparagraphs (a) and (b) of this paragraph. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner, considering the principal masses furnishing the reacting inertia forces. Physical limitations of the airplane from the cockpit yaw control device to the control surface deflection, such as control stop position, maximum power and displacement rate of the servo controls, and control yaw limiters may be taken into account.

(1) Maneuvering. At speeds from V_{MC} to V_D, the following maneuvers must be considered. In computing the tail loads, the yawing velocity may be assumed to be zero:

(i) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit yaw control device (pedal) is suddenly displaced (with critical rate) to the maximum deflection, as limited by the stops.

(ii) With the cockpit yaw control device (pedal) deflected as specified in subparagraph (1) of this paragraph, it is assumed that the airplane yaws to the resulting sideslip angle (beyond the static sideslip angle).

(iii) With the airplane yawed to the static sideslip angle with the cockpit yaw control device deflected as specified in sub-paragraph (1) of this paragraph, it is assumed that the cockpit yaw control device is returned to neutral.

3. Interaction of Systems and Structure

(a) *General*. For an airplane equipped with flight control systems, load alleviation systems, or flutter control systems that directly, or as a result of a failure or malfunction, affect its structural performance, the influence of these systems and their failure conditions shall be taken into account in showing compliance with subparts C and D of part 25 of the FAR.

(b) *System fully operative*. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the deterministic limit conditions specified in subpart C, taking into account any special behavior of such systems or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the systems presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) *System in the failure condition*. For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence*. Starting from 1 g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads, multiplied by an appropriate factor of safety, related to the probability of occurrence of the failure. These loads should be considered as ultimate loads for this evaluation. The factor of safety is defined as follows:

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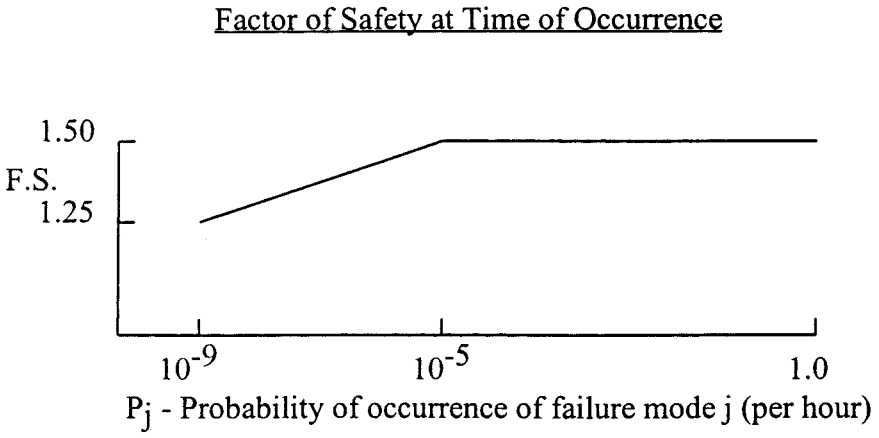


(i) The loads must also be used in the damage tolerance evaluation required in § 25.571(b), if the failure condition is probable. The loads may be considered as ultimate loads for the damage tolerant evaluation.

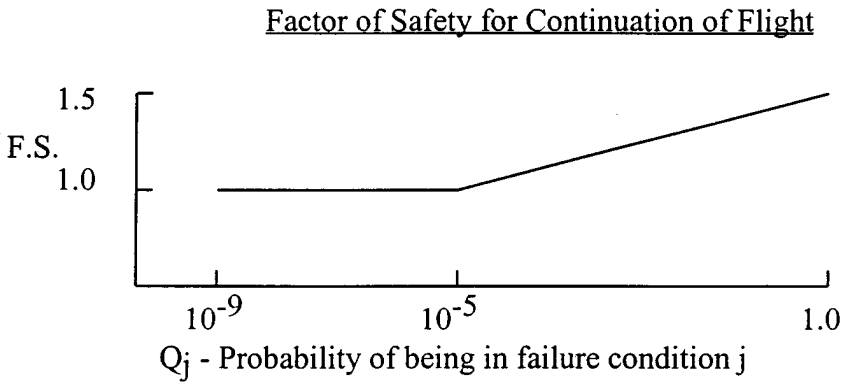
(ii) Freedom from flutter and divergence must be shown at speeds up to V_D or 1.15 V_C, whichever is greater. However, at altitudes where the speed is limited by Mach number, compliance need be shown only up to M_D, as defined in § 25.335(d). For failure conditions that result in speed increases beyond V_C/M_C, freedom from flutter and divergence must be shown at increased speeds, so that the above margins are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce peak loads that could result in permanent deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane, in the failed configuration and considering any appropriate flight limitations, the following apply:

(i) Static and residual strength must be determined for loads induced by the failure condition, if the loads could continue to the end of the flight. These loads must be combined with the deterministic limit load conditions specified in subpart C.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph multiplied by a safety factor depending on the probability of being in this failure state. The factor of safety is defined as follows:



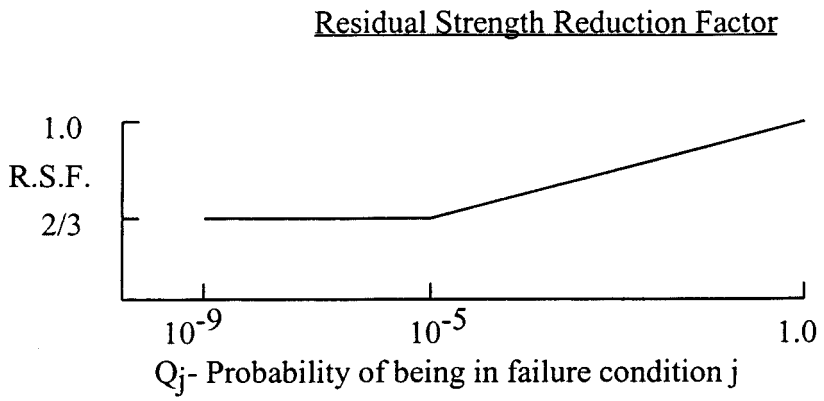
$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be used.

(iii) For residual strength substantiation as defined in § 25.571(b), for structures also affected by failure of the system and with damage in combination with the system failure, a reduction factor may be applied to the residual strength loads of § 25.571(b). However, the residual strength level must not be less than the 1g flight load, combined with the loads introduced by the failure condition plus two-thirds of the load increments of the conditions specified in § 25.571(b) in both positive and negative directions (if appropriate). The reduction factor is defined as follows:



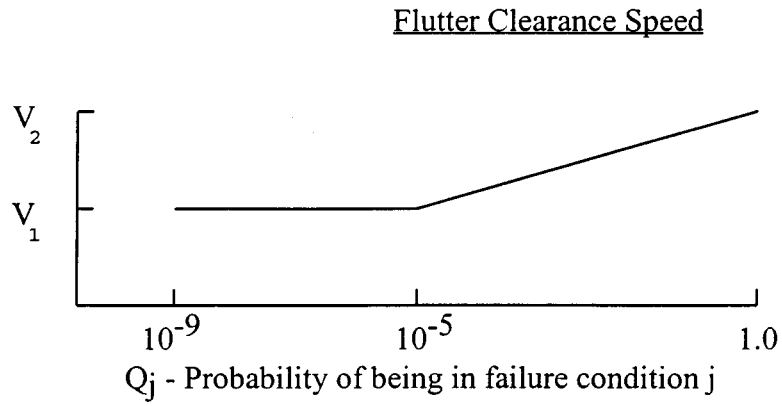
$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) Freedom from flutter and divergence must be shown up to a speed determined by the following figure:



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V_1=Clearance speed as defined in § 25.629(b)(2).

V_2=Clearance speed as defined in § 25.629(b)(1).

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V_2.

(v) Freedom from flutter and divergence must also be shown up to V_1 in the above figure for any probable system failure condition combined with any damage required or selected for investigation § 25.571(b).

(vi) If the time likely to be spent in the failure condition is not small compared to the damage propagation period, or if the loads induced by the failure condition may have a significant influence on the damage propagation, then the effects of the particular failure condition must be addressed and the corresponding inspection intervals adjusted to adequately cover this situation.

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the prescribed value of the current requirement.

(d) *Warning considerations.* For system failure detection and warning, the following apply:

(1) Before flight, the system must be checked for failure conditions, not shown to be extremely improbable, that degrade the structural capability of the airplane below the level intended in paragraph (b) of this special condition. The crew must be made aware of these failures, if they exist, before flight.

(2) An evaluation must be made of the necessity to signal, during the flight, the existence of any failure condition that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations. The assessment of the need for such signals must be carried out in a manner consistent with the approved general warning philosophy for the airplane.

(3) During flight, any failure condition not shown to be extremely improbable, in which the safety factor existing between the airplane strength capability and loads induced by the deterministic limit conditions of subpart C of part 25 is reduced to 1.3 or less, must be signaled to the crew if appropriate procedures and limitations can be provided so that the crew can take action to minimize the associated reduction in airworthiness during the remainder of the flight.

(e) *Dispatch with failure conditions.* If the airplane is to be knowingly dispatched in a system failure condition that reduces the structural performance of the airplane, then operational limitations must be provided whose effects, combined with those of the failure condition, allow the airplane to

meet the structural requirements described in paragraph (b) of this special condition. Subsequent system failures must also be considered.

Discussion: This special condition is intended to be applicable to flight controls, load alleviation systems, and flutter control systems. The criteria provided by the special condition only address the direct structural consequences of the systems responses and performances and therefore cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. The presentation of these criteria may, in some instances, duplicate standards already established for this evaluation. The criteria are applicable to structure, the failure of which could prevent continued safe flight and landing.

The following definitions are applicable to this special condition:

Structural performance: Capability of the airplane to meet the structural requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an inflight occurrence and which are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., payload limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition should be understood as defined in AC 25.1309–1.

Failure condition: The term failure condition is defined in AC 25.1309–1; however, this special condition applies only to system failure conditions that have a direct impact on the structural performance of the airplane (e.g., failure conditions that induce loads or change the response of the airplane to inputs such as gusts or pilot actions).

4. Protection From Unwanted Effects of High Intensity Radiated Fields (HIRF)

In the absence of specific requirements for protection from the unwanted effects of HIRF, the following apply:

Each airplane system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

Discussion: The Ilyushin Model II–96T will utilize electrical and electronic systems that perform critical functions. These systems include the electronic displays, intergrated avionics computer, electronic engine controls, etc. The existing airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of HIRF which are external to the airplane.

Airplane designs that utilize metal skins and mechanical command and control means have traditionally been shown to be immune from the effects of HIRF energy from ground-based and airborne transmitters. With the trend toward increased power levels from these sources, plus the advent of space and satellite communications, the immunity of the airplane to HIRF energy must be established. No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established.

For the purposes of this special condition, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane. At this time the FAA and other airworthiness authorities are unable to precisely define or control the HIRF energy level to which the airplane will be exposed in service. Therefore, the FAA hereby defines two acceptable interim methods for complying with the requirement for protection of systems that perform critical functions.

(1) The applicant may demonstrate that the critical systems, as installed in the airplane, are protected from the external HIRF threat environment defined in the following table:

Frequency	Field peak (V/M)	Strength average (V/M)
10 KHz–500 KHz	60	60
500 KHz–2 MHz	80	80
2 MHz–30 MHz	200	200
30 MHz–100 MHz	33	33
100 MHz–200 MHz	150	33
200 MHz–400 MHz	56	33
400 MHz–1 GHz	4,020	935
1 GHz–2 GHz	7,850	1,750
2 GHz–4 GHz	6,000	1,150
4 GHz–6 GHz	6,800	310
6 GHz–8 GHz	3,600	666
8 GHz–12GHz	5,100	1,270
12 GHz–18 GHz	3,500	551
18 GHz–40 GHz	2,400	750

or,

(2) The applicant may demonstrate by laboratory test that the critical systems elements and their associated wiring harnesses can withstand a peak electromagnetic field strength of 100 volts per meter, without the benefit of airplane structural shielding, in the frequency range of 10 KHz to 18 GHz.

Compliance Method:

This paragraph describes an acceptable method of showing compliance with the HIRF energy protection requirements.

(1) *Compliance Plan:* The applicant should present a plan for Aviation Register approval, outlining how compliance with the HIRF energy protection requirements will be attained. This plan should also propose pass/fail criteria for the operation of critical systems in the HIRF environment.

(2) *System Criticality:* A hazard analysis should be performed by the applicant for approval by Aviation Register to identify electrical and/or electronic systems which perform critical functions. These systems are candidates for the application of HIRF energy protection requirements.

(3) *Compliance Verification:* Compliance with the HIRF energy protection requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or a combination thereof as acceptable to Aviation Register. Service experience alone is not acceptable since such experience in normal flight operations may not include an exposure to the HIRF environmental condition.

(4) *Pass/Fail Criteria:* Acceptable system performance is attained by demonstrating that the system under consideration continues to perform its intended function during and after exposure to the required electromagnetic fields. Deviations from system specification may be acceptable depending on an independent assessment of the deviations for each application.

(5) *Test Methods and Procedures:* RTCA document DO–160C, Section 20, provides information on acceptable test procedures. In addition, the following information on modulation is presented to supplement that found in DO–160C. Equipment and subsystem radiated susceptibility qualification tests should be conducted by slowly scanning the entire frequency spectrum with an unmodulated signal which produces the required average electric field strength at the equipment under test (EUT) and its wiring. A peak level detector should be used to monitor the peak values of the signal and these values should be recorded at each test point. The EUT should not be damaged by this test and should operate normally for frequencies under 400 MHz. Deviations from normal operation for test frequencies above 400 MHz should be recorded. The test should be repeated with an appropriate modulation applied to the test signal. At each test point, the amplitude of the RF test signal should be adjusted to the peak values recorded during the unmodulated test. The modulation should be selected as the signal most likely to disrupt operation of the equipment under test based on its design characteristics. For example,

flight control systems might be susceptible to 3 Hz. square wave modulation while the video signals for CRT displays may be susceptible to 400 Hz sinusoidal modulation. If the worst case modulation is unknown or cannot be determined, default modulations can be used. Suggested default values are 1 KHz sine wave with 80% depth of modulation in the frequency range from 10 KHz to 400 MHz and 1 KHz square wave with greater than 90% depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal caused deviations from normal operation of the EUT, several different modulating signals with various wave-forms and frequencies should be applied. Modern laboratory equipment may not be able to continuously scan the spectrum in the manner of analog equipment. These units will only generate discrete frequencies. For such equipment, the number of test points and the dwell time at each test point must be specified. For each decade of the frequency test spectrum (a ten times increase in frequency i.e. 10 Kz to 100 KHz) there should be at least 25 test points, and for the decades from 10 MHz to 100 MHz, and 100 MHz to 1 GHz there should be a minimum of 180 test points each. The dwell time at each test point should be at least 0.5 second.

(6) *Data Submittal:* An accomplishment report should be submitted to the Aviation Register showing fulfillment of the HIRF energy protection requirements. This report should contain test results, analysis and other pertinent data.

(7) *Maintenance Requirements:* The applicant (manufacturer) must provide maintenance requirements to assure the continued airworthiness of the installed system(s).

Issued in Renton, Washington, on March 18, 1997.

Ronald T. Wojnar,

Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 97–9143 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–15–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA-Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA-Groupe AEROSPATIALE (Socata) Model TBM 700 airplanes that do not have MOD 70–065–32 incorporated. This proposed AD would require removing the MLG inboard doors and the door locking control mechanism (MOD 70–065–32). This AD is the result of an incident on one of the affected airplanes where the MLG inboard door locking hooks (hinges) corroded, caused the doors to jam, and prevented the MLG from extending. Analysis has shown that removing the MLG inboard doors will not cause any airplane safety or performance problems. The actions specified by the proposed AD are intended to prevent failure of the MLG to extend because of corroded MLG inboard locking hinges, which could result in loss of control of the airplane during landing operations.

DATES: Comments must be received on or before June 6, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–CE–15–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the SOCATA-Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone 62.41.74.26; facsimile 62.41.74.32; or the Product Support Manager, U.S. AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; telephone (214) 641–3614; facsimile (214) 641–3527. This information also may be examined at the Rules Docket at the address below.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Timberlake, Program Officer, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 513.38.30; facsimile (32 2) 230.68.99; or Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–15–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–CE–15–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Socata Model TBM 700 airplanes. The DGAC

reports incidents where the MLG inboard door locking hooks (hinges) corroded, caused the doors to jam, and prevented the MLG from extending. These hinges are exposed to slush/debris while landing in certain runway environments. This slush/debris can lead to corrosion in this area or interfere with the ability to extend the MLG. These conditions, if not detected and corrected, could result in loss of control of the airplane during landing operations.

Analysis submitted to the FAA reveals that removing the MLG inboard doors on these Socata Model TBM 700 airplanes will not cause any safety or performance problems.

Relevant Service Information

Socata has issued Service Bulletin (SB) 70–073, Amdt. 1, dated June 1996, which specifies removing the MLG inboard doors and the door locking control mechanism (MOD 70–065–32) on Socata Model TBM 700 airplanes. Socata has also issued Technical Instruction of Modification OPT70 KO59–32, dated December 1995, which includes procedures for incorporating MOD 70–065–32 on the affected airplanes.

The DGAC classified the above-referenced service information as mandatory and issued DGAC AD No. 96–037(B)R1, dated July 17, 1996, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Socata Model TBM 700 airplanes of the same type design that are registered in the United States and do not have MOD 70–065–32 incorporated, the FAA is proposing AD action. The proposed AD would require removing the MLG inboard doors and the door locking control mechanism (MOD 70–065–32). Accomplishment of the proposed actions would be in accordance with the Technical Instruction of Modification OPT70 KO59–32, dated December 1995, as referenced in Socata SB Socata 70–073, Amdt. 1, dated June 1996.

Compliance Time of the Proposed AD

The unsafe condition specified in this proposed AD develops primarily because of slush/debris accumulating in the MLG inboard doors area while landing in certain runway environments. An airplane previously operated in these conditions could have already-developed corrosion, regardless of future airplane operation. For this reason, the FAA has determined that the compliance time of the proposed AD should be specified in both hours time-in-service (TIS) and calendar time (whichever occurs first), in order to assure that corrosion is not allowed to go undetected over time.

Cost Impact

The FAA estimates that 47 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Socata will provide parts at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $8,460. This figure is based on the presumption that no owner/operator of the affected airplanes has accomplished the proposed actions.

Socata has informed the FAA that parts have been distributed to equip approximately 30 of the affected airplanes. Presuming that each set of parts is incorporated on an affected airplane, the cost impact upon U.S. airplane owners/operators would be reduced by $5,400 from $8,460 to $3,060.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Socata-Groupe Aerospatiale: Docket No. 97–CE–15–AD.

Applicability: Model TBM 700 airplanes (serial numbers 1 through 109), certificated in any category, that do not have the main landing gear (MLG) inboard doors and the door locking control mechanism removed (MOD 70–065–32) in accordance with the Technical Instruction of Modification OPT70 KO59–32, dated December 1995, as referenced in Socata SB Socata 70–073, Amdt. 1, dated June 1996.

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

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent failure of the MLG to extend because of corroded MLG inboard locking hinges, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Remove the MLG inboard doors and the door locking control mechanism (MOD 70–065–32) in accordance with the Technical Instruction of Modification OPT70 KO59–32, dated December 1995, as referenced in Socata SB Socata 70–073, Amdt. 1, dated June 1996.

(b) As of the effective date of this AD, no person may remove MOD 70–065–32 on any affected airplane, by reinstalling the MLG inboard doors and the door locking control mechanism.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division.

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

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; or the Product Support Manager, U.S. AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 2, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–8995 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–130–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, that currently requires inspections to detect improper connections of the wire harness installation to the cartridges of the fire extinguishers in the engine nacelles, correction of any discrepancy, and modification of the wiring. This action would add a revised modification of that wiring, which, if accomplished, would terminate the inspections currently required by the existing AD. This proposal is prompted by reports indicating that, due to the removal of a certain clamp during maintenance, these fire extinguisher cartridges still could be connected incorrectly after the modification required by the existing AD has been accomplished. The actions specified by the proposed AD are intended to prevent incorrect wiring of these cartridges, which would result in inability of the fire extinguishers to jointly discharge extinguishing agent into a nacelle in the event of an engine fire.

DATES: Comments must be received by May 19, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–130–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–130–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–130–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 26, 1994, the FAA issued AD 94–03–06, amendment 39–8813 (59 FR 4575, February 1, 1994), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, to require repetitive inspections to detect improper connections of the harness installation to the cartridges of the fire extinguishers in the engine nacelles. If an improper connection is found, the AD requires that it be corrected. This inspection is to be accomplished on all airplanes immediately after any maintenance action that requires

disconnection of the electrical connectors to the cartridges of either fire extinguisher. In addition, if the wiring to one of the electrical connectors exceeds a certain length, it is to be shortened by making a loop in the wiring and securing the loop with wax string.

That action was prompted by a report of improperly routed control wiring to the nacelle fire extinguisher cartridges on a Model SAAB 340B series airplane. An investigation revealed that certain wiring of the electrical connectors to these extinguisher cartridges on some airplanes is excessively long; this contributes to the possibility of incorrectly connecting these cartridges.

There is one fire extinguisher in each nacelle, and each extinguisher has a forward and aft cartridge. When the electrical connectors to the forward and aft cartridges of both extinguishers are connected correctly, extinguishing agent from both extinguishers can be discharged on a fire in either nacelle. Should these connectors be reversed, however, the fire extinguishers cannot jointly discharge extinguishing agent into a nacelle in the event of an engine fire.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received reports indicating that the wiring of some of these electrical connectors still could be connected incorrectly to the fire extinguisher cartridges, in spite of accomplishment of the modification mandated by that AD. This can occur when the clamp on the modified wiring is removed during maintenance. Should an incorrect connection occur, extinguishing agent from only one extinguisher, instead of both extinguishers, can be discharged into a nacelle in the event of a fire.

Explanation of Relevant Service Information

Saab has issued Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995, which describes procedures for conducting an inspection of the wiring of the electrical connectors to the cartridges of each fire extinguisher to detect if they are incorrectly connected; and correction of any discrepancy. (The inspection procedures differ slightly from the procedures for inspection specified in Saab Service Bulletin SAAB 340–26–012, Revision 1, dated October 5, 1993. That service bulletin is referenced as the appropriate source of service information in AD 94–03–06.)

This service bulletin also describes procedures for a modification that is revised from the modification required by the existing AD. This revised modification entails cutting the wiring to one of the connectors when it exceeds a certain length. This revised modification prevents this wiring from being connected to the wrong cartridge of the fire extinguisher, and eliminates the need for repetitive inspections of this wiring.

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–079, dated November 24, 1995, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 94–03–06 to continue to require repetitive inspections to detect improper connections of the wire harness installation to the cartridges of the fire extinguishers in the engine nacelles, and correction of any discrepancies.

The proposed AD also would require a revised modification of the wiring to one of the electrical connectors if it exceeds a certain length. Accomplishment of this modification would terminate the repetitive inspections of the wiring currently required by AD 94–03–06.

The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 235 Saab Model SAAB SF340A and SAAB 340B series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 94–03–06 take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost for required parts would be minimal. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $77,760, or $360 per airplane. (At the time AD 94–03–06 went into effect, it was estimated that 216 airplanes would be affected.)

The new actions that are proposed in this AD action would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided at no cost to operators. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $84,600, or $360 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8813 (59 FR 4575, February 1, 1994), and by adding a new airworthiness directive (AD), to read as follows:

SAAB Aircraft AB: Docket 96–NM–130–AD. Supersedes AD 94–03–06, Amendment 39–8813.

Applicability: Model SAAB SF340A series airplanes having serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes having serial numbers 160 through 345 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the incorrect wiring of the wire harness installation to the fire extinguisher cartridges in the engine nacelles, which would result in the inability of the fire extinguishers to jointly discharge agent into a nacelle in the event of a fire:

(a) Within 25 days after February 16, 1994 (the effective date of AD 94–03–06, amendment 39–8813), perform an inspection to ensure proper connections of the wire harness installation to the engine nacelle fire extinguisher, in accordance with Saab Service Bulletin SAAB 340–26–012, Revision 1, dated October 5, 1993, or Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995. Prior to further flight, correct any discrepancy found and modify the wiring, in accordance with the service bulletin. After the effective date of this AD, perform this inspection and correct any discrepancy found, in accordance with Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995.

(b) Repeat the inspection specified in paragraph (a) of this AD immediately following any maintenance action during which both electric connectors to either of the fire extinguishers in the nacelle electrical bays are disconnected.

(c) Prior to the accumulation of 4,000 hours time-in-service after the effective date of this AD, or at the next scheduled maintenance inspection after the effective date of this AD, whichever occurs earlier:

(1) Conduct an inspection to ensure proper connection of the wire harness installation to the fire extinguisher cartridges in both engine nacelles, in accordance with Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995. If any discrepancy is detected, prior to further flight, correct this discrepancy in accordance with the service bulletin.

(2) After the inspection required by paragraph (c)(1) of this AD has been accomplished, measure the total length of the wiring harness from the clamp to connector 9WB–P2/10WB–P2, in accordance with Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995. If the wiring harness has been modified with a loop in accordance with the requirements of paragraph (a) of this AD, or in accordance with Saab Service Bulletin SAAB 340–26–012, Revision 1, dated October 5, 1993, before measuring, remove the loop in the wire harness in accordance with Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995.

(i) If the total length is 7 inches (180mm) or less, no further action is required by this AD.

(ii) If the total length exceeds 7 inches (180mm), modify this wiring in accordance with Saab Service Bulletin SAAB 340–26–015, Revision 1, dated December 8, 1995. Accomplishment of this modification constitutes terminating action for the repetitive inspections required by paragraph (b) of this AD, and no further action is required by this AD.

Note 2: Accomplishment of this modification in accordance with Saab Service Bulletin SAAB 340–26–015, dated November 23, 1995, prior to the effective date of this AD, is considered acceptable for compliance with the requirements of paragraph (c)(2)(ii) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9012 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require repetitive inspections to detect cracking of the support beam of the main landing gear (MLG) fairing, and permanent repair of any cracking found. Accomplishment of the permanent repair terminates the repetitive inspections. This proposal is prompted by reports of cracking of the support beam of the MLG fairing. The actions specified by the proposed AD are intended to prevent such cracking, which could result in reduced structural integrity of the lower part of the MLG fairing, and subsequent separation of part of the fairing from the airplane.

DATES: Comments must be received by May 19, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–113–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer,

Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2796; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–113–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–113–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it received reports of cracking of the support beam of the main landing gear (MLG) fairing on these airplanes. The cracking was found during maintenance of the airplanes. This cracking occurs at design-critical locations; the design is not adequate due to severe bending of materials at these locations. Cracking of the support beam of the MLG fairing, if not corrected, could result in reduced structural integrity of the lower part of the MLG fairing, and subsequent separation of part of the fairing from the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB–328–53–010, dated October 13, 1995, which describes procedures for repetitive visual inspections to detect cracking of the lower attachment flanges in the area of the bend radii of the forward and aft support beams of the MLG. The alert service bulletin also describes procedures for a temporary repair (for cracking within specified limits) and a permanent repair (for cracking outside specified limits). The temporary repair entails stop drilling the crack, and performing subsequent visual inspections until the permanent repair is accomplished, or until results of the visual inspections reveal that the length of the crack has increased to more than 50 mm. Among other things, the permanent repair involves wet installing and sealing the angle, protecting reworked surfaces, and reworking the existing flange. Accomplishment of the permanent repair eliminates the need for the repetitive inspections. The LBA classified this alert service bulletin as mandatory and issued German airworthiness directive 95–413, dated November 2, 1995, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive visual inspections to detect cracking of the lower attachment flanges in the area of the bend radii of the forward and aft support beams of the MLG, and permanent repair of any cracking found. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between Alert Service Bulletin and This Proposed AD

Operators should note that, while the alert service bulletin recommends accomplishment of a temporary repair for cracking within specified limits, and a permanent repair for cracking outside those limits, this proposed AD would require that the permanent repair be accomplished for airplanes on which cracking of any length is found. The FAA has determined that, due to the safety implications and consequences associated with such cracking, the permanent repair must be accomplished prior to further flight on all beams that are found to be cracked.

Cost Impact

The FAA estimates that 27 Dornier Model 328–100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,620, or $60 per airplane.

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

Regulatory Impact

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier: Docket 96–NM–113–AD.

Applicability: Model 328–100 series airplanes, excluding serial numbers 3006, 3007, and 3010; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the lower part of the MLG fairing, and subsequent separation of part of the fairing from the airplane, accomplish the following:

(a) Within 300 hours time-in-service after the effective date of this AD, perform a visual inspection to detect cracking of the lower attachment flanges in the area of the bend radii of the forward and aft support beams of the main landing gear (MLG), in accordance with Dornier Alert Service Bulletin ASB–328–53–010, dated October 13, 1995.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 300 hours time-in-service.

(2) If any cracking is found, prior to further flight, accomplish the permanent repair in accordance with the alert service bulletin.

(b) Accomplishment of the permanent repair in accordance with Dornier Alert Service Bulletin ASB–328–53–010, dated October 13, 1995, constitutes terminating action for the repetitive inspections required by this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9015 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–41–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Model A310 and A300–600 series airplanes, that currently requires a revision to the Airplane Flight Manual (AFM) that warns the flight crew of certain consequences associated with overriding the autopilot when it is in the pitch control axis. That AD also requires modification of certain flight control computers (FCC). That AD was prompted by the results of an FAA review of the requirements of an earlier AD. This proposed action would require a modification to the autopilot that would enable the flight crew to manually disconnect the autopilot, regardless of its mode and the altitude of the airplane; accomplishment of that modification would terminate the current requirement to revise the AFM. This proposed action also would require repetitive operational testing of the modified autopilot to determine if the disconnect function operates properly, and repair, if necessary. The actions specified by the proposed AD are intended to prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which could severely reduce controllability of the airplane.

DATES: Comments must be received by May 19, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–41–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 10, 1996, the FAA issued AD 96–08–07, amendment 39–9573 (61 FR 16873, April 18, 1996), which is applicable to all Airbus Model A310 and A300–600 series airplanes. That AD requires a revision to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) that warns the flight crew about certain consequences of overriding the autopilot when it is in the pitch control axis. That AD also requires the modification of certain flight control computers (FCC).

The requirements of AD 96–08–07 are intended to prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which could severely reduce controllability of the airplane.

Actions Since Issuance of Previous Rule

In the preamble of the proposal for AD 96–08–07, the FAA specified that the actions proposed by that AD were considered interim action because the manufacturer was developing a modification that will positively address the unsafe condition described in the AD. The FAA also indicated that it would consider further rulemaking action once the modification was developed, approved, and available. The manufacturer now has developed such a modification, and the FAA has determined that further rulemaking is, indeed, necessary. This proposed AD follows from that determination.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A310–22–2044, Revision 1 (for Model A310 series airplanes), and Service Bulletin A300–22–6032, Revision 1 (for Model A300–600 series airplanes); both dated January 8, 1997. These service bulletins describe procedures for modifying the autopilot so that, by applying a counteracting force to the control column, the flight crew can immediately disconnect the autopilot, regardless of its mode and the altitude of the airplane.

Prior to the development of this modification, the flight crew, under certain conditions, could not manually disconnect the pitch control axis. Should the flight crew attempt to do so for an extended time, that counteracting force would be interpreted by the autotrim as a force to which it must respond, and the airplane would be trimmed accordingly. Consequently, the trimmable horizontal stabilizer could become significantly out-of-trim with the elevator.

Airbus also has issued Service Bulletin A310–22–2047 (for Model A310 series airplanes), and Service Bulletin A300–22–6035 (for Model A300–600 series airplanes); both dated July 16, 1996. These service bulletins describe procedures for conducting repetitive operational tests of the autopilot's disconnect function to determine if it is working properly, and repair, if necessary. These actions are to be accomplished after the autopilot has been modified in accordance with Airbus Service Bulletin A310–22–2044, Revision 1, or Airbus Service Bulletin A300–22–6032, Revision 1, both dated January 8, 1997, as applicable.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued French airworthiness directive (C/N) 96–150–203(B), dated July 31, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 96–08–07 to continue to require a revision to the Limitations Section of the AFM that warns the flight crew of certain consequences associated with overriding the autopilot when it is in the pitch control axis, and modification of certain FCC's.

The proposed AD also would require a modification to the autopilot that would enable the flight crew to manually disconnect it, regardless of the autopilot mode and the altitude of the airplane. After this modification has been accomplished, the proposed AD would require removal of the revision to the AFM that is currently required by AD 96–08–07. In addition, the proposed action would require repetitive operational testing of the modified autopilot to determine if the disconnect function operates properly, and repair, if necessary. The actions would be required to be accomplished in accordance with the applicable service bulletins described previously.

Related AD Actions

Operators of Airbus Model A310 and A300–600 airplanes that are subject to the requirements of AD 95–25–09, amendment 39–9455 (60 FR 63412, December 11, 1995) should be aware that certain FCC's must be modified before or at the same time the requirements of this proposed AD would be accomplished.

AD 95–25–09 requires modification of certain FCC's so that the autopilot will disengage when the airplane is in the ''GO-AROUND'' mode under certain conditions. The requirements of that AD are intended to prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which may severely reduce controllability of the airplane. That AD was prompted by an accident in which the flight crew may have initiated an inadvertent ''go-around,'' which, following several subsequent actions by the flight crew and automated system, placed the airplane in a severe out-of-trim condition.

Cost Impact

There are approximately 77 Airbus Model A300–600 and A310 series airplanes of U.S. registry that would be affected by this proposed AD.

The modification of certain FCC's that is currently required by AD 96–08–07 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts are supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact

of the currently required modification on U.S. operators is estimated to be $4,620, or $60 per airplane.

The AFM revision that is currently required by AD 96–08–07 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be $4,620, or $60 per airplane.

The modification of the autopilot that is proposed by this AD action would take approximately 25 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,578 per airplane. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $237,006, or $3,078 per airplane.

The operational test that is proposed by this AD action would take approximately 7 work hours per airplane, per test cycle, to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed operational test on U.S. operators is estimated to be $32,340 per test cycle, or $420 per airplane, per test cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9573 (61 FR 16873, April 18, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 97–NM–41–AD. Supersedes AD 96–08–07, Amendment 39–9573.

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

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which could severely reduce controllability of the airplane, accomplish the following:

Restatement of Actions Required by AD 96–08–07, Amendment 39–9573

(a) Within 10 days after May 23, 1996 (the effective date of AD 96–08–07, amendment 39–9573), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the information contained in paragraph (a)(1) or (a)(2) of this AD, as applicable. This may be accomplished by inserting a copy of this AD in the AFM. The AFM limitation required by AD 94–21–07, amendment 39–9049, may be removed following accomplishment of the requirements of this paragraph.

(1) For airplanes on which the flight control computers (FCC) have not been modified in accordance with the requirements of paragraph (b) of this AD:

''Overriding the autopilot (AP) in pitch axis does not cancel the AP autotrim when LAND TRACK mode [green LAND on both Flight Mode Annunciators (FMA)] or GO-AROUND mode is engaged. In these modes, if the pilot counteracts the AP, the autotrim will trim against pilot input. This could lead to a severe out-of-trim situation in a critical phase of flight.''

(2) For airplanes on which the FCC's have been modified in accordance with requirements of paragraph (b) of this AD:

''Overriding the autopilot (AP) in pitch axis does not cancel the AP autotrim when LAND TRACK mode (green LAND on both FMA's) is engaged, or GO-AROUND mode is engaged below 400 feet radio altitude (RA). In these modes, if the pilot counteracts the AP, the autotrim will trim against pilot input. This could lead to a severe out-of-trim situation in a critical phase of flight.''

Restatement of Actions Required by AD 94–21–07, Amendment 39–9049

(b) For airplanes equipped with FCC's having either part number (P/N) B470ABM1 (for Model A310 series airplanes) or B470AAM1 (for Model A300–600 series airplanes): Within 60 days after November 2, 1994 (the effective date of AD 94–21–07, amendment 39–9049), modify the FCC's in accordance with Airbus Service Bulletin A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes), or Airbus Service Bulletin A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), as applicable.

(c) As of November 2, 1994, no person shall install a FCC having either P/N B470ABM1 or B470AAM1 on any airplane.

New Actions Required by This AD

(d) For airplanes on which Modification No. 11454 [reference Airbus Service Bulletin A310–22–2044 (for Model A310 series airplanes) or Airbus Service Bulletin A300–22–6032 (for Model A300–600 series airplanes)] has not been installed: Accomplish paragraphs (d)(1), (d)(2)(i) and (d)(2)(ii) of this AD.

(1) Within 24 months after the effective date of this AD, modify the autopilot in accordance with Airbus Service Bulletin A310–22–2044, Revision 1, dated January 8, 1997 (for Model A310 series airplanes), or Service Bulletin A300–22–6032, Revision 1, dated January 8, 1997 (for Model A300–600 series airplanes), as applicable. The requirements of paragraph (a) of AD 95–25–09, amendment 39–9455, if applicable, must be accomplished prior to or at the same time the requirements of this paragraph are accomplished.

(2) Prior to further flight following accomplishment of paragraph (d)(1) of this AD:

(i) Remove the AFM revisions required by paragraph (b) of this AD; and

(ii) Perform an operational test of the autopilot disconnect to determine if the

direct disconnect is operating properly, in accordance with Airbus Service Bulletin A310–22–2047, dated July 16, 1996 (for Model A310 series airplanes), or Service Bulletin A300–22–6035, dated July 16, 1996 (for Model A300–600 series airplanes), as applicable. If any discrepancy is detected, prior to further flight, repair it in accordance with the applicable service bulletin. Repeat this test thereafter at intervals not to exceed 18 months.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9016 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–5]

Proposed Amendment of Class D Airspace; Idaho Falls, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Idaho Falls, Idaho, Class D airspace. This action is necessary to facilitate Lifeflight helicopter operations at the Regional Medical Center. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 15, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, ANM–530, Federal Aviation Administration, Docket No. 97–ANM–5, 1601 Lind Avenue, S.W., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–532.2, Federal Aviation Administration, Docket No. 97–ANM–5, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ANM–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at Idaho Falls, Idaho, to facilitate Lifeflight helicopter operations at the Regional Medical Center. Presently, aircraft operating in the vicinity of the medical center are experiencing difficulty establishing communications with Idaho Falls air traffic control tower, when operational, or Salt Lake City Center during other hours. This amendment would exclude the airspace immediately surrounding that medical center from the Class D airspace thereby eliminating any communications requirements on aircraft operating to/from that location. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas extending upward from the surface of the earth are published in Paragraph 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 General.

* * * * *

ANM ID D Idaho Falls, ID [Revised]

Idaho Falls, Fanning Field, ID
(Lat. 43°30′52″N, long. 112°04′13″W)

That airspace extending upward from the surface to and including 7,200 feet MSL within a 5.4-mile radius of Fanning Field excluding that airspace below 5,300 feet MSL within a 1-mile radius of lat. 43°28′16″N, long. 111°59′27″W; and excluding that airspace 1 mile either side of the 127° bearing from lat. 43°28′16″N, long. 111°59′27″W to the 5.4-mile radius of Fanning Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on March 27, 1997.

Richard E. Prang,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–9137 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ACE–25]

Proposed Alteration of Class E4 and E5 Airspace at Sioux City, IA

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to change the Class E4 and E5 airspace area at Sioux City, IA. The NPRM is being withdrawn because the airspace was previously published in the **Federal Register** August 6, 1996 (61 FR 40719), as Docket Number 96–ACE–11 and was effective January 30, 1997.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 12th St., Kansas City, MO 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On January 27, 1997, a Notice of Proposed Rulemaking was published in the **Federal Register** to change the Class E4 and E5 airspace area at Sioux City, IA. The Class E4 and E5 airspace was published in the **Federal Register,** August 6, 1996 (61 FR 40719), as Docket Number 96–ACE–11 and was effective January 30, 1997.

Conclusion

In consideration of the aforementioned publication in the **Federal Register,** action is being taken to withdraw this proposed amendment as described in Docket Number 96–ACE–25.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket Number 96–ACE–25, as published in the **Federal Register** on January 27, 1997 (62 FR 3786), is hereby withdrawn.

Authority: 49 U.S.C. 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Issued in Kansas City, MO, on March 4, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 97–9138 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–31]

Proposed Realignment of VOR Federal Airways in the vicinity of Helena, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign four Federal airways located in the Helena, AR, area. This proposed realignment is scheduled to coincide with the activation of the Marvell, AR, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) navigational aid (NAVAID) currently under construction. The proposed realignment of airspace and activation of the Marvell NAVAID would reroute aircraft operations around the Memphis International Airport Class B airspace area. Additionally, the Marvell VOR/DME would be used as a feeder fix into Memphis, TN, and having these airways intersect at Marvell would enhance aircraft routing and handling. The proposed action would aid flight planning, reduce en route and terminal delays, and enhance the management of air traffic operations in the Memphis, TN, Class B airspace area.

DATES: Comments must be received on or before May 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 96–ASW–31, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, DC, weekdays, except federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–

ASW–31.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 of the Federal Aviation Regulations part 71 (14 CFR part 71) to realign four Federal airways located in the Helena, AR, area. This proposed realignment will coincide with the activation of the Marvell VOR/DME NAVAID, which is currently under construction.

Currently, four airways intersect at a noncompulsory reporting point named ''Walet,'' which is located within the 30-nautical-mile (NM) circle of the Memphis Class B airspace area. As such, all aircraft transiting this area between 5,000 and 10,000 feet mean sea level (MSL) must fly through the Memphis Class B airspace area. By realigning these airways to directly overfly the Marvell VOR/DME (approximately 17 NM to the southwest of ''Walet''), a navigable airway structure would be provided to en route traffic, which would not conflict with the Class B airspace area at Memphis. Additionally, Memphis International Airport plans to use Marvell VOR/DME as a feeder fix into the airport. Having these four airways intersect at Marvell would enhance aircraft routing and handling. As a result, this action would aid flight planning, reduce en route and terminal delays, and enhance the management of air traffic operations in the Memphis, TN, Class B airspace area.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–9 [Revised]

From Leeville, LA; McComb, MS; Jackson, MS; Sidon, MS; Marvell, AR; Gilmore, AR; Malden, MO; Farmington, MO; St. Louis, MO; Capital, IL; Pontiac, IL; INT Pontiac 343° and Rockford, IL, 169° radials; Rockford; Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

* * * * *

V–16 [Revised]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Millsap, TX; Glen Rose, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Calverton, NY; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

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V–54 [Revised]

From Waco, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; INT Texarkana 052° and Little Rock, AR, 235° radials; Little Rock; Marvell, AR; Holly Springs, MS; Muscle Shoals, AL; Rocket, AL; Choo Choo, GA; Harris, GA; Spartanburg, SC; Charlotte, NC; Sandhills, NC; INT Sandhills 146° and Fayetteville, NC, 267° radials; Fayetteville; to Kinston, NC.

* * * * *

V–397 [Revised]

From Monroe, LA, via INT Monroe 056° and Greenville, MS, 207° radials; Greenville; to Marvell, AR.

* * * * *

Issued in Washington, DC, on April 1, 1997.

Jeff Griffith,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–9145 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN40–01–6988b; FRL–5694–5]

Approval and Promulgation of State Implementation Plan; Minnesota; Enhanced Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Minnesota State Implementation Plan (SIP). The State's revision expands the types of testing and monitoring data, including stack

and process monitoring, which can be used directly for compliance certifications and enforcement.

DATES: Comments on this proposed action must be received by May 9, 1997.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Brad Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final notice which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Brad Beeson at (312) 353–4779 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 7, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 97–8970 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0001b; FRL–5802–1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Utah; Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to Utah's State Implementation Plan (SIP) for Visibility Protection, as submitted by the Governor with a letter dated July 25, 1996. The revision was adopted by the State in 1993 to address comments received from the 1992 Utah Legislature's Administrative Rules Review Committee regarding the need to remove a visibility policy statement from a regulation format (since it is not a rule). The State responded by deleting the policy statement from the Utah Air Conservation Regulations and adding the text into the Visibility Protection SIP. This submittal was a necessary ''housekeeping'' step to bring the federally approved SIP up-to-date with administrative revisions that took place at the State in 1993.

In the Final Rules Section of this **Federal Register**, EPA is acting on the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for EPA's actions is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated and the direct final rule will become effective. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 9, 1997.

ADDRESSES: Written comments on this action should be addressed to Richard R. Long, Director, Air Program, EPA Region VIII at the address listed below. Copies of the State's submittal and documents relevant to this proposed rule are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405; and Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, P.O. Box 144820, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Amy Platt, 8P2–A, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: March 14, 1997.

Max H. Dodson,

Acting Regional Administrator.

[FR Doc. 97–9107 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5800–9]

Approval and Promulgation of Air Quality Implementation Plans; Reasonably Available Control Technology for Nitrogen Oxides for the State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NOx). In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before May 9, 1997.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment, at the Office of Ecosytem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and, the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region 1, JFK Federal

Building, Boston, MA 02203–2211; (617) 565–2773; Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401—7671q

Dated: March 8, 1997.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 97–9106 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3190

[WO–300–07–1310–00]

RIN 1004–AD09

Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections; Cooperative Agreements

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to streamline and amend its cooperative agreement regulations. The purpose of this amendment is to implement section 8(a) of the Federal Oil and Gas Royalty Simplification and Fairness Act that eliminates State cooperative agreements on Federal lands and to implement a policy change for funding of cooperative inspection agreements. In response to the overall effort to reform regulations and convert them to a more user friendly and understandable format, this rule is written in plain English.

DATES: *Comments:* Any comments must be received by BLM at the address below on or before May 9, 1997. Comments received after the above date will not necessarily be considered in the decision making process on the proposed rule.

ADDRESSES: *Comments:* If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240. You may also comment via the Internet to WOComment@wo.blm.gov. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''attn: 1004–AD09'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030. Finally, you may hand-deliver comments to BLM at 1620 L Street, NW, Room 401, Washington, D.C. Comments, including names and street addresses of respondents, will be available for public review at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Individual respondents may request that their name and/or home address be kept confidential and state the reasons that one believes that his or her interest in privacy outweighs the public interest in disclosure. BLM will evaluate each request for confidentiality on a case-by-case basis. If you wish to withhold your name or street address, except for the city or town, from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Ian Senio, 202–452–5049 or Sue Stephens, (505) 438–7553.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Your written comments on the proposed rule should—

(a) Be specific;

(b) Be confined to issues pertinent to the proposed rule;

(c) Explain the reason for any recommended change; and

(d) Where possible, reference the specific section or paragraph of the proposal which you are addressing.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

II. Background

In 1987 and 1991, BLM promulgated regulations, found at 43 CFR 3190 (52 FR 27182) and 3192 (56 FR 2998), respectively, implementing Section 202 of the Federal Oil and Gas Royalty Management Act of 1982, (30 U.S.C. 1732) (FOGRMA). Section 202 of FOGRMA provides for cooperative agreements with States and Tribes to share oil or gas royalty management information, and to carry out inspection, auditing, investigation or enforcement activities on Federal and Indian oil and gas leases. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (P.L. 104–185), which amended FOGRMA, eliminated cooperative agreements on Federal lands.

BLM has cooperative agreements with several tribes for oil and gas inspection and enforcement activities on Tribal lands. These agreements are funded at 50 percent of allowable costs. The Minerals Management Service (MMS) also entered into cooperative agreements with several tribes for royalty accounting activities. Initially these MMS agreements were funded at 50 percent, but in 1991, MMS increased its funding for cooperative agreements to 100 percent.

This rule would amend Part 3190 by removing references to cooperative agreements for States on Federal lands and by increasing funding for cooperative agreements with Indian tribes to up to 100 percent. This would eliminate discrepancies in funding these types of agreements between bureaus within the Department of the Interior.

III. Discussion of Proposed Rule

This rulemaking amends 43 CFR Subpart 3190 as follows: First, this rule would amend 43 CFR 3190.2–2(b) to increase funding for cooperative agreements with Indian tribes to up to 100 percent. This would eliminate discrepancies in funding these types of agreements between agencies within the Department of the Interior.

Second, this rule would amend the regulations to implement Section 8(a) of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (P.L. 104–185), which made Section 202 of FOGRMA (30 U.S.C. 1732), no longer applicable to Federal lands. The effect of section 8(a) is to eliminate cooperative agreements with States to conduct oil and gas inspections on Federal lands. The proposed regulations would implement this requirement by deleting from existing regulations references to cooperative agreements on Federal lands. States may still enter into a cooperative agreement on Tribal lands with the permission of the Tribe or affected allottee.

Third, on March 4, 1995, President Clinton issued a memorandum to all

Federal Departments and Agencies directing them to simplify their regulations. In response to the President's directive, BLM is proposing this rule in a user-friendly and understandable, plain English format.

Organizationally, existing regulations (43 CFR Part 3190) implement three related sections of FOGRMA (202, 205 and 301) that provide for non-Federal entities (States, Tribes and contractors) to assist in carrying out the Secretary's responsibilities under the Act either by delegation of authority, cooperative agreement, or contract. 43 CFR Subpart 3190 covers common elements of the three programs; Subpart 3191 addresses delegations of authority; and Subpart 3192 addresses cooperative agreements. BLM has not yet promulgated regulations for contracts, but should they become necessary they will be published at Subpart 3193.

IV. Procedural Matters

National Environmental Policy Act

BLM has determined that this proposed rule to increase funding for cooperative agreements with Tribes; eliminate cooperative agreements on Federal lands; and convert existing regulations to plain English is administrative, financial, and legal in nature. Increasing funding for cooperative agreements with tribes is purely financial in nature, and eliminating cooperative agreements on Federal lands is a legal and administrative change from existing regulations. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10. In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted The Regulatory Flexibility Act, (RFA), 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the discussion contained in this preamble above, the economic impact of the proposed amendment increasing funding for Indian cooperative agreements will be less than $250,000. The other proposed changes, deleting cooperative agreements on Federal lands and converting the regulations to plain English, will have no economic impact. BLM anticipates that this proposed rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Amendment of 43 CFR Part 3190 will not result in any unfunded mandate to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

Executive Order 12612

The proposed rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

The elimination of cooperative agreements with States for inspection and enforcement of oil and gas leases on Federal lands is a requirement of Section 8(a) Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

States that are interested in conducting inspections on Federal oil and gas leases may still do so under a Delegation of Authority as provided in Section 205 of FOGRMA (30 U.S.C. 1735).

Therefore, in accordance with Executive Order 12612, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630

The primary effect of the proposed rule is to increase Federal funding to Tribes that conduct inspections of Tribal oil and gas leases under a cooperative agreement with BLM. Since the rule has no impact on lands or other properties, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

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

Executive Order 12988

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

Author

The principal author of this rule is Sue Stephens of BLM's New Mexico State Office, assisted by Ian Senio of BLM's Regulatory Management Group.

List of Subjects in 43 CFR Part 3190

Administrative practice and procedure, Authority delegations (Government agencies), Government contracts, Indians-lands, Intergovernmental relations, Mineral royalties, Reporting and recordkeeping requirements.

Accordingly, BLM proposes to amend 43 CFR Part 3190 as follows:

PART 3190—DELEGATION OF AUTHORITY, COOPERATIVE AGREEMENTS AND CONTRACTS FOR OIL AND GAS INSPECTIONS

1. Revise the authority citation to read as follows:

Authority: 30 U.S.C. 1735 and 1751.

2. In § 3190.2–2 revise paragraph (b)(2) to read as follows:

§ 3190.2–2 Funding.

* * * * *

(b) * * *

(2) Up to 100 percent for a cooperative agreement.

* * * * *

3. Revise Subpart 3192 of part 3190 to read as follows:

Subpart 3192—Cooperative Agreements

Sec.
3192.1 What is a cooperative agreement?
3192.2 Who may apply for a cooperative agreement with BLM to conduct oil and gas inspections?
3192.3 What must a Tribe or State include in its application for a cooperative agreement?
3192.4 What is the term of a cooperative agreement?
3192.5 How do I modify a cooperative agreement?
3192.6 How will BLM evaluate my request for proprietary data?
3192.7 What must I do with Federal assistance I receive?
3192.8 May I subcontract activities in the agreement?
3192.9 What terms must a cooperative agreement contain?
3192.10 What costs will BLM pay?
3192.11 How are civil penalties shared?
3192.12 What activities may Tribes or States perform under cooperative agreements?
3192.13 What activities must BLM keep?
3192.14 What are the requirements for Tribal or State inspectors?
3192.15 May cooperative agreements be terminated?
3192.16 How will I know if BLM intends to terminate my agreement?
3192.17 Can BLM reinstate cooperative agreements that have been terminated?
3192.18 Can I appeal a BLM decision?

Subpart 3192—Cooperative Agreements

§ 3192.1 What is a cooperative agreement?

(a) A cooperative agreement is a contract that BLM enters into with a Tribe or State to conduct inspection, investigation, or enforcement activities on producing Indian oil and gas leases.

(b) BLM will enter into a cooperative agreement with a State to inspect oil and gas leases on Indian lands only with the permission of the Tribe with jurisdiction over the lands.

§ 3192.2 Who may apply for a cooperative agreement with BLM to conduct oil and gas inspections?

(a) The Tribal chairman, or other authorized official, of any Tribe with producing oil or gas leases, or agreements under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*), for Indian lands under the Tribe's jurisdiction.

(b) Tribes may join together to apply for a multi-tribe cooperative agreement.

(c) The Governor of a State having a tribal resolution from the tribe with jurisdiction over the land, permitting the Governor to enter into cooperative agreements.

§ 3192.3 What must a Tribe or State include in its application for a cooperative agreement?

(a) You must complete—

(1) Standard Form 424, Application for Federal Assistance;

(2) Standard Form 424A, Budget Information—Non-Construction Programs; and

(3) Standard Form 424B, Assurances—Non-Construction Programs.

(b) You must describe the type and extent of oil and gas inspection, enforcement, and investigative activities proposed under the agreement and the period of time the proposed agreement will be in effect.

(c) You may include allotted lands under an agreement with the allottee's written consent.

§ 3192.4 What is the term of a cooperative agreement?

Cooperative agreements can be in effect for a period from 1 to 5 years from the effective date of the agreement, as set out in the agreement.

§ 3192.5 How do I modify a cooperative agreement?

You may modify a cooperative agreement by having both parties to the agreement consent to the change in writing. If the agreement is with a State, and the modification would effect the duration or scope of the agreement, then you must obtain the Tribe's written consent.

§ 3192.6 How will BLM evaluate my request for proprietary data?

BLM will evaluate Tribal or State requests for proprietary data on a case-by-case basis according to the requirements of § 3190.1 of this part.

§ 3192.7 What must I do with Federal assistance I receive?

You must use Federal assistance that you receive only for costs incurred which are directly related to the activities carried out under the cooperative agreement.

§ 3192.8 May I subcontract activities in the agreement?

Yes. You must obtain BLM's written approval before you subcontract any activities in the agreement with the exception of financial audits of program funds, that are required by the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*).

§ 3192.9 What terms must a cooperative agreement contain?

The cooperative agreement must—

(a) State its purpose, objective, and authority;

(b) Define terms used in the agreement;

(c) Describe the lands covered;

(d) Describe the roles and responsibilities of BLM and the Tribe or State;

(e) Describe the activities the Tribe or State will carry out;

(f) Define the minimum performance standards to evaluate Tribal or State performance;

(g) Include provisions to—

(1) Protect proprietary data, as provided in § 3190.1 of this part;

(2) Prevent conflict of interest, as provided in § 3192.13(d);

(3) Share civil penalties, as provided in § 3192.10; and

(4) Terminate the agreement;

(h) List BLM and Tribal or State contacts;

(i) Provide for the avoidance of duplication of effort between BLM and the Tribe or State when conducting inspections;

(j) List schedules for—

(1) Inspection activities;

(2) Training of Tribal or State inspectors;

(3) Periodic reviews and meetings;

(k) Specify the limit on the dollar amount of Federal funding;

(l) Describe procedures for Tribes or States to request payment reimbursement;

(m) Describe allowable costs subject to reimbursement; and

(n) Describe plans for BLM oversight of the cooperative agreement.

§ 3192.10 What costs will BLM pay?

(a) BLM will pay expenses allowed under part 12, subpart A, Administrative and Audit Requirements and Cost Principles for Assistance Programs, of this title.

(b) BLM will fund the agreements up to 100 percent of allowable costs.

(c) Funding is subject to the availability of BLM funds.

(d) Funding for cooperative agreements is subject to the shared civil penalties requirement of § 3192.11.

§ 3192.11 How are civil penalties shared?

When a Tribe or State conducts an inspection that results in the collection of a civil penalty, that Tribe or State and the Federal government share the civil penalty equally. The law requires BLM to recover its cost for the cooperative agreement. As a result, BLM will pay you your share of civil penalties only after civil penalties for the year exceed the amount of your Federal funding for the year.

§ 3192.12 What activities may Tribes or States perform under cooperative agreements?

Activities carried out under the cooperative agreement must be in accordance with the policies of the appropriate BLM State or field office and as specified in the agreement, and may include—

(a) Inspecting tribal oil and gas leases for compliance with BLM regulations;

(b) Issuing initial Notices of Incidents of Non-Compliance, Form 3160–9, and Notices to Shut Down Operation, Form 3160–12;

(c) Conducting investigations; or

(d) Conducting oil transporter inspections.

§ 3192.13 What activities must BLM keep?

(a) Under cooperative agreements, BLM continues to—

(1) Issue Notices of Incidents of Noncompliance that impose monetary assessments and penalties;

(2) Collect assessments and penalties;

(3) Calculate and distribute shared civil penalties;

(4) Train and certify Tribal or State inspectors;

(5) Issue and control inspector identification cards; and

(6) Identify leases to be inspected, taking into account the priorities of the Tribe.

(b) Entering into a cooperative agreement does not affect the right of BLM to enter lease sites to conduct inspections, enforcement, investigations or other activities necessary to supervise lease operations.

§ 3192.14 What are the requirements for Tribal or State inspectors?

(a) BLM must certify Tribal or State inspectors before they conduct independent inspections on Indian oil and gas leases.

(b) The standards for certifying Tribal or State inspectors must be the same as the standards used for certifying BLM inspectors.

(c) Tribal and State inspectors must satisfactorily complete on-the-job and classroom training in order to qualify for certification.

(d) Tribal or State inspectors must not—

(1) Inspect the operations of companies in which they, a member of their immediate family, or their immediate supervisor, have a direct financial interest; or

(2) Use for personal gain, or gain by another person, information he or she acquires as a result of his or her participating in the cooperative agreement.

§ 3192.15 May cooperative agreements be terminated?

(a) Cooperative agreements may be terminated at any time if all parties agree to the termination in writing.

(b) BLM may terminate an agreement without Tribal or State agreement if the—

(1) Tribe or State fails to carry out the terms of the agreement; or

(2) Agreement is no longer needed.

§ 3192.16 How will I know if BLM intends to terminate my agreement?

(a) If BLM plans to terminate your agreement because you did not carry out the terms of the agreement, BLM must send a notice to you that lists the reasons BLM plans to terminate the agreement.

(b) You must send BLM a plan to correct the problems BLM listed in the notice.

(c) If you submit a plan for correction and BLM approves the plan, you have 30 days to correct the problem(s).

(d) If you have not corrected the problem within 30 days, BLM will send you a second termination notice.

(e) If you do not respond to the second notice within 30 days, BLM will terminate the agreement.

§ 3192.17 Can BLM reinstate cooperative agreements that have been terminated?

(a) If your cooperative agreement was terminated by consent, you may request that BLM reinstate the agreement.

(b) If BLM terminated an agreement because you did not carry out the terms of the agreement, you must prove that you have corrected the problem(s) and are able to carry out the terms of the agreement.

(c) BLM will then decide whether or not your cooperative agreement may be reinstated and, if so, whether you must make any changes to the agreement before it can be reinstated.

§ 3192.18 Can I appeal a BLM decision?

Yes, you may appeal a BLM decision under the provisions of 43 CFR part 4.

Dated: March 31, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–9100 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3400, 3410, 3420, 3440, 3450, 3460, 3470, 3480

[WO–320–1320–02–1A]

RIN 1004–AD11

Coal Management Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management (BLM) requests comments to assist in the revision of its regulations governing coal operations on Federally leased lands. The purpose of the revision is to clarify and streamline current processes and policies related to exploration and post-lease actions and to comply with the President's Government-wide regulatory reform initiative to eliminate, streamline, or rewrite regulations in plain English. The proposed rule will reorganize, clarify and revise portions of the existing Federal coal management program regulations, including exploration licenses, lease suspensions, lease administration, diligence, and exploration and mining operations on leased Federal coal. Many of the changes contemplated will be administrative and procedural in nature and provide more explicit and coherent direction for situations not anticipated by the existing regulations.

DATES: BLM will accept comments until 5:00 p.m. Eastern time on May 9, 1997. BLM will not necessarily consider comments received after this time in developing the proposed rule or include them in the administrative record.

ADDRESSES: Commenters may mail written comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, D.C. 20240; or hand-deliver written comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C. See the **SUPPLEMENTARY INFORMATION** section for the electronic access and filing address. Comments will be available for public review at the L Street address from 7:45 a.m. to 4:15 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bill Radden-Lesage, (202) 452–0350 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Description of Information Solicited

I. Public Comment Procedures

Your written comments should be specific; be confined to issues outlined in the notice; explain the reason for any recommended change; and where possible, reference the specific section or paragraph of the current regulations which you are addressing. BLM appreciates any and all comments, but those most useful and likely to influence decisions on the content of the proposed rule are those that either are supported by quantitative information or studies or include citations to and analyses of the applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. Comments received after the time indicated under the **DATES** section or at locations other than those listed in the **ADDRESSES** section will not necessarily be considered or included in the administrative record of this rule.

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to WOComment@wo.blm.gov. Please submit comments as an ASCII file and avoid the use of special characters or encryption. Please include ''Attn: AD11'' and your name and address in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

II. Background

On July 12, 1991, BLM published a proposed rule to simplify and streamline existing Federal coal management program regulations at 43 CFR Parts 3400, 3410, 3420, 3440, 3450, 3460, 3470, and 3480 (56 FR 32002). This rule proposed to revise portions of the existing Federal coal management program regulations, specifically those relating to exploration licenses, lease suspensions, lease management, diligence, and exploration. In response to this proposal, BLM received 31 sets of comments. The initial comment period was to close on September 12, 1991, but was extended an additional 30 days, closing on October 12, 1991. Subsequently, BLM completed its analysis and prepared a draft final rule.

On March 4, 1995, the President issued a memorandum to all Federal Departments and Agencies directing them to simplify their regulations. BLM reviewed its rules and identified about 1,000 pages in the Code of Federal Regulations that would be eliminated, streamlined or rewritten in ''plain English.'' Because the draft rules were written before the regulatory reform initiative, they were not written in plain English and therefore, required redrafting.

In October 1996, the National Mining Association (NMA) requested that BLM repropose this rulemaking due to the Association's perception that substantial restructuring and other changes in the electric utility industry have occurred since the comment period on the 1991 proposed rule. NMA asserted that additional public comment was warranted due to deregulation of the electric transmission industry, implementation of the Clean Air Act Amendments of 1990, the need to preserve industry's flexibility to accommodate dynamic changes in coal markets, and the need to avoid imposing additional regulatory burdens. BLM also received a request from a Senator in a prominent coal-producing State objecting to final promulgation of the 1991 regulations due to his concern that there have been changes in the market since 1991. To give interested members of the public the opportunity to identify any changes in the industry and coal markets which may not have been considered in the 1991 proposal and to recommend regulatory modifications that may be warranted as a consequence of these changed circumstances, BLM withdrew the 1991 rulemaking on its coal management program on February 14, 1997 (see 62 FR 6910). This notice is intended to solicit additional information relating to any relevant changes which have occurred since 1991 in the coal industry and coal markets and how such changes affect BLM's regulatory program.

III. Description of Information Solicited

Many of the changes BLM is planning to make are for the purpose of streamlining and clarifying the coal management regulations. Readers should note that BLM does not plan to address public participation in the coal leasing process in this rulemaking effort. That topic will be addressed separately, in connection with a pending case, *Environmental Policy Institute* v. *Baca,* No. 93–5029 (D.C.Cir.), appealing *NRDC* v. *Jamison,* 815 F.Supp. 454 (1992). Therefore, BLM is not soliciting comments on public participation in the coal leasing process at this time. Nor is BLM now soliciting additional comment on issues raised by our pending logical mining units rule, which was proposed on December 28, 1994 (59 FR 66874).

Areas we are considering for proposed revision include, but are not limited to the following:

- Definitions of terms, including ''commercial quantities,'' ''continued operation,'' and ''maximum economic recovery;''
- Incidental exploration;
- Duration of licenses to mine;
- Application of 30 U.S.C. 201(a)(2)(A) to lessee qualifications;
- Acceptable payment instruments for fees and rentals;
- Clarification that the 8% royalty rate for coal produced by underground mining operations does not apply to existing leases issued with a higher royalty rate;
- Types of lease assignments requiring BLM approval;
- Notification requirements for lease readjustments;
- Use of the Office of Surface Mining Applicant Violator System under 30 CFR 773.15(b) to screen applicants;
- Lease suspensions;
- Use or sale of coal extracted for ''test burns'';
- Royalty rate reductions; and
- Inspection and enforcement and production verification.

Other revisions to the current coal management regulations may also be considered, but in general, the scope of this rulemaking is expected to be limited to exploration and post-lease actions.

BLM requests specific quantitative information and documentation as to:

(1) changes in the coal industry and markets since 1991;

(2) how these changes relate to the current rules;

(3) the impacts of these changes (and their extent or magnitude) on coal operations on Federal lands and non-Federal lands; and

(4) any suggestions as to how these impacts can be addressed within the current statutory or regulatory framework, and if they cannot be addressed within the current regulations, the need for and nature of any regulatory changes suggested.

We also welcome suggestions for consolidation, reorganization, and improvements in clarity and readability.

Dated: April 3, 1997.

Sylvia V. Baca,

Acting Assistant Secretary for Land and Minerals Management.

[FR Doc. 97–9101 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–84–P

Notices

Federal Register

Vol. 62, No. 68

Wednesday, April 9, 1997

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–079–2]

Dekalb Genetics Corp.; Availability of Determination of Nonregulated Status for Genetically Engineered Corn

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Dekalb Genetics Corporation's corn line designated as DBT418 that has been genetically engineered for lepidopteran insect resistance is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Dekalb Genetics Corporation in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Dekalb Genetics Corporation's petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: March 28, 1997.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Subhash Gupta, Biotechnologist, BSS, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1996, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 96–291–01p) from the Dekalb Genetics Corporation (Dekalb) of Mystic, CT, seeking a determination that a corn line designated as DBT418 that has been genetically engineered for lepidopteran insect resistance does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On November 27, 1996, APHIS published a notice in the **Federal Register** (61 FR 60257–60258, Docket No. 96–079–1) announcing that the Dekalb petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject corn line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether this corn line posed a plant pest risk. The comments were to have been received by APHIS on or before January 27, 1997. During the designated 60-day comment period, APHIS received one comment on the subject petition from a university. The comment was favorable to the petition.

Analysis

Corn line DBT418 has been genetically engineered to express a CryIA(c) insect control protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *kurstaki* (Bt). The petitioner states that the Bt delta-endotoxin protein is effective in controlling the European corn borer throughout the growing season. The subject corn line also expresses the *bar* gene derived from *Streptomyces hygroscopicus* that encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which, when introduced into the plant cell, confers tolerance to the herbicide glufosinate. The microprojectile bombardment method was used to transfer the added genes into the parental corn line, and their expression is controlled in part by gene sequences from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus (CaMV).

The subject corn line has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of the corn line conducted under APHIS notifications since 1993 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of corn line DBT418.

Determination

Based on its analysis of the data submitted by Dekalb and a review of other scientific data, comment received, and field tests of the subject corn line, APHIS has determined that corn line DBT418: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than insect resistant corn lines developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (6) should not reduce the ability to control insects in corn or other crops when cultivated. Therefore, APHIS has concluded that the subject corn line and any progeny derived from hybrid crosses with other nontransformed corn varieties will be as safe to grow as corn in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that Dekalb's corn line DBT418 is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate

movement of the subject corn line or its progeny. However, importation of corn line DBT418 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Dekalb's corn line DBT418 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 3rd day of April 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–9066 Filed 4–8–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business–Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Information Collection

AGENCY: The Rural Housing Service, Rural Business–Cooperative Service, Rural Utilities Service and Farm Service Agency, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to reinstate the information collection procedures in support of the Multi-Family Housing Supervised Bank Account regulatory requirements.

DATES: Comments on this notice must be received on or before [insert date 60 days after date of publication in the **Federal Register**] to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Senior Loan Specialist, Multi-Family Housing Portfolio Management Division, RHS, Stop 0782, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250–0782, Telephone (202) 720–1060.

SUPPLEMENTARY INFORMATION:

Title: 1902–A, Supervised Bank Accounts.

OMB Number: 0575–0158.

Type of Request: Reinstate information collection.

Abstract: The Rural Housing Service (RHS) is a credit agency for Rural Development. The RHS is an Agency of the U.S. Department of Agriculture (USDA). As a creditor of last resort the Agency extends financial assistance in support of housing for rural residents.

This regulation prescribes the policies and responsibilities for the use of supervised accounts. In carrying out its mission as a supervised credit Agency, this regulation authorizes the use of supervised accounts for the disbursement of funds. The use may be necessitated to disburse Government funds consistent with the various stages of any development (construction) work actually achieved. On limited occasions a supervised account is used to provide temporary credit counseling and oversight to those being assisted who demonstrate an inability to handle their financial affairs responsibly. Another use is for depositing multi-housing reserve account funds in a manner requiring Agency co-signature for withdrawals. Multi-housing reserve account funds are held in a sinking fund for the future capital improvements needs for apartment projects. Supervised accounts are established to ensure Government security is adequately protected against fraud, waste, and abuse.

The legislative authority for requiring the use of supervised accounts is contained in Section 339 of the Consolidated Farm and Rural Development Act (CON ACT), as amended (7 U.S.C. 1989), and Section 510 of the Housing Act of 1949 (Housing Act), as amended (42 U.S.C. 1480). These provisions authorize the Secretary of Agriculture to make such rules and regulations as deemed necessary to carry out the responsibilities and duties the Government is charged with administering.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.42 hours per response.

Respondents: The primary respondents are small business organizations.

Estimated Number of Responses Per Respondent: 2.48.

Estimated Total Annual Burden on Respondents: 26,260 hours.

Copies of this information collection can be obtained from Johnnie Anderson, Regulations and Paperwork Management Division, at (202) 720–9735.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Johnnie Anderson, Regulations and Paperwork Management Division, Stop 0743, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250–0743. All responses to this notice will be summarized and included in any request for OMB approval. All comments will also become a matter of public record.

Dated: March 12, 1997.

Jan E. Shadburn,

Acting Administrator, Rural Housing Service.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

Dated: March 24, 1997.

Wally B. Beyer,

Administrator, Rural Utilities Service.

Dated: March 27, 1997.

Grant Buntrock,

Administrator, Farm Service Agency.

[FR Doc. 97–8994 Filed 4–8–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Forest Service

Thompson Creek Mine Supplemental Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare Supplemental Environmental Impact Statement.

SUMMARY: The purpose for this revised notice of intent is to provide public notice of a changed completion date for the Thompson Creek Mine (TCM) Draft Supplemental Environmental Impact Statement (DSEIS). This **Federal Register** notice revises the schedule published in the February 9, 1995 **Federal Register** (Vol. 60, No. 27, 7748) for the completion of the SEIS is now scheduled to be released for public comment in July 1997. Release of the final SEIS and Record of Decision is anticipated approximately four months later.

FOR FURTHER INFORMATION CONTACT: Liz McFarland, TCM SEIS Coordinator, RR2, Box 600, Hwy 93S, Salmon ID 83467, phone 208–756–5139.

Dated: April 2, 1997.

Stephanie Phillips,

Acting Forest Supervisor, Salmon and Challis National Forest.

[FR Doc. 97–9045 Filed 4–8–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—1996 Panel Wave 5.

Form Number(s): SIPP 16505(L).

Agency Approval Number: 0607–0813.

Type of Request: Revision of a currently approved collection.

Burden: 117,800 hours.

Number of Respondents: 77,700.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Bureau of the Census conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture.

The SIPP is a longitudinal survey, in that households in the panel are interviewed 12 times at 4 month intervals or waves over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000.

The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of a panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is supplemented with additional questions or topical modules designed to answer specific needs.

This request is for clearance of the topical modules to be asked during Wave 5 of the 1996 Panel. The core questions have already been cleared. Topical modules for waves 6 through 12 will be cleared later. The topical modules for Wave 5 are: (1) School Enrollment and Financing, (2) Child Support Agreements, (3) Support for Non-Household Members, (4) Functional Limitations and Disability—Adults, (5) Functional Limitations and Disability—Children, and (6) Employer Provided Health Benefits. In addition, a question on welfare reform will be added to the instrument at OMB's request. Wave 5 interviews will be conducted from August through November 1997.

Affected Public: Individuals and households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 3, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–9006 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This collection has been submitted under the Paperwork Reduction Act's emergency processing procedures.

Agency: International Trade Administration.

Title: Participation Agreement.

Agency Form Number: ITA–4008P and ITA–4008P–A.

OMB Number: 0625–0147.

Type of Review: Revision-EMERGENCY SUBMISSION.

Burden: 5,625 hours.

Number of Respondents: 7,500.

Avg. Hour Per Response: 45 minutes.

Needs and Uses: The Participation Agreement contract form is the vehicle by which individual firms agree to participate in the Department of Commerce's (DOC) trade promotion program. It is being revised to: (1) Collect certain certifications from companies interested in participating in such missions, (2) obtain additional information needed to judge the eligibility and suitability of companies to participate in DOC sponsored trade missions; and (3) change the name of the form to ''Trade Event and Participation Agreement,'' to make clear that it involves an application process. This information is essential to the implementation of the Statement of Policy Governing Overseas Trade Missions of the Department of Commerce issued by Secretary Daley on March 3, 1997.

The Secretary's statement of policy provides that each company seeking to take part in overseas trade missions must certify that: (a) The export of the products and services that the company wishes to sell would be in compliance with U.S. export controls and regulations; (b) the company has identified to the Department of Commerce for its evaluation any business pending before the Department of Commerce that may present the appearance of a conflict of interest; (c)

the company has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and (d) the company agrees that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with the applicant's involvement in this event, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

The revision to Form 4008P would require companies seeking to take part in overseas trade missions to make these certifications.

Affected Public: Companies seeking to apply to participate in overseas Commerce Department trade missions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503. An emergency clearance has been requested by April 11, 1997.

Dated: April 3, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–9068 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–FP

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 23–97]

Foreign-Trade Zone 98—Birmingham, Alabama: Application for Subzone Status, JVC America, Inc. (Videotape and Videocassettes) Tuscaloosa County, Alabama

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Birmingham, Alabama, grantee of FTZ 98, requesting special-purpose subzone status for the VHS videotape and videocassette manufacturing facility of JVC America, Inc. (JVC) (subsidiary of Victor Company of Japan, Ltd.), located at sites in Tuscaloosa County, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 25, 1997.

The JVC plant (440,000 sq. ft. on 103 acres) consists of two sites in Tuscaloosa County, Alabama: *Site 1:* (400,000 sq. ft. on 101 acres)—production facility located at 1 JVC Road, adjacent to I–20/59, some 15 miles east of the City of Tuscaloosa; *Site 2:* (40,000 sq. ft. on 2 acres)—warehouse located at 1010 19th Avenue, City of Tuscaloosa. The facility (235 employees) produces prepared unrecorded media such as VHS videotape and videocassettes. (Compact discs are also manufactured at the site, but authority to conduct such manufacture under zone procedures is not being requested at this time.) Some 15 percent of production is exported.

Zone procedures would exempt JVC from Customs duty payments on foreign materials used in production for export. On domestic shipments, the company would be able to choose the duty rate that applies to videotape and videocassettes (2.5%, becoming duty-free in 1999 upon final implementation of the Uruguay Round of GATT), instead of the rates (ranging from duty-free to 9.7%) otherwise applicable to the foreign materials. Foreign components, which account for an estimated 40 percent of material value, include carbon, iron oxides and hydroxides, palmitic/stearic acids, plasticizers, printing ink, polyvinyl chloride, polyurethanes, splice tape, packaging film, glue, polyethylene terephthalate film, cassette housings, cassette hubs, bemcot wipes, glass beads, filters, and prepared unrecorded media. The application indicates that the savings from zone procedures will help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 9, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 23, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, Medical Forum Building, 7th Floor, 950 22nd Street North, Birmingham, AL 35203;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 31, 1997.

John J. Da Ponte, Jr.,

Executive Secretary

[FR Doc. 97–9117 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 876]

Grant of Authority for Subzone Status, Ascent Power Technology Corp., (Electric Power Supplies/Electronic Fluorescent Lighting Ballasts); Campton, KY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, for authority to establish special-purpose subzone status for the manufacturing facilities (electric power supplies and electronic fluorescent lighting ballasts) of Ascent Power Technology Corp., in Campton, Kentucky, was filed by the Board on August 27, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 67–96, 61 FR 47870, 9–11–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and

Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Ascent Power Technology Corp., facilities in Campton, Kentucky (Subzone 29G), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 25th day of March 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–9119 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 19–93]

Withdrawal of Application for General-Purpose Zone; Fostoria, OH

Notice is hereby given of the withdrawal of the application submitted by the City of Fostoria, Ohio, requesting authority to establish a general-purpose foreign-trade zone in Fostoria, Ohio, adjacent to the Toledo Customs port of entry. The application was filed on May 14, 1993 (58 FR 30143, 5/26/93).

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: April 1, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–9118 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 877]

Grant of Authority for Subzone Status Pioneer Industrial Components, Inc., (Automotive Audio Products); Springboro, OH

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Greater Cincinnati Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 46, for authority to establish special-purpose subzone status for the automotive audio products manufacturing facilities of Pioneer Industrial Components, Inc., in Springboro, Ohio, was filed by the Board on March 8, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 19–96, 61 FR 10726, 3–15–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Pioneer Industrial Components, Inc., facilities in Springboro, Ohio (Subzone 46F), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 31st day of March 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–9120 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 24–97]

Foreign-Trade Zone 183—Austin, Texas and Foreign-Trade Subzone 183A—Dell Computer Corporation; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Central Texas, Inc., grantee of FTZ 183, requesting authority to expand Subzone 183A at the computer manufacturing facilities of Dell Computer Corporation (Dell) located in Austin, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 27, 1997.

Subzone 183A was approved on November 16, 1992 (Board Order 607, 57 FR 56902, 12/1/92) and expanded on December 23, 1996 (Board order 861, 62 FR 1316, 1/9/97). The subzone currently consists of the following three sites: *Site 1* (42.5 acres) located in the Braker Center Industrial Park, at the intersection of Braker Lane and Metric Boulevard; *Site 2* (12 acres) McKalla 2 (124,000 sq. ft.) located at 2500 McHale Court within the Rutland Center Industrial Park and McKalla I (135,000 sq. ft.) located at 10220 McKalla Drive; and, *Site 3* (11 acres) Research 1 (100,685 sq. ft.) located at 8801 Research Boulevard, Austin, Texas.

The applicant is now requesting authority to expand existing *Site 1* to include the entire Braker Center Industrial Park (55 acres) and to include two additional sites: proposed *Site 4* (33 acres, 546,750 sq ft) located in Metric Center at 2207 and 2209 Rutland Drive, 9709 Burnet Road and 2106 W. Rundberg in Austin; and proposed *Site 5* (4 acres, 61,676 sq ft) located in Longhorn Business Park at 2545 Brockton Drive in Austin.

Dell is authorized to manufacture computers and related products under zone procedures within Subzone 183A. This proposal does not request any new manufacturing authority under FTZ procedures in terms of products or components, but it does involve a proposed increase in the plant's level of production under FTZ procedures corresponding to the increase in plant size.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment (original and 3 copies) is invited from interested parties (see FTZ Board address below). The closing date for their receipt is June 9, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 23, 1997).

A copy of the application and accompanying exhibits will be available

for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 410 East 5th Street, Suite 414–A, Austin, TX 78711;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 31, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–9116 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 881]

Grant of Authority for Subzone Status Abbott Manufacturing, Inc. (Infant Formula, Adult Nutritional Products); Altavista, VA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Capital Region Airport Commission (Richmond, Virginia), grantee of Foreign-Trade Zone 207, for authority to establish special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc., in Altavista, Virginia, was filed by the Board on March 12, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 23–96, 61 FR 12060, 3–25–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application for export manufacturing is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Abbott Manufacturing, Inc., plant in Altavista, Virginia (Subzone 207A), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the further requirement that all foreign-origin dairy products and sugar admitted to the subzone shall be reexported.

Signed at Washington, DC, this 31st day of March 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–9121 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–802]

Industrial Nitrocellulose From the People's Republic of China; Notice of Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0666 or (202) 482–4733, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

Extension of Time Limits for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on industrial nitrocellulose from the People's Republic of China. On August 15, 1996, the Department initiated this administrative review covering the period July 1, 1995 through June 30, 1996.

Because of the complexity of certain issues concerning the Department's policy with respect to non-market economies, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to July 31, 1997, and for the final results to 120 days after the publication of the preliminary results. These extensions of time limits are in accordance with section 751(a)(3)(A) of the Act.

Dated: April 2, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 97–9122 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On October 3, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers one manufacturer/exporter, CEMEX, S.A. de C.V. (CEMEX), and its affiliated party Cementos de Chihuahua, S.A. de C.V. (CDC), and the period August 1, 1994, through July 31, 1995. We gave interested parties an opportunity to comment on the preliminary results. We received comments from petitioners and respondent. We received rebuttal

comments from the petitioners and respondent.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Dorothy Woster, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On October 3, 1996, the Department published in the **Federal Register** (61 FR 51676) the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico covering the period August 1, 1994 through July 31, 1995. The Department has now completed this review in accordance with section 751(a) of the Tariff Act of 1930 as amended.

Scope of the Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. Our written description of the scope of the order remains dispositive.

Verification

In accordance with section 353.25(c)(2)(ii) of the Department's regulations, we verified information provided by CEMEX and CDC using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information.

Analysis of Comments Received

The Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Company of California (petitioners), and CEMEX and CDC submitted case briefs on November 4, 1996, and rebuttal briefs on November 27, 1996. A public hearing was held on December 11, 1996.

Revocation of the Underlying Order

Comment 1: CEMEX contends that the antidumping duty order should be revoked and considered void *ab initio* due to the Department's alleged failure to investigate petitioners' standing in the original less-than-fair-value (LTFV) investigation. Specifically, CEMEX argues that ''[a]t the time of the original investigation, the relevant U.S. statute that prescribed the requirement to establish standing to file an antidumping petition contained no express language addressing the degree of support necessary for a petition to be filed in a regional industry case * * * the statute simply required that the petition be filed 'on behalf of' an industry but provided no express guidance on how compliance with this criterion was to be determined.'' Faced with this lacuna in the statute, CEMEX asserts, the Department is compelled by the decision in *Murray* v. *Schooner Charming Betsy*, 6 U.S. 64, 2 Cranch 64 (1804), to reinterpret U.S. law in accordance with the international obligations of the United States. In the opinion of CEMEX, this means that the Department is required (in the fifth review) to revisit the issue of initiation in the original investigation and abide by a July 9, 1992, ruling by a three-member panel convened under the auspices of the 1947 General Agreement on Tariffs and Trade (''1947 GATT''). *See Report of the Panel, United States—Anti-Dumping Duties on Gray Portland Cement and Cement Clinker From Mexico*, GATT Doc. ADP/82 (July 9, 1992) (''GATT Report''). According to CEMEX, this panel held that the initiation of the original investigation contravened the requirements of the 1979 GATT Antidumping Code (''GATT AD Code'') because the Department ''failed properly to ascertain'' that ''all or almost all'' of the regional industry supported the original petition. If the Department revisited the issue of initiation in light of the GATT Report, CEMEX maintains, it would revoke the order *ab initio*, terminate all proceedings, and refund ''at the very least, all cash deposits posted during the POR.''

CEMEX further maintains that the Department has the authority to revoke the antidumping order at this stage of the proceeding. Citing *Gilmore Steel Corp.* v. *United States*, 583 F. Supp. 607 (CIT 1984), CEMEX argues that government agencies (like the Department) have the authority to correct ''jurisdictional defects'' at any time. CEMEX also argues that the decision in *Ceramica Regiomontana S.A.* v. *United States*, 64 F.3d 1579 (Fed. Cir. 1995) provides ''specific legal precedent to revoke the order in this case'' and that its failure to challenge the Department's determination on industry support for the petition during the original LTFV investigation should be excused given the ''exception to the doctrine of exhaustion of administrative remedies upheld in *Rhone Poulenc* v. *United States*, 583 F. Supp. 607 (CIT 1984).''

The petitioners claim, in response, that these are the same arguments the Department considered and rejected in the third administrative review of this order. Since ''CEMEX has presented no new arguments or information about any change in circumstances that would justify a departure from the Department's reasoning in the third administrative review,'' Petitioners assert that the Department should reject CEMEX's arguments in this review.

Petitioners note that the GATT Report was never adopted by the GATT Antidumping Code Committee. Therefore, given the legal framework of the 1947 GATT, it imposed no international legal obligation upon the United States which might trigger the doctrine of statutory construction articulated in the *Charming Betsy* case.

Petitioners also contend that U.S. law takes precedence over the 1947 GATT. ''Accordingly, even adopted GATT panel decisions are not binding on the United States to the extent that such decisions are inconsistent with U.S. law or with the intent of Congress.''

Petitioners further note that the Department initiated the antidumping investigation in accordance with U.S. law. According to petitioners, neither the courts nor the Congress has required the Department to affirmatively establish prior to the initiation of regional-industry cases that the petition is supported by ''all or almost all'' of the relevant industry. Indeed, petitioners assert, the Department's longstanding practice of presuming industry support

for a petition in the absence of evidence to the contrary has been upheld by numerous courts, including the Court of Appeals for the Federal Circuit (''Federal Circuit'') in *Suramerica de Aleaciones Laminadas, C.A.* v. *United States,* 966 F.2d 660, 663 (Fed. Cir. 1992).

Finally, petitioners assert that the Department lacks the authority to revoke the order or otherwise rescind its 1989 initiation of the LTFV investigation. Quoting from the final results of the third administrative review, the petitioners argue that CEMEX failed to challenge the Department's determination on industry support for the petition before the Court of International Trade (''CIT'') and, accordingly, under sections 514(b) and 516A(c)(1) of the Act, ''that determination is final and binding on all persons, including the Department.''

Department's Position: For the following reasons, CEMEX's arguments are without merit. First, like the GATT itself, panel reports under the 1947 GATT are not self-executing and thus have no direct legal effect under U.S. law.

Second, neither the 1947 GATT nor the GATT AD Code obligates the United States to affirmatively establish prior to the initiation of a regional-industry case that all or almost all of the producers in the region support the petition. There certainly is no suggestion in either instrument that the standing requirements in regional-industry cases are any more rigorous than the standing requirements in national-industry cases. Furthermore, a GATT panel report, such as the present one, has no legal effect or formal status unless and until it is adopted by the GATT Council or, in the case of antidumping actions, the GATT Antidumping Code Committee. This follows from the fact that the 1947 GATT has, throughout its history, operated on the basis of consensus for purposes of decision-making in general and, the resolution of disputes, in particular. In the present case, it is undisputed that the GATT Report has never been adopted by the Antidumping Code Committee. Thus, the recommendations contained in the report are not binding, do not impose any international obligations upon the United States, and do not trigger the rule of statutory construction set forth in the *Charming Betsy* case.

Third, the object of CEMEX's comment is not the preliminary results of this review. Rather, CEMEX complains about an event which occurred over seven years ago—the initiation of the original LTFV investigation. The time to voice such objections before the Department was during the investigation. Instead, CEMEX, as well as the other Mexican cement producers that participated in the original investigation (Apasco, S.A. de C.V. and Cementos Hidalgo) sat silent before the Department. *See Final Determination of Sales at Less Than Fair Value, Gray Portland Cement and Clinker From Mexico* 55 Fed. Reg. 29244 (1990) (hereinafter ''Final LTFV Determination''). Moreover, neither CEMEX nor any other party appealed the agency's final affirmative LTFV determination (including the decision to initiate) to the appropriate court, and the statute of limitations for doing so has long expired. See 19 U.S.C. § 1516a(a)(2)(A).

The only party that appealed the Department's final LTFV Determination was the petitioners. They challenged certain aspects of the Department's final determination before the CIT and the Federal Circuit. *See Ad Hoc Committee Of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States,* Slip Op. 94–152 (CIT), aff'd, 68 F.3d 487 (Fed. Cir. 1995). CEMEX participated in that litigation as an intervenor on the side of the Department. On October 10, 1995, the Federal Circuit issued an opinion which disposed of the last issue in that case.

Therefore, even if the Department, of its own volition, were to reinterpret U.S. law in light of the GATT Report, it lacks the legal authority in this review to revoke the order or otherwise rescind the initiation of the underlying investigation. As we stated in the final results of the third administrative review and reaffirm here:

> ''* * * the Department has no authority to rescind its initiation of the LTFV investigation. Under sections 514(b) and 516A(c)(1) of the Act, a LTFV determination regarding initiation becomes final and binding unless a court challenge to that determination is timely initiated under 516A. Even if judicial review of a determination is timely sought, the Department's determination continues to control until there is a resulting court decision 'not in harmony with that determination'.'' See 19 U.S.C. § 1516a(c)(1).

Gray Portland Cement and Clinker from Mexico; Final Results Third Review, 60 FR 26865 (1995).

In this case, no one challenged the Department's determination on standing before the CIT. Therefore, that determination is final and binding on all persons, including the Department. (emphasis added).

Fourth, no court, including the court in *Gilmore Steel,* has ever held that the Department has the authority, in an administrative review under section 751(a) of the Act, to reach back more than seven years and reexamine the issue of industry support for the original petition. *Gilmore Steel* involved a challenge to the termination of a pending investigation based upon information obtained in the course of that investigation. In particular, the petitioner, in that case, contended that the Department lacked the authority to rescind the investigation based upon insufficient industry support for the petition after the 20-day period provided for in section 732(c) of the Act (19 U.S.C. § 1673a(c)) had elapsed. 585 F. Supp. at 673. In upholding the Department's determination, the court recognized that administrative officers have the authority to correct errors, such as ''jurisdictional defects,'' at anytime during the proceeding. Id. at 674–75. The court did not state or imply that a change in legal interpretation (in this case a non-binding one) authorizes administrative officers to reopen prior agency decisions which are otherwise final. The court simply held that the administering authority may, in the context of the original investigation, rescind an ongoing proceeding after expiration of the 20-day initiation period.

Similarly, in *Ceramica Regiomontana, S.A.* v. *United States,* 64 F.3d 1579 (Fed. Cir. 1995), the respondent did not ask the Department to reconsider and rescind a decision made in a prior proceeding. Indeed, the court's entire analysis was based upon the belief that the prior decision—the issuance of a countervailing duty order under former section 303(a)(1) of the Act against ceramic tile from Mexico—was in accordance with law (i.e., ''properly issued''). *Ceramica Regiomontana* concerned the authority of the Department to assess duties pursuant to a valid order after Mexico became a ''country under the Agreement'' which entitled it to an injury test under section 701 of the Act. The court held that the Department lacked such authority and ordered the agency, on remand, to revoke the order as to all unliquidated entries occurring after this date. *Id.* at 1583.

CEMEX also errs when it relies on *Rhone Poulenc* v. *United States* to support its claim that ''an exception to the doctrine of exhaustion of administrative remedies'' permits the ''retroactive application of the 1992 GATT decision.'' 583 F. Supp. 607 (CIT 1984) (a party may raise a new issue on appeal if the applicable law has changed due to a judicial decision that arose after the lower court or agency issued the contested determination). First of all, whether CEMEX's claim is barred by the

doctrine of exhaustion of administrative remedies is a matter more properly decided by a reviewing court or binational panel under Chapter 19 of the North American Free Trade Agreement. Secondly, even if the issue is timely, the exception claimed by CEMEX does not apply. The GATT Report is not a judicial decision and it did not change U.S. law. In fact, as we explain above, it did not even effect a change in the law on the international plane (*i.e.*, as between Mexico and the United States).

Finally, we note, as we did in the final results of the third review, that numerous courts have upheld the Department's practice of assuming, in the absence of evidence to the contrary, that a petition filed on behalf of a regional or national industry is supported by that industry. *See, e.g.*, *NTN Bearing Corp.* v. *United States*, 757 F. Supp. 1425, 1427–30 (CIT 1991); *Citrosuco Paulista* v. *United States*, 704 F. Supp. 1074, 1085 (CIT 1988); *Comeau Seafoods* v. *United States*, 724 F. Supp. 1407, 1410–12 (CIT 1994).

Indeed, the very issue raised by CEMEX in this review was before the Federal Circuit in the *Suramerica* case. 966 F.2d at 665 & 667. In *Suramerica* the appellees challenged the Department's interpretation of the phrase ''on behalf of'' which applies to both national-and regional-industry cases. Specifically, the appellees argued that the Department's practice of presuming industry support for a petition was contrary to the statute and an unadopted GATT panel report involving the U.S. antidumping order on certain stainless steel hollow products from Sweden. In affirming the Department's practice, the Federal Circuit observed that the phrase ''on behalf of'' was not defined in the statute. *Id.* at 666–67. The statute was, in fact, open ''to several possible interpretations.'' In the opinion of the court, the Department's practice with regard to standing and industry support for a petition reflected a reasonable ''middle position.'' 966 F.2d at 667. While there was a gap in the statute, the court stated, ''Congress did make [one thing] clear—Commerce has broad discretion in deciding when to pursue an investigation, and when to terminate one.'' *Id.*

The court then dismissed the argument that the gap in the statute must be interpreted in a manner that is consistent with the 1947 GATT or the GATT panel ruling:

Appellees next argue that the statutory provisions should be interpreted to be consistent with the obligations of the United States as a signatory country of the GATT. Appellees argue that the legislative history of the statute demonstrates Congress's intent to comply with the GATT in formulating these provisions. Appellees refer also to a GATT panel—a group of experts convened under the GATT to resolve disputes—which ''recently rejected [Commerce's] views on the meaning of 'on behalf of.' ''

We reject this argument. First, the GATT panel itself acknowledged and declared that its examination and decision were limited in scope to the case before it. The panel also acknowledged that it was not faced with the issue of whether, even in the case before it, Commerce had acted in conformity with U.S. domestic legislation. Second, even if we were convinced that Commerce's interpretation conflicts with the GATT, which we are not, the GATT is not controlling. While we acknowledge Congress's interest in complying with U.S. responsibilities under the GATT, we are bound not by what we think Congress should or perhaps wanted to do, but by what Congress in fact did. The GATT does not trump domestic legislation; if the statutory provisions at issue here are inconsistent with the GATT, it is a matter for Congress and not this court to decide and remedy. See 19 U.S.C. § 2504(a); *Algoma Steel Corp.* v. *United States*, 865 F.2d 240, 242 . . . (Fed. Cir. 1989).

Id. at 667–68.

Ordinary Course of Trade

Comment 2: CEMEX contends that the Department improperly concluded that CEMEX's home market sales of Type II cement were outside the ordinary course of trade. In particular, CEMEX contends that the ordinary course of trade provision does not contemplate the elimination of an entire category of identical or similar merchandise from the calculation of normal value. Pointing to language in the statute and the Statement of Administrative Action for the URAA, CEMEX asserts that references to ''sales,'' ''transactions,'' and ''types of transactions'' evidence congressional intent to bar the Department from disregarding ''an entire merchandise category, particularly a category of merchandise identical to the merchandise sold in the United States.'' Rather, CEMEX maintains that the purpose behind the ordinary course of trade provision is to exclude certain individual sales or transactions of comparison merchandise which are unrepresentative of sales in general.

CEMEX suggests that the Department has confused the ordinary course of trade provision with the ''fictitious market'' provision, which according to CEMEX, has sufficient scope to serve as the basis for excluding an entire category of such or similar merchandise. This is because, CEMEX contends, the fictitious market provision refers to sales made to create a ''fictitious market'' and thus, by its nature, may encompass all home market sales as opposed to merely individual sales or transactions. CEMEX argues that the ordinary course of trade provision, on the other hand, is limited to excluding only certain home market sales of comparison merchandise.

CEMEX concludes that if the Department continues to interpret the statute as permitting the entire universe of identical merchandise to be disregarded, the statute requires the Department to rely upon normal value calculated on the basis of constructed value rather than home market prices of similar merchandise. This is because, CEMEX maintains, 19 U.S.C. § 1677(b)(a)(4) provides that if ''normal value cannot be determined by use of home market prices, the (Department) should resort to constructed value.''

In addition, CEMEX claims that even if the Department continues to apply the ordinary course of trade provision to determine whether to exclude CEMEX's universe of home market sales of identical merchandise, the administrative record demonstrates that CEMEX's home market sales of Type II cement were made within the ordinary course of trade during the fifth administrative review. To support this argument, CEMEX maintains that the Department should focus on the actual sale terms and practices surrounding the sales of Type II cement as compared to other cement types subject to the order (Type I cement and Type V cement.) In this regard, CEMEX notes that shipping terms for all cement types were identical (C.I.F. or F.O.B.) which is ''indicative'' of sales in the ordinary course of trade. Moreover, CEMEX notes that all pre-sale freight expenses absorbed by CEMEX for Type II sales were incurred in precisely the same manner as pre-sale freight expenses for all other cement types, including Type I cement.

CEMEX further argues that the Department should not have focused on shipping distances to the customer. According to CEMEX, shipping distance is not a relevant factor in the ordinary course of trade determination. Moreover, CEMEX contends, even if shipping distance was relevant ''the administrative record established that it was not extraordinary to ship cement distances greater than what Department has characterized as an optimum maximum distance of 150 miles from a given plant and to absorb such transportation costs.''

Next, CEMEX argues that in the current review, relative profitability was

the only factor supporting a finding that home market sales of Type II cement were outside the ordinary course of trade. CEMEX contends, however, that this fact is an insufficient basis to determine that sales of Type II cement are outside the ordinary course of trade and was given too much weight in the preliminary determination. CEMEX argues that ''divergent profit levels are neither necessary nor sufficient to sustain an 'outside the ordinary course of trade decision' absent other supporting factors.'' Citing *Certain Welded Carbon Steel Standard Pipes and Tubes from India,* CEMEX notes that ''the Department has not imposed a requirement that sales be made at a different level of profit in order to be considered outside the ordinary course of trade.'' 56 FR At 64,755. Likewise, in *Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand,* 61 FR 1328 (1996), CEMEX maintains the Department ''reversed (a) preliminary finding that sales * * * were outside the ordinary course of trade * * * despite the existence of a profit disparity between the two types of pipe analyzed.''

CEMEX also argues that the fact that home market sales of Type II cement promote CEMEX's corporate image does not indicate that such sales are outside the ordinary course of trade. According to CEMEX, promotion of corporate image is not a relevant factor in the Department's ordinary course of trade determination.

CEMEX also argues that the relative sales volume of Type II cement as compared to other cement types is not indicative of Type II cement being sold outside the ordinary course of trade. In particular, CEMEX argues, Department precedent establishes that low relative sales volume is a factor indicative of sales outside the ordinary course trade only in situations where there is no *bona fide* demand or ready market for the product. For example, in *Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand,* CEMEX asserts that the Department found certain sales to be in the ordinary course of trade not withstanding low relative sales volume because there was a *bona fide* demand for the product in the home market. CEMEX maintains that the administrative record in this case establishes both a significant volume of home market sales for Type II cement in absolute terms and the existence of a *bona fide* home market demand of Type II cement. Therefore, CEMEX maintains ''the existence of a *bona fide* home market for Type II cement negates any possible inference that a low sales volume relative to other cement types indicates that such sales are outside the ordinary course of trade.''

Likewise, CEMEX argues that the historical sales trends indicate that CEMEX's home market sales of Type II cement were made within the ordinary course of trade. CEMEX contends that it began to manufacture and sell Type II cement in Mexico in the mid 1980's, at the same time manufacture and sale of Type II cement began for export. This is consistent, CEMEX maintains, with the definition of ordinary course of trade which provides ''the conditions and practices for which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration.''

Petitioners maintain that the Department correctly applied the statute by excluding all home market sales of Type II cement from normal value. In particular, petitioners argue that CEMEX incorrectly asserts that the statute and the SAA preclude the Department from excluding an entire category of sales. Rather, petitioners explain, ''Congress nowhere expressed a limitation on the number of sales or transaction that may be excluded from normal value.'' Therefore, petitioners conclude that the sales or transactions in question may be a handful of sales or all the sales of a particular type of merchandise.

Petitioners also argue that the Department correctly applied the statute by basing normal value on sales of Type I cement. Petitioners note that in *CEMEX S.A.* v. *United States,* Slip Op. 95–72, at 24–28 (CIT 1995), the court rejected the Department's use of the constructed value of Type II cement as the basis for foreign market value, rather than home market sales of Type I cement, after the Department excluded Type II sales as outside the ordinary course of trade. Petitioners point out that the court found the use of similar merchandise was dictated by the statute. Therefore, petitioners conclude that constructed value can only be used if the Department determines that the normal value of the subject merchandise cannot be determined on the basis of home market sales of the foreign like product. In other words, petitioners argue that ''as long as there are home market sales of similar merchandise within the ordinary course of trade—in this case sales of Type I cement—the Department is required to compare those sales to CEMEX's U.S. sales.'' Finally, petitioners point out that the statutory provision cited by CEMEX (19 U.S.C. 1677(b)(1)) directs the Department to use constructed value only when all sales of the comparison merchandise are disregarded as being below cost.

In addition, petitioners argue that there is sufficient evidence on the record to support the Department's determination that sales of Type II cement are outside the ordinary course of trade. First, petitioners note that the Department correctly found in the preliminary results that CEMEX's home market shipping arrangements for Type II cement were unusual compared to its shipments of other types of cement. In particular, petitioners argue that during the period of review, CEMEX shipped Type II cement greater distances and absorbed the freight expense. To support this claim petitioners point out that prior to the antidumping order, CEMEX produced Type II cement at 11 plants throughout Mexico. In direct response to the antidumping order, however, petitioners claim that CEMEX radically altered its production and distribution arrangements for Type II cement by consolidating production at Hermosillo despite the fact that home market demand for this cement type is centered in the Mexico City area.

Petitioners assert that CEMEX's claim that shipping terms were identical for all cement types is misleading. Petitioners argue that CEMEX's claim is ''merely an attempt to divert the Department's attention from the fact that CEMEX's shipping arrangements for Type II cement—not its 'shipping terms'—were highly unusual compared to sales of other cement types.'' Quoting the CIT in the CEMEX case, petitioners argue, ''the statute ... focuses not on the company's similarity of product treatment but on whether the treatment of the particular product at issue, here Types II and V cement, is 'normal in trade.' '' Slip Op. 95–72 at 10. Petitioners point out that CEMEX makes all of its long distance sales of Type II cement C.I.F. Moreover, a significant number of CEMEX's plants sold Type I cement on a F.O.B. basis. In addition, petitioners argue that CEMEX's statement that shipping distances are not relevant to the ordinary course of trade determination is both factually and legally wrong. First, petitioners contend that the record demonstrates that CEMEX consolidated production at Hermosillo in direct response to the antidumping order with the intention of circumventing the order. Further, petitioners state that ''as a matter of law, shipping distances—like all other 'conditions and practices' relevant to the trade under consideration with respect to merchandise of the same class or kind, 19 U.S.C. § 1677(15) are plainly relevant to the Department's consideration of sales outside the

ordinary course of trade.'' Again citing the CEMEX case, petitioners argue that ''it is not unusual for the court to consider shipping arrangements in determining whether sales are outside the ordinary course of trade.'' Slip Op. 95–72, at 10, citing *Porcelain-On-Steel Cookware From Mexico,* 51 Fed. Reg. 36 435, 36 437 (1986.)

Petitioners also distinguish the current fifth review from the administrative reviews involving antifriction bearings from Thailand. Petitioners argue that shipping distances were raised as an issue by the petitioner in that case. Moreover, petitioners note that bearings are not fungible commodities with a low value ratio; therefore, there is no reason to believe that the bearings are not ordinarily shipped long distances.

Petitioners also argue that there is no evidence on the record to support CEMEX's argument that shipping distances of Type II cement are not extraordinary compared to sales of other cement types. For example, petitioners contend that there is no information on the record to show that Type V cement has always been shipped long distances. Moreover, petitioners note, Type V sales were found to be outside the ordinary course of trade in the second administrative review; therefore, sales of Type V hardly buttress CEMEX's claim that Type II sales were within the ordinary course of trade. Likewise, petitioners maintain that CEMEX has not cited specific instances in the record demonstrating that Type I and pozzolanic cement is normally shipped long distances.

Additionally, petitioners argue that ''CEMEX's manipulation of its production and distribution arrangements for Type II cement to increase the freight cost continue to result in CEMEX attaining an unusually low profit on Type II sales during the fifth review period'' in comparison to profits on all cement types. Moreover, petitioners contend that the Department did not just look at profit when making its ordinary course of trade determination in the preliminary results; rather, the Department considered all pertinent factors. Therefore, petitioners question CEMEX's statement that relative profitability is the only factor supporting the Department's determination of sales outside the ordinary course of trade because it fails to explain how the other four factors vanished from the record of the review. Finally, petitioners maintain that the ''Department correctly determined in the preliminary results that, based on the evidence of record in this review, the five factors the Department relied upon in the second administrative review in determining that CEMEX's sales of Type II cement were outside the ordinary course of trade continued to be present during the fifth review period.''

Petitioners also argue that the Department was correct in its finding that sales of Type II cement have a promotional quality to them. Petitioners points out that the Department requested information regarding the promotional aspect of Type II cement sales on July 9, 1996, but CEMEX failed to provide it. This determination is further supported by the fact that Type II was found to be sold for promotional reasons in the second review, and CEMEX conceded the promotional aspect of Type II cement in the fourth review. Moreover, petitioners contend ''CEMEX's case brief does not contest the Department's finding that CEMEX continued to sell Type II cement for reasons other than profit.''

In addition, petitioners argue that CEMEX restricted sales of Type II cement during the fifth review period. Petitioners contend that after the imposition of the antidumping order, CEMEX restricted sales of Type II cement to only those customers that specifically requested it and could demonstrate a need. According to petitioners the fact that CEMEX ''artificially restricted its home market sales of Type II cement'' is further established by the uncontested evidence that CEMEX produced Type II Low Alkali (LA) cement at no fewer than six plants other than the one at Hermosillo prior to the antidumping order. Moreover, petitioners maintain that CEMEX ''produced cement meeting the specifications of Type II LA cement at plants other than Campana and Yaqui during the period of review, but that it restricted sales of cement reported as Type II cement by selling the cement as Type I or Type I modified cement.''

Department's Position: Consistent with the preliminary determination, in examining CEMEX's reported home market sales, the Department has determined that CEMEX's sales of Type II cement were outside the ordinary course of trade during the fifth review. Section 773(A)(1)(B) of the Act states that the normal value of the subject merchandise is ''the price at which the foreign like product is first sold (or, in absence of a sales, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.'' Section 771(15) defines ordinary course of trade as ''the conditions and practice which, for a reasonable time prior to the exportation of the subject merchandise have been normal in the trade under consideration with respect to merchandise of the same class or kind.'' The SAA, which accompanied the passage of the URAA, further clarifies this portion of the statute, stating: ''Commerce may consider other types of sales or transactions to be outside the ordinary course of trade when such sales or transactions have characteristics that are not ordinary as compared to sales or transactions generally made in the same market.'' SAA, at 164. Thus, the statute and SAA are clear that a determination of whether sales (other than those specifically addressed in section 771(15)) are in the ordinary course of trade must be based on an analysis comparing the sales in question with sales of merchandise of the same class or kind generally made in the home market, *i.e.,* (the Department must consider whether certain cement home market sales are ordinary in comparison with other home market sales of cement.)

An ordinary course of trade determination requires evaluation of sales in each review on ''an individual basis taking into account all of the relevant facts of each case.'' *Nachi-Fujikishi Corp.* v. *United States,* 798F. Supp. 716, 719 (CIT 1992). This means that the Department must review all circumstances particular to the sales in question. Therefore, in the fifth review the Department considered the totality of circumstances surrounding CEMEX's reported home market sales. A full discussion of our conclusions, requiring reference to proprietary information, is contained in a Department memorandum in the official file for this case (a public version of this memorandum is on file in room B–099 of the Department's main building). Generally, however, we have found: (1) The volume of Type II home market sales is extremely small compared to sales of other cement types, (2) shipping distances and freight costs for Type II home market sales were significantly greater than for sales of other cement types, with CEMEX absorbing these costs, and (3) CEMEX's profit on Type II sales is small in comparison to its profits on all cement types. In addition, there are two items, historical sales trends and the ''promotional quality'' of Type II cement sales, which were cited previously as factors in the second review ordinary course analysis, but which are not discussed above. On July 9, 1996 the Department issued a questionnaire that requested CEMEX to support its position that home market Type II cement sales are in the ordinary course of trade by addressing, among

other things, ''historical sales trends'' and ''marketing reasons for sales other than profit.'' CEMEX's response addressed all items in the questionnaire except these two items. Thus, the Department assumes that the facts regarding these items have not changed since the second review and that: (a) CEMEX did not sell Type II until it began production for export in the mid-eighties, despite the fact that a small domestic demand for such existed prior to that time; and (b) sales of Type II cement continue to exhibit a promotional quality that is not evidenced in CEMEX's ordinary sales of cement.

For the reasons stated above, the Department has determined that CEMEX's home market sales of Type II cement during the current review are not representative of its sales of such or similar merchandise in Mexico. We note that while our decision is based solely upon the facts established in the record of the fifth review, those facts are very similar to the facts which led the Department to determine in the second review that home market sales of Type II cement were outside the ordinary course of trade. This determination, as noted above, was affirmed by the CIT in the CEMEX case. (''Commerce's determination that CEMEX's sales were outside the ordinary course of trade involved a weighing of data and is supported by substantial evidence.'' *CEMEX,* Slip Op. 95–72 at 14.

The Department disagrees with CEMEX's argument that the ordinary course of trade provision in the statute precludes the exclusion of an entire category of sales. Importantly, the statute provides no limits on the number of sales or transactions that may be excluded from normal value. Moreover, the SAA notes that ''Commerce will interpret section 771(15) in a manner which will avoid basing normal value on sales which are extraordinary for the market in question, particularly when the use of such sales would lead to irrational or unrepresentative results.'' As petitioners point out and the Department agrees, failure to exclude all sales of Type II cement would violate this intent because normal value would be based on Type II sales despite evidence that those sales were made under unusual and unrepresentative conditions.

The Department also disagrees with CEMEX's claim that if the Department continues to disregard all Type II sales, the statute requires the Department to base normal value on constructed value rather than home market prices of similar merchandise. In examining the universe of CEMEX's home market sales, the Department has found that sales of Type II cement are extraordinary, unusual, and unrepresentative transactions, and, therefore, are outside the ordinary course of trade. As a result, such sales could not constitute the foreign like product. However, sales of Type I cement are usable for identifying the foreign like product, and subsequently in calculating NV. In situations where identical product types cannot be matched, the statute expresses a preference for basing normal value on similar merchandise (see section 773(a)(1)(A) of the Act and section 353.46(a) of the Department's regulations). *Gray Portland Cement and Clinker from Mexico,* 58 Fed. Reg. 47253, 47255 (1993); see also CEMEX, Slip Op. 95–72 at 26. ''Constructed value should only be used where Commerce has made a determination that the exporter's home market prices are inadequate or unavailable for the purposes of calculating FMV.'' CEMEX, Supra at 26, citing H.R. Rep. No. 317, 96th Cong., 1st Sess. 76 (1979). In the fifth review, there are home market sales of similar merchandise (Type I cement) as well as sales of identical merchandise (Type II cement.) For the reasons stated above, we have not based our calculation of normal value upon market sales of Type II cement. However, the Department has followed the dictates of the statute and our regulations and compared sales of similar merchandise (i.e., Type I cement) to the product sold in the United States, adjusted for DIFMER (see Comment 6, below).

Comment 3: Petitioners claim that CEMEX established a fictitious niche market for home market sales of Type II cement. In particular, petitioners argue that CEMEX, in reaction to the antidumping order, created an artificial and highly restricted niche market and channel for Type II cement with the intention of manipulating normal value of identical merchandise ''to mask the fact that the average home market price of the entire class of subject merchandise covered by the order (including Type I cement and pozzolanic cement) continued to greatly exceed the U.S. price of the imported merchandise.'' As a result, petitioners claim that CEMEX's dumping is disguised.

CEMEX, on the other hand, argues that the Department was correct not to initiate a fictitious market investigation during the context of the fifth administrative review. CEMEX maintains that since the Department disregarded ''CEMEX's home market sales of Type II cement in the preliminary results on the basis of their being outside the ordinary course of trade, other basis for disregarding those sales, such as (petitioner's) fictitious market allegation and its allegation that Type II cement was sold at prices below production costs, became moot and did not have to be further addressed by the (Department) in the preliminary results.''

Department's Position: Since the sales in question have been found to be outside the ordinary course of trade, and accordingly will not be used in the calculation of normal value, it is not necessary for us to address this issue for these final results.

Collapsing

Comment 4: CDC contends that the Department's decision to collapse it and CEMEX is contrary to administrative practice and is not justified by the record. CDC concedes that it is affiliated with CEMEX; however, CDC does not believe that the two affiliated companies should be collapsed. CDC asserts that collapsing two affiliated parties is the exception, not the rule. CDC asserts that the Department's policy is based on the principle that a company's liability under the antidumping law should be based on the company's own pricing decisions. The Department has consistently relied on factors other than percentage ownership and common board members, the two factors relied upon in this case, when considering whether to collapse two companies. CDC cites *Nihon Cement Co.* v. *United States,* 17 CIT 400 (1993), in which the Department summarizes the factors it considers to be relevant in its determination to collapse affiliated entities, and *FAG Kugelfischer Georg Schafer KGaA* v. *United States,* 932 F. Supp. 315 (CIT 1996), in which the court reversed the Department's decision to collapse two sister companies because it determined that there was not a strong possibility of price manipulation.

CDC asserts that the possibility of price manipulation which could undermine the effectiveness of the order is insignificant. CDC centers its argument around the three factors the Department considers to be evidence of the potential for price manipulation: stock ownership, management/director overlap, and intertwined business operations. CDC contends that stock ownership does not necessarily indicate control. CDC claims the record establishes that CEMEX has no control over CDC's business operations, as evidenced by the following factors: (1) Sales listings for sections B and C demonstrate that there is no correlation

in CEMEX and CDC's pricing. (2) CDC has its own facilities, distribution, sales, and marketing network in Mexico and in the United States. CDC states that it does not share information with CEMEX on possible sales opportunities in the U.S. or Mexico. (3) There is no coordination between CEMEX and CDC of sales, pricing, or marketing policies in the Mexican market; CDC claims that because of the regional nature of the cement market, the natural markets of CDC and CEMEX do not overlap. Moreover, CDC claims that the high cost of freight and the fact that CDC's facilities are in the land-locked state of Chihuahua prohibits CDC from switching its production to meet the needs of CEMEX's U.S. and Mexican customers. (4) No commercial transactions between CDC and CEMEX support a ''strong possibility'' of price manipulation. In addition, the companies do not supply any material inputs for the subject merchandise to each other. (5) The companies are listed separately on the Mexican stock exchange.

CDC argues that in the absence of any possibility of price manipulation, there is no policy reason in this case to collapse CEMEX and CDC. CDC claims that it cannot increase its operations beyond its natural geographic markets of Chihuahua in Mexico, and Texas and New Mexico in the United States, due to prohibitively high freight costs. CDC also asserts that the possibility of price and production manipulation is small, due to the corporate structure. CDC claims it is being penalized for occurrences of dumping over which it has no control, but which it must pay for. CDC contends that as the Department has full access to both CDC and CEMEX pricing, cost and production information through its questionnaires and verification, it could decide to collapse the companies in future annual reviews if warranted by evidence of manipulation. CDC insists that there would be no incentive for its owners or managers to agree to any plan that would result in unpredictable monetary liability for CDC's past imports.

Petitioners contend that the Department's preliminary results analyzed all relevant factors and correctly determined that CEMEX and CDC should be collapsed. Petitioners note that cement is a bulk commodity which cannot be distinguished from producer to producer; thus the potential for production manipulation is much greater for cement than for differentiated products. Petitioners argue that both CEMEX and CDC produce the subject merchandise, and have similar production facilities that could be easily retooled to restructure manufacturing.

Petitioners stress that the correct focus of analysis is the potential for future price manipulation, and that CEMEX's and CDC's relationship harbors significant potential for price manipulation, as evidenced by the following factors: (1) According to petitioner, CEMEX's level of stock ownership of CDC is more than sufficient to warrant collapsing the two companies. Petitioners hold that CDC has not established on the record that CEMEX has no ability to influence CDC's pricing and production decisions, either at present or in the future. (2) Petitioners claim control over the board of directors is not necessary to warrant collapsing; however, the cross-board membership between CEMEX and CDC clearly presents ''potential sharing of information.'' (3) The record contains substantial evidence of intertwined business operations between CEMEX and CDC. (4) Petitioners contend that ''control'' of one party over another is not a condition precedent to a decision to collapse affiliated parties. Petitioners cite *Nihon Cement*, 17 CIT at 425, *Notice of Final Determination of Sales at Less than Fair Value: Certain Pasta from Italy*, 61 FR 30326, 30352 (June 14, 1996) (''*Certain Pasta From Italy*''), and *Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products From Japan*, 58 Fed. Reg. 37154, 37159 (1993) (''Japanese Steel''), to support this argument. (5) Petitioners refute CDC's claim that price manipulation between CEMEX and CDC is unlikely to occur because CDC could not extend its market beyond its current geographical area. Moreover, petitioners state that CDC and CEMEX could easily maximize their combined profits by increasing CDC's shares of U.S. sales and increasing CEMEX's share of Mexican sales.

Department's Position: The Department agrees with CDC that it must consider all relevant factors when collapsing two affiliated parties. *Section 351.401(f) of the Proposed Rules*, 61 FR at 7330, describes the Department's current policy regarding when it will treat two or more affiliated producers as a single entity (i.e., ''collapse'' the firms) for purposes of calculating a dumping margin. In order for the Department to treat two or more producers as a single entity, (1) The producers must be affiliated; (2) the producers must have production facilities that are sufficiently similar so that a shift in production would not require substantial retooling; and (3) there must be a significant potential for the manipulation of price or production.

First, because CEMEX indirectly owns more than five percent of the outstanding voting shares of CDC, the Department considers CEMEX and CDC to be affiliated within the meaning of section 771(33) (F) of the Act. The Department also finds that CEMEX and CDC are affiliated within the meaning of section 771(33)(G) of the Act, as detailed in the Proposed Regulations. CEMEX is ''in a position to exercise restraint or direction'' over CDC via the following means of control: (1) cross-board of directors membership between CEMEX and CDC and/or its affiliates and (2) joint activities between CDC and CEMEX. In addition, both CEMEX and CDC manufactured Type I and Type II cement during the period of review. Second, as CDC and CEMEX have similar production processes and facilities, a shift in production would not require substantial retooling. Record evidence for the fifth administrative review also reveals intertwined business operations between CDC and CEMEX. (A complete analysis surrounding the Department's decision to collapse CDC and CEMEX, requiring reference to proprietary information, is contained in the Department's Memorandum from Roland L. MacDonald to Joseph A. Spetrini, dated March 24, 1997, located in the official file for this case.

A public version of this memorandum is on file in room B–099 of the Department's main building.)

Third, no aspect of CDC and CEMEX's affiliation via stock ownership and cross board members, nor the location of their facilities and distribution network, precludes the potential for price manipulation. Given the level of common ownership and cross board members, which provides a mechanism for the two parties to share pertinent pricing and production information, similar production facilities that would not require substantial retooling, as well as intertwined business operations, the Department finds that if CDC and CEMEX are not collapsed, there is significant potential for price manipulation which could undermine the effectiveness of the order.

Level of Trade (LOT)/ CEP Offset

Comment 5: Petitioners argue that a CEP offset adjustment should not be granted. Petitioners cite the SAA which establishes two conditions for a CEP offset: first that ''different functions at different levels of trade are established under section 773 (a)(7)(A)(i)''; and second, that the ''data do not form an appropriate basis for determining a level of trade adjustment under section 773

(a)(7)(A)(ii).'' Petitioners assert that it is not sufficient for a respondent to establish that sales in the home and U.S. markets are at different levels of trade, thus satisfying the first criteria. Petitioners state that the respondent must also establish that the different levels of trade affect the comparability of prices, based on 19 U.S.C. 1677b(a)(7)(A)(ii). Petitioners assert that neither CDC nor CEMEX has satisfied the criteria, and are not entitled to a CEP offset adjustment.

CDC argues that under the URAA, the CEP offset should be granted when there is an unquantifiable difference in level of trade between the home and U.S. markets. The Department must consider those differences in selling functions that exist after the deduction from the U.S. price of selling expenses associated with selling functions in the United States. CDC asserts that the Department verified that the majority of selling functions performed in the home market were not performed for CEP sales; thus the home market LOT is different from, and more advanced than the CEP LOT, which satisfies the first criteria for the CEP offset. Second, CDC asserts that under section 773(a)(7)(A), a price adjustment can only be quantified where there are at least two different levels of trade in the home market. As the Department found that CDC reported only one level of trade in the home market, CDC claims it has satisfied the second criteria for a CEP offset (i.e., the available data does not provide an appropriate basis for a LOT price adjustment).

Similarly, CEMEX argues that its claim for a level of trade adjustment should be analyzed under 19 U.S.C. 1677b(a)(7)(B), which authorizes the CEP offset. The Department's Proposed Regulations at 19 CFR 351.412(b)(2) instruct the Department to ''identify the level of trade based on the price after the deduction of expenses and profit under section 772(d) of the Act.'' CEMEX claims that while the starting prices for U.S. and home market sales were initially made at the same level of trade, significant differences in selling functions exist between U.S. and home market sales, when the CEP, with all indirect selling expenses incurred for selling functions deducted under the statute, is compared to normal value.

Department's Position: In accordance with section 773(a)(7)(A) of the Act, to the extent practicable, we determine normal value for sales at the same level of trade as the U.S. sales (either export price (EP) or constructed export price (CEP)). When there are no sales at the same level of trade we compare U.S. sales to home market sales at a different level of trade. The normal value (NV) level of trade is that of the starting-price sales in the home market. When NV is based on constructed value (CV), the level of trade is that of the sales from which we derive selling, general and administrative expenses, and profit.

For both EP and CEP the relevant transaction for level of trade is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the EP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses specified in section 772(d) of the Tariff Act and the profit associated with these expenses. These expenses represent activities undertaken by, or on behalf of, the affiliated importer. As such they tend to occur after the transaction between the exporter and the importer for which we construct CEP. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for the starting price). Movement charges, duties and taxes deducted under section 772(c) do not represent activities of the affiliated importer, and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States this is generally to an importer whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, OEM, or wholesaler are useful as they are commonly used to describe levels of trade by respondents; however, without substantiation, these categories are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates claimed customer classification levels. If the claimed customer levels are different, the selling functions performed in selling to each level should also be different. Conversely, if customer levels are nominally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the level of trade. A different level of trade is characterized by purchasers at different places in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare home market sales at a different level of trade than U.S. sales, we make a level of trade adjustment, if the difference in level of trade affects price comparability.

We determine any effect on price comparability by examining sales at different levels of trade in a single market (i.e., the home market). Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the weighted average of the net prices of the same models sold at different levels of trade. Net prices are used because any difference will be due to differences in level of trade rather than other factors. The average percentage difference between these weighted averages is used to adjust the normal value when it is different from the level of trade of the export sale. If there is no pattern, then the difference in level of trade does not have a price effect, and no adjustment is necessary.

In terms of granting a CEP offset, the statute also provides for an adjustment to normal value if it is compared to U.S. sales at a different level of trade, provided the normal value is more remote from the factory than the CEP sales, and we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level, or where there is an equivalent home market level, but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(7)(B) and is the lower of the: (1) Indirect selling expenses on the home market sale; or (2) indirect selling expenses deducted from the starting

price used to calculate CEP. The CEP offset is not automatic each time export price is constructed. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sales and there is not an appropriate basis for determining whether there is an effect on price comparability.

In implementing this principle in this review, we examined information regarding the selling activities of the producers/exporters associated with each stage of marketing, or the equivalent. However, we were unable to utilize the analysis submitted by the respondent (CEMEX and CDC) due to the fact that it reported the selling functions performed by the producer/exporter to the unaffiliated purchaser in the home market, as compared to the selling functions performed by the related reseller to the unaffiliated purchaser in the U.S. market. The statute directs the Department to determine normal value at the level of trade of the CEP sales, which includes any CEP deductions under section 772(d) of the Act, (*i.e,* the price as reflected by the ''sale'' from the producer/exporter to the U.S. affiliate). As such, the CEP reflects a price exclusive of those selling expenses and profit associated with economic activities in the United States. *See* SAA at 823.

In reviewing the selling functions reported by CEMEX and CDC, we considered the selling functions performed by CEMEX and CDC to its customers in the home market (as reported in the variables, INVCARH, INDIRSH, and DISWARH), and the selling functions performed by CEMEX and CDC, in the home market on its ''sales'', to its affiliated reseller in the United States (as reported in the variables, DINVCARH, DINDIRSU, and DISWARU). In analyzing whether separate LOTs existed in this review, we found that no single selling activity in the cement industry was sufficient to warrant a separate LOT (*see Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7307 (February 27, 1996). For this review, we determined that the following selling functions and activities occur in relation to CEMEX and CDC's sales of cement: (1) Inventory maintenance, (2) presale warehousing, and (3) other indirect selling expenses. We did not consider packing arrangements to be a selling function since packing is accounted for in the Department's calculations as a separate adjustment.

CEMEX

CEMEX claimed that it has two LOTs in the home market—bulk sales and bagged sales of cement. It also reported two LOTs in the U.S. market—sales of bulk cement to end-users and ready-mixers. We disagree with CEMEX that there are two LOTs in the home market and two LOTs in the U.S. market. Therefore, based on our practice, as stated in *Steel from Canada,* we have determined, for the reasons described below, that CEMEX sells to one level of trade in the home market and one level of trade in the U.S. market.

First, we looked for different stages of marketing. We found that there is one stage of marketing—sales of cement shipped to end-users and ready mixers in bulk and bagged form. After determining the number of marketing stages, we then examined whether the selling functions performed by the seller support CEMEX's claimed LOTs or the marketing stages determined by the Department. For the claimed LOTs in the home market, we did not find that there were two distinct sets of selling functions performed by the seller. Rather, we found one distinct set of selling functions performed by CEMEX which reflect the one stage of marketing determined by the Department. Both in terms of their amount and nature. CEMEX essentially performed the same selling functions in the home market on both its end-users and ready-mixer sales. Specifically, these functions were pre-sale warehousing (DISWARH and DISWARU), inventory maintenance (INVCARH and DINVCARU), and other indirect selling functions (INDIRSH and DINDIRSU).

Next we examined the selling functions performed by CEMEX with respect to both markets to determine if U.S. sales can be matched to home market sales at the same LOT. For the U.S. market, CEMEX reported that all sales were made on a CEP basis. The level of trade of the U.S. sales is determined for the CEP rather than for the starting price. In the instant review, the CEP sales reflect certain selling functions such as inventory maintenance, pre-sale warehouse expenses, and indirect selling expenses incurred in the home market for the U.S. sale. As explained above, these same selling functions are also reflected in CEMEX's home market sales to end-users and ready-mixers. Therefore, the selling functions performed for CEMEX's CEP sales are not sufficiently different from those performed for CEMEX's home market sales to consider CEP sales and home market sales to be at a different level of trade. Although there may be differences between the marketing stages, these differences are not borne out by an analysis of the selling functions for the home market and CEP sales, which are largely the same. Therefore, we have determined that there are no differences in levels of trade and neither a level of trade adjustment nor a CEP offset was warranted in the instant review.

CDC

CDC has claimed two levels of trade in the home market—sales of bulk cement to end-users and ready-mixers, and bagged cement sales to end-users. CDC has also reported two LOTs for its U.S. sales—bulk cement to end-users and ready-mixers. We disagree with CDC that there are two LOTs for its home market sales and two LOTs for its U.S. sales. Therefore, based on our practice, as stated *Steel from Canada,* we have determined, for the reasons described below, that there is one level of trade in the home market and one level of trade in the U.S. market.

First, we looked for different stages of marketing. We found that there is one stage of marketing—sales of cement shipped to end-users and ready-mixers in bulk and bagged form. After determining the number of marketing stages, we then examined whether the selling functions performed by the seller support CDC's claimed LOTs or the marketing stages determined by the Department. For the claimed LOTs in the home market, we did not find that there were two distinct sets of selling functions performed by the seller. Rather, we found one distinct set of selling functions performed by CDC which reflect the one stage of marketing determined by the Department. Both in terms of their amount and nature, CDC essentially performs the same selling functions in the home market on both its end-user and ready-mixer sales. Specifically, these functions were pre-sale warehousing (DISWARH and DISWARU), inventory maintenance (INVCARH and DINVCARU), and other indirect selling functions (INDIRSH and DINDIRSU).

Next we examined the selling functions performed by the seller with respect to both markets to determine if U.S. sales can be matched to home market sales at the same LOT. For the U.S. market, we examined those sales that CDC reported were made on a CEP basis. The level of trade of the U.S. sales is determined for the CEP rather than for the starting price. In the instant review, the CEP sales reflect certain selling functions such as inventory maintenance, pre-sale warehouse expenses, and indirect selling expenses

incurred in the home market for the U.S. sale. As explained above, these same selling functions are also reflected in CDC's home market sales to end-users and ready-mixers. Therefore, the selling functions performed for CDC's CEP sales are not sufficiently different from those performed for CDC's home market sales to consider CEP sales and home market sales to be at a different level of trade. Although there appears to be differences between the marketing stages, this difference is not borne out by an analysis of the selling functions for the home market and CEP sales, which are largely the same. Therefore, we have determined that there are no differences in levels of trade and neither a level of trade adjustment nor a CEP offset was warranted in the instant review.

Although we are ''collapsing'' CEMEX and CDC as explained above (see Comment 4), we are not comparing CEMEX home market sales to CDC U.S. sales, nor are we comparing CDC home market sales to CEMEX U.S. sales. This is due to the fact that there were enough comparable sales (i.e., CEMEX to CEMEX, and CDC to CDC) to enable the Department to make an accurate comparative analysis.

Differences in Merchandise (DIFMER)

Comment 6: CDC asserts that the Department incorrectly weight-averaged CDC's DIFMER with that of CEMEX. CDC claims that the Department's decision to weight-average DIFMER information penalizes CDC unfairly, when CDC fully cooperated with the Department.

Petitioners argue that the Department should use an adverse 20 percent DIFMER adjustment based on facts available for CDC as well as for CEMEX. Petitioners claim that CDC failed to provide a detailed listing of all expenses in order to satisfy its burden of isolating and quantifying the costs solely attributable to physical differences in merchandise

Department's Position: As noted in CDC's home market verification report, the Department verified that CDC uses the same kiln for production of Type I and Type II cement. Moreover, CDC provided a detailed listing of differences in raw material inputs and variable overhead at all facilities for Type I and Type II cement, which sufficiently explained the differences in costs attributable to the physical differences of Type I and Type II cement. Differences in plant efficiencies are not an issue for CDC, as CDC produces both Type I and Type II cement at only one plant, and has based its DIFMER on the differences between costs of production at this single facility. In short, CDC sufficiently isolated and quantified its costs solely attributable to the physical differences in comparison merchandise, and has calculated DIFMER using the variable cost of manufacturing information from the one plant which produced both Type I and Type II cement. As CDC and CEMEX have been ''collapsed'' for purposes of this review (see Comment 4 above), the Department holds that it appropriately weight-averaged CDC and CEMEX's DIFMER information, consistent with its calculation of monthly weight-averaged costs for use in the cost of production analysis.

Comment 7: CEMEX claims that the Department improperly made a DIFMER adjustment based on facts available equal to 20 percent of total cost of manufacturing. CEMEX claims that it has established that there were physical differences between Type I and Type II by providing all supporting documentation for the reported weight-averaged VCOM for Type I and Type II for each plant, which the Department then verified. CEMEX also claims that the Department's own reporting requirements for COP and CV require the weight-averaged costs incurred at all facilities to be reported, and that the Department has granted claimed DIFMER adjustments in other cases when such adjustments were based on weighted average costs at several facilities. Therefore, CEMEX should not be penalized for not being able to exclude from its DIFMER data costs associated with differences in production efficiencies at the different plants. CEMEX cites *Gray Portland Cement and Clinker from Japan*, 60 FR 43761, 762–763 (1995), in which the Department granted the respondent a DIFMER adjustment, as the Department was satisfied that the respondent reasonably tied cost differences to physical differences in merchandise, not withstanding reported differences in plant efficiencies. CEMEX further contends that even if the Department relies on facts available, alternate facts available should be used. CEMEX contends that the Department's upward adjustment of 20 percent is punitive, when verified information established CEMEX's entitlement to a downward adjustment. Moreover, it is the Department's policy to use verified information to the greatest extent possible. CEMEX proposes one of the following alternatives for its DIFMER adjustment: 1) As CEMEX claimed a downward adjustment, the Department should make no DIFMER adjustment; 2) the Department could limit the DIFMER adjustment to only those components it believes are attributable solely to differences in physical characteristics and the production process (i.e., base the DIFMER adjustment only on verified raw material differences); 3) the Department could use verified cost differences from only one plant (i.e., the Yaqui plant, which produces both Type I and Type II); or 4) the Department could substitute CDC's verified DIFMER for CEMEX.

Petitioners maintain that CEMEX did not provide information to isolate the costs attributable solely to physical differences in merchandise, as opposed to plant efficiencies, despite repeated Department requests for such information. Petitioners rebut CEMEX's claim that its reported DIFMER adjustment information is similar to the DIFMER information in *Japanese Cement*. Petitioners argue that the DIFMER information provided in the Japanese case was vastly more detailed (respondent's information included actual chemical and physical characteristics, as well as plant-by-plant and product-by-product cost data) than the information provided by CEMEX. Furthermore, whereas in the Japanese case no record evidence demonstrated that cost differences were attributable to factors other than physical differences between the products, CEMEX has indicated on the record that the costs of its products vary from plant to plant according to the availability of raw material inputs. In the same exhibit, petitioners note that CEMEX also indicates that cost is affected by the amount of energy required to grind the clinker. Petitioners concede that there are physical differences between Type I and Type II cement; however, the tighter specifications, longer grinding time, and higher kiln temperatures for Type II cement result in higher variable costs of producing Type II cement. Therefore, any DIFMER adjustment should be unfavorable to CEMEX.

Petitioners further argue that the Department correctly selected an adverse 20 percent DIFMER adjustment as facts available. Petitioners note that the court affirmed the Department's use of a 20 percent DIFMER adjustment as BIA in the second review. Petitioners further insist that the Department must apply an *adverse* DIFMER adjustment as facts available under 19 U.S.C. 1677e(b) because CEMEX failed to comply with the Department's requests for information. Finally, petitioners dismiss CEMEX's argument that any DIFMER adjustment would be small (less than 3 percent of total manufacturing costs), as well as CEMEX's suggestions for alternate choices of facts available because these amounts do not represent

the use of adverse facts available, which petitioners argue is required in this case due to CEMEX's failure to cooperate.

Department's Position: We have reconsidered our decision in the preliminary results of this review determination in which we applied an adverse 20 percent DIFMER adjustment to CEMEX's reported home market sales of Type I cement due to the fact that upon review of the administrative record, we found evidence to support CEMEX's claim for a DIFMER adjustment based on cost differences at the Yaqui facility. Evidence on the record shows that CEMEX's Yaqui facility produces both Type I and Type II cement using a single production line. Therefore, consistent with the Department's treatment of CEMEX's affiliated party, CDC, we have allowed CEMEX a DIFMER adjustment based on the differences between the variable costs incurred by CEMEX in producing Type I and Type II cement at its Yaqui facility. Although CEMEX's claimed DIFMER adjustment was based on the weight-averaged difference in variable costs from all its facilities, the DIFMER adjustment utilized in this instant review is based on the differences in the variable cost of manufacturing incurred at a single producing facility. By relying on the differences in variable costs incurred at a single facility, we have accounted for differences in plant efficiencies if they are the source of the cost differences identified by CEMEX. Cost differences at the single facility are more likely to be due to differences in material inputs and the physical differences which result from different production processes.

First, the Department compared the Type II cement sold in the United States with the Type I cement sold in the home market. The specific differences in costs among the cement types are due to varying costs of the inputs, including material inputs (limestone, clay, silica, etc.), fuel inputs (fuel oil, coal, etc.) and electricity (mixing, grinding, burning, etc.). For example, Type I cement contain clinker, gypsum, and minor grinding agents, whereas Type II cement contains, clinker, gypsum, minor grinding agents, and additives. Additionally, Type I cement has a lower tricalcium aluminate level than Type II.

Second, for the purposes of this final analysis, the Department utilized the verified cost of producing Type II cement at the Yaqui facility and found these costs to be an accurate representation of the relevant variable costs of production as reflected in CEMEX's actual cost accounting records and compared the costs of producing Type II to the costs of producing Type I cement at the same facility. Therefore, the calculated DIFMER adjustment is based on the relative costs of producing Type I and Type II cement at a single facility. Given the fact that physical differences between types of cement arise from differences in the production process (e.g., amount and duration of heat), and from differences in component materials, we are satisfied that CEMEX has reasonably tied cost differences to physical differences in merchandise.

In those months where a calculated DIFMER adjustment could not be determined for CEMEX's Yaqui facility, we have utilized the relevant DIFMER adjustment for CEMEX's affiliated party, CDC, as the facts otherwise available.

Comment 8: Respondent claims that the Department incorrectly quantified and calculated the DIFMER adjustment in its preliminary results. CDC and CEMEX claim that the Department incorrectly omitted CDC's July, 1995, DIFMER information from its calculations. CEMEX also argues that the Department incorrectly calculated CDC's DIFMER, and that the correct calculation should subtract the variable cost of manufacturing of Type I cement (VCOMH) from the variable cost of manufacturing Type II (VCOMU). CEMEX further claims that because the individual DIFMER percentages were calculated by dividing DIFMER by the total cost of manufacturing for the U.S. product (Type II) (TOTCOMU), the DIFMER percentage should be multiplied by the total cost of manufacturing for Type II.

Petitioners argue that DIFMER information for CDC and CEMEX should be weight averaged based on relative production quantities of Type I, not Type II cement. Petitioners argue that the appropriate methodology is to base the weight average on the relative production of the product used as the basis for normal value (i.e., Type I cement). Petitioners argue that the Department correctly applied the DIFMER percentage to the cost of manufacture of the home market comparison product, Type I cement.

Department's Position: We agree that CDC's July 1995 cost data, as provided in the response, was incorrectly omitted from the DIFMER calculation. We have accounted for this error in our final results. We agree with respondents that DIFMER is correctly calculated by subtracting the variable cost of manufacturing for the product sold in the home market (Type I) from the variable cost of manufacturing for the product sold in the U.S. market (Type II). Following standard Department practice, this difference in variable cost of manufacturing is not to exceed 20 percent of the total cost of manufacturing of the product sold in the U.S. market. We disagree with petitioners that CDC and CEMEX's DIFMER should be weight-averaged based on relative production quantities of Type I cement. Because the individual DIFMER percentages were calculated by dividing differences in variable manufacturing costs by the total cost of manufacturing for the U.S. product (Type II), CDC and CEMEX's DIFMER information should be weight-averaged by the relative production of Type II cement. Finally, the Department has recalculated the DIFMER adjustment to normal value for its final results. The weight averaged DIFMER percentage has been multiplied by the total cost of manufacturing of the U.S. product (Type II) used in the comparison to normal value. This amount was then added to normal value.

Cost of Production (COP)

Comment 9: Petitioners contend that COP should be based entirely on facts available because CEMEX failed to provide the costs incurred at all of its plants during the period of review. Petitioners argue that CEMEX failed to provide any cost data (including shutdown costs) for the Atoyac plant for the entire period of review. Because CEMEX did not even provide information on the tons produced at the Atoyac plant, the Department cannot weight average the reported costs with those of other producing plants. Petitioners argue that the Department should base the cost of manufacture for the Atoyac plant on the highest monthly cost of manufacture reported for any other plant.

CEMEX states that in its May 20, 1996, supplemental cost questionnaire response, it provided costs for the Atoyac plant for those months in which there was production. CEMEX contends that any shutdown costs incurred while the Atoyac plant was producing cement were included in CEMEX's production cost for that period. CEMEX further contends that it reported other incidental costs of the shutdown as general and administrative expenses on the company's financial statements.

Department's Position: We agree with CEMEX. At verification we reviewed CEMEX's reported costs of production and found only minor errors as stated in our verification report dated July 22, 1996. In addition, as stated in the same verification report, we verified that all costs associated with the shutdown of the Atoyac facility were properly reported as a component of cost of

manufacturing, and the incidental costs were captured in the reported general and administrative expenses. Therefore, we are utilizing the verified costs that were reported to the Department.

Comment 10: Petitioners argue that the Department should recalculate CEMEX's reported financial expenses to include all foreign exchange translation losses on long-term foreign currency denominated debt. Petitioners assert that the Department's failure to do so is inconsistent with its past practice, and distorts actual interest expense. Citing *Certain Pasta from Italy; Semiconductors from the Republic of Korea; Certain Flat Rolled Steel Products and Plate from Korea;* and *Micron Technology, Inc.* v. *United States,* petitioners assert that the Department should include all costs incurred during the period of review, including those losses that are deferred to a future time.

CEMEX argues that there is no basis in law or administrative practice to attribute all foreign exchange translation losses to interest expense. CEMEX argues that it treated foreign exchange losses associated with foreign currency denominated debt incurred to purchase foreign subsidiaries as a reduction of the foreign exchange gain recognized on the translation of the subsidiaries financial statements. According to CEMEX, this comported with Mexican GAAP, the Statement of International Accounting Standards No. 21, and Financial Accounting Standards Board No. 52. CEMEX argues that if the Department decided that foreign exchange loss on the debt associated with assets held outside Mexico should be included in cost of production, then both the foreign exchange gain and the associated loss should be included in the reported income and cost of production. CEMEX argues that unlike in *Micron Technology Inc.* v. *United States,* CEMEX's independent auditor determined that the foreign currency losses reflected in CEMEX's financial statement were loans directly related to foreign assets located in countries other than the U.S. or Mexico.

Department's Position: We agree in part with CEMEX and in part with petitioners. The Department has included foreign-exchange translations gains and losses in net interest expense. The translation gains and losses at issue are related to the cost of acquiring debt and thus are related to production and are properly included in the calculation of CEMEX's consolidated financing expense. The CIT has upheld this practice, stating in *Micron* that ''[t]o the extent that respondent's translation losses resulted from debt associated with production of the subject merchandise, such losses are a legitimate component of COP.'' *See Micron* at 33. In addition, in the past we have found that translation losses represent an increase in the actual amount of cash needed by respondent to retire their foreign-currency-denominated loan balances. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Fresh Cut Roses from Ecuador,* 24 FR 7019, 7039 (February 6, 1995). Using the same reasoning, for purposes of these final results we have included CEMEX's net gains on foreign-currency translations in COP as an offset to financing cost, since the gains represent a decrease in the actual amount of cash needed by respondent to retire their foreign-currency-denominated loan balances. Therefore, we have included total gains and losses associated with foreign-currency denominated debt in the calculation of consolidated financing expense.

Comment 11: Petitioners contend that CEMEX's claimed monetary position gain as an offset to financial expense should not be granted. Petitioners claim that CEMEX's total monetary position gain is based on transactions with unconsolidated affiliates, notably loans from Cementos del Norte and CEMEX Control, that are not at arm's length. Furthermore, petitioners argue that denying the offset would be consistent with the Department's well-established practice of denying interest income on long-term investments as an offset to interest expense. Petitioners claim that the monetary position gain earned by CEMEX from electing to hold long-term debt reflects income derived from investment-type activities that are unrelated to the product under review.

CEMEX argues that the Department was correct to include CEMEX's claimed monetary position gain in the calculation of net financial expense. CEMEX argues that the Department's actions in this review were in accord with the Department's practice, as established in the first and second administrative reviews of this case, as well as in *Porcelain-on-Steel Cookware from Mexico.* CEMEX further argues that Cementos del Norte and CEMEX Control are included in CEMEX's consolidated financial statements and the effect of transactions between these entities are eliminated in consolidation. CEMEX also dismisses petitioners' argument that the Department should treat monetary gain like interest income on long-term investment. CEMEX argues that monetary gains are related to liabilities and financial expenses, and are completely unrelated to assets that generate short-term and long-term interest revenue. Because monetary position gains are generated by liabilities, the Department should treat monetary position gain in the same way that it treats interest expenses that arise from those same liabilities (i.e., include them in the calculation of net financial expense).

Department's Position: We agree with CEMEX. It is the Department's longstanding practice to calculate the respondent's net interest expense based on the financing expenses incurred on behalf of the consolidated entity, CEMEX. In general, this practice recognizes the fungible nature of invested capital resources (*i.e.,* debt and equity) within a consolidated group of companies. In *Camargo Correa Meais, S.A.* v. *United States,* Slip Op. 93–163 (CIT 1993), the Court of International Trade ruled that the Department's practice of allocating financial expense on a consolidated basis due to the fungible nature of debt and equity was reasonable. The court specifically quoted the following from *Final Determination of Sales at Less than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Korea,* 54 Fed. Reg. 53,141, 53149 (1989):

> ''The Department recognizes the fungible nature of a corporation's invested capital resources, including both debt and equity, and does not allocate corporate finances to individual divisions of a corporation ... Instead, [Commerce] allocates the interest expense related to the debt portion of the capitalization of the corporation, as appropriate, to the total operations of the consolidated corporation.''

Furthermore, the SAA and the URAA do not address any specific change in the Department's practice of calculating financing expense. Therefore, consistent with the approach outlined in *Gray Portland Cement and Clinker from Mexico; Final Results Antidumping Duty Administrative Review,* 58 FR 25803, 25806 (1993), and *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review,* 58 FR 47253 (1993), we have included the effect of the monetary gain in our calculation of the financing costs of CEMEX.

Comment 12: Petitioners argue that CDC's foreign exchange transaction gains should not be attributed to interest expense. Petitioners contend that the Department only includes foreign exchange transaction gains as an offset to interest expense if the gains are directly related to the subject merchandise (for example, if the gains are realized from the importation of raw materials or other inputs needed to

produce the merchandise). Petitioners claim that CDC has made no effort to link its foreign exchange transaction gains to the subject merchandise.

CDC counters that these monetary gains are translation gains, and not transaction gains, as petitioners have claimed. CDC argues that in *Silicomanganese from Venezuela,* 59 FR 55436, 55440 (1996), the Department determined that exchange gains and losses on financial assets and liabilities should be included in COP and CV. CDC explains that it has characterized this offset on the record as holdings in dollars related to overall operations. CDC elected to hold a portion of its assets in a foreign currency to hedge against devaluation of the local currency. CDC argues that details in its financial statements showing net exchange rate differences show that there is no basis for petitioners' concern that CDC's foreign exchange gains may have been generated entirely from transactions related to non-comparison or out-of-scope merchandise.

Department's Position: We disagree with petitioners' assertion that monetary position gains should be limited to the portion that can be specifically tied to the cost of producing the subject merchandise. The Department has long held the view that financing expenses are fungible. Accordingly, consistent with past Departmental practice, we do not distinguish whether interest expense is related or unrelated to the merchandise under review (*see, e.g., Final Determination of Sales at Less than Fair Value; Steel Wire Rope from Korea,* 58 FR 11035 (1993)). Therefore, we have used CDC's reported financial expenses including monetary corrections allocated over the cost of goods sold for all products.

Furthermore, the SAA and the URAA do not address any specific change in the Department's practice of calculating financing expense. Therefore, consistent with the approach outlined in *Gray Portland Cement and Clinker from Mexico; Final Results Antidumping Duty Administrative Review,* 58 FR 25803, 25806, (1993), and *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review,* 58 FR 47253 (1993) we have included the effect of the monetary gain in our calculation of the financing costs of CDC.

Comment 13: Petitioners claim that the Department should use partial facts available because CDC and CEMEX failed to demonstrate that transfer prices for raw material inputs purchased from affiliated producers were at arm's length and reflected market value. Moreover, petitioners claim that CEMEX and CDC have not demonstrated that the affiliated party costs are fully-absorbed costs of production, because they do not demonstrate that reported costs included revalued depreciation, profit-sharing expenses, depletion expenses, and financial expenses. As partial facts available, petitioners suggest that the Department add an amount for profit to reported transfer prices. Petitioners suggest that this amount be determined by multiplying the profit rate in CEMEX's consolidated financial statement, by reported cost of production.

CEMEX argues that the Department should disregard petitioners' argument based on the fact that CEMEX provided all information that the Department requested with respect to raw material inputs, intermediate product costs, and transfer prices. CEMEX argues that petitioners' argument should be disregarded because the level of input materials purchased from affiliated parties is far below the level at which such purchases are considered by the Department to be material inputs and can be considered to have a significant impact on the overall cost of manufacture. In addition, CEMEX argues that its current reporting methodology is consistent with that used in all prior reviews, therefore the Department should not use facts available as a basis for calculating raw material input costs.

CDC argues that in accordance with the statutory requirements of 19 U.S.C. § 1677b(f)(3) and the Department's questionnaire, it demonstrated that raw material inputs were purchased at arm's length. CDC argues that for certain major inputs purchased from affiliates, it provided transfer prices when the transfer price was greater than the cost of production. In addition, it also provided the production costs for those inputs where the average production cost was higher than the purchase price from the affiliated party. CDC dismisses petitioners' claim that the Department should have obtained market values in addition to transfer prices and costs of production information. CDC asserts that it fully complied with the Department's request to provide cost of production information for all major inputs of production and, therefore, the Department should utilize the cost of production reported by CDC.

Department's Position: As noted in *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al; Final Results of Antidumping Administrative Reviews,* 62 FR 2081, 2115 (January 15, 1997), Section 773(f)(2) of the Tariff Act, which refers to both minor and major inputs, states that, with regard to calculating COP and CV * * *

> A transaction * * * between affiliated persons may be disregarded if, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration.

To the extent practicable, the Department generally prefers the use of the transfer price of inputs purchased from an affiliated supplier in determining COP and CV, provided that the transaction occurred at an arm's-length price. In determining whether a transaction occurred at an arm's-length price, we generally compare the transfer between the affiliated parties to the price of similar merchandise between two unaffiliated parties. If transactions of similar merchandise between two unaffiliated parties are not available, we may use the affiliated supplier's cost of production for that input as the information available as to what the amount would have been if the transaction had occurred between unaffiliated parties.

In the case of a transaction between affiliated persons involving a major input, we will use the highest of the transfer price between the affiliated parties, the market price between unaffiliated parties, and the affiliated supplier's cost of producing the major input.

In the instant review CEMEX and CDC have provided all raw material input data in accordance with the Department's methodology as discussed above. In addition, the Department verified that respondent's reported cost of production included either the higher of production costs or transfer prices for raw material inputs purchased from affiliated parties. Market prices for the raw material inputs were unavailable. Therefore, in accordance with prior practice, the Department has utilized CEMEX and CDC's reported cost of production in its analysis.

Comment 14: Petitioners argue that fixed overhead and labor costs should be reallocated based on the clinker content of the finished cement type. Whereas CEMEX based the allocation of variable overhead costs on clinker volume, it allocated fixed overhead and labor on tons produced of finished product. Petitioners claim that this allocation methodology understates the actual cost of producing Type I cement by shifting disproportionate amounts of the direct labor and fixed overhead costs to the production of pozzolonic and other types of cement, which contain less amounts of clinker. Petitioners maintain that the production of clinker

incurs substantially more direct labor and fixed overhead costs than either the acquisition or production of pozzolanic cement. In particular, pozzolanic cement is never calcined in a kiln, unlike clinker. Petitioners maintain that the kiln is a cement plant's greatest capital asset, and that this stage constitutes a substantial cost of production.

CEMEX rebuts petitioners' argument that fixed overhead and labor should be reallocated based on clinker content of the finished cement type. CEMEX claims that it followed the Department's instructions by submitting fixed overhead costs that were based on the methods used in the normal course of business to allocate costs to various cement products. CEMEX also notes that the Department verified the accuracy of CEMEX's reported fixed costs. In addition, CEMEX claims that it provided an analysis showing that it was reasonable to use CEMEX's methodology in its May 20, 1996, response and demonstrated that the effect on the overall weighted-average fixed costs for Type I cement was minimal.

Department's Position: We agree with CEMEX. The reported fixed overhead costs and labor costs were reported in accordance with Departmental methodology and verified by the Department during the course of the cost verification. Accordingly, we accepted CEMEX's submitted methodology which valued the cost of fixed overhead and labor on the tons produced of finished cement.

Comment 15: Petitioners claim that CEMEX and CDC incorrectly granted themselves a ''startup adjustment'' by amortizing their costs over a period beyond the POR for operations at the Tepeaca and Samalayuca plants, rather than including them as reported startup costs. Petitioners claim that the burden is on respondents to establish their entitlement to a startup adjustment (*i.e.*, to demonstrate that production levels were limited by technical factors associated with the initial phase of commercial production). Petitioners claim that CDC and CEMEX failed to do so for both plants mentioned above, thus the Department should include all costs incurred by these plants in the calculation of cost of production. Furthermore, petitioners state that CDC used clinker purchased from other affiliated plants at Samalayuca and that the Department should adjust these clinker costs to reflect arm's length transactions.

CEMEX contends that it properly reported all start-up costs for the Tepeaca plant. CEMEX states that the Tepeaca plant only produced Type I cement during the first two months of production and never in commercial quantities. Therefore, calculating a cost of producing Type I at Tepeaca was not possible. In addition, CEMEX states that the cement produced by Tepeaca was sold through the Atotonilco plant and valued at the weighted-average cost of producing Type I cement by all CEMEX's plants. CEMEX argues that the cost of producing Type I cement at the new, efficient Tepeaca plant would presumably be lower than the cost of producing cement at the older plants. Therefore, by not including the cost of producing cement at the Tepeaca plant, CEMEX claims it is overstating the overall weighted-average cost of production.

CDC asserts that the Samalayuca plant did not produce any cement during the POR. Therefore CDC did not include ''start-up'' costs for the Samalayuca plant and did not grant itself a ''start-up'' adjustment by amortizing the cost.

Department's Position: We agree with respondents. As stated in the Department's verification report, the Type I cement produced at Tepeaca and Samalayuca was only produced in testing quantities and not in commercially viable quantities. In addition, the Department verified that any start-up costs associated with the cost of producing the Type I cement at Tepeaca was transferred to the Atotonilco facility and was properly reported in CEMEX's cost of manufacturing. Second, due to the fact that CDC's Samalayuca facility was not fully operational during the POR (a fact verified by the Department), and did not incur any start-up costs, and therefore, we were not able to include the cost of producing cement at Samalayuca in our cost analysis. For purposes of the instant review, we are utilizing the costs reported by CDC and CEMEX and substantiated at verification in our final analysis.

Comment 16: Petitioners argue that the Department should include CDC's employee profit sharing expense in COP as a labor expense. In the preliminary results, these expenses were treated as part of G&A. Petitioners note that the treatment of profit sharing expense affects the calculation of DIFMER, which is a percentage of manufacturing costs; while labor expenses are included in manufacturing costs, G&A is excluded.

CDC responds that in light of the Department's previous decisions regarding profit sharing distributions, CDC does not disagree with the principle of including the profit sharing distributions in this case as labor costs. However, CDC states that its unconsolidated income statement shows that this expense is not included in cost of sales, and must be added to cost of goods sold before calculating the G&A factor, the CEP profit factor, the interest factor, and any other factor calculated as a percentage of cost of sales. CDC asserts that the Department must use this revised G&A factor if it adds employee profit sharing to labor costs.

Department's Position: In the final results of *Porcelain-on-Steel Cookware From Mexico,* 61 FR 54620 (1996), the Department included employee profit-sharing expense in COP and CV because it ''relates to the compensation of direct labor, a factor of production.'' The Department agrees with petitioners and respondents that employee profit sharing should be included as a direct labor cost and not as part of G&A. Accordingly, cost of production, constructed value, DIFMER, the CEP profit factor, and the interest factor have been recalculated for the final results with the correct amounts for employee profit-sharing included as a direct labor expense. We have also changed our calculation of CEMEX's employee profit sharing expenses. In our preliminary determination, we included employee profit sharing in G&A, however, in our final analysis we have included employee profit sharing as a portion of direct labor expense not as a part of G&A.

Normal Value

Comment 17: Petitioners argue that the Department should deny CEMEX a freight deduction for home market sales of bulk Type I cement. Petitioners base this argument on the following assertions; (1) CEMEX did not report freight expenses on a transaction-specific, customer-specific, plant, or company-specific basis. Petitioners contend that freight expenses vary greatly from transaction to transaction depending on the location of the plant, warehouse and customer, as well as the mode of transportation used. The Department requested this information in its November 1, 1995 questionnaire and its April 12, 1996, letter. Petitioners note that CEMEX provided no explanation for its refusal to provide such information. (2) CEMEX did not separate freight expenses from plant to warehouse and from plant/warehouse to customer. (3) For most bulk sales, CEMEX failed to report freight expenses specific to Type I cement. Petitioners claim that CEMEX's calculated freight factor was based on multiple types of cement for several companies. Moreover, petitioners found that the shipment volumes used to calculate the

freight factor greatly exceeded the actual volume of bulk Type I cement shipped, indicating that other types of cement were included in the calculation. Petitioners also point to the Department's redetermination on remand in the second administrative review of this order in which the agency denied any adjustment where CEMEX's freight factor was based on multiple cement types. (4) CEMEX included affiliated-company freight expenses into the freight factor and failed to segregate expenses from affiliated and unaffiliated companies. Furthermore, CEMEX failed to demonstrate that transfer prices charged to CEMEX by affiliates were at arm's length. Petitioners suggest that the Department disallow CEMEX's home market freight deduction for companies whose freight factor included affiliated freight charges. (5) CEMEX failed to demonstrate that its allocation methodology is not distortive. Petitioners argue that CEMEX did not demonstrate that its freight factors excluded Type II cement, which necessarily distorts the freight allocation. Petitioners also contend that CEMEX failed to demonstrate that inclusion of non-subject merchandise in the freight allocation is not distortive.

CEMEX, in turn, argues that the Department appropriately deducted CEMEX's freight expenses on home market sales of Type I bulk cement in the calculation of normal value.

CEMEX argues that the Department verified CEMEX's reported inland freight expense, and that computing freight expense on a plant-specific basis, as suggested by petitioners, would not result in a more precise calculation of normal value.

Department's Position: We agree with CEMEX. The Department has allowed a deduction for freight expenses for Type I bulk sales because the reported expenses provided are in accordance with Departmental methodology, consistent with the company's accounting practices, and were substantiated at verification. (*See* July 22, 1996 Verification Report). CEMEX has reported home market bulk Type I freight in accordance with their accounting system and provided the data on a company, cement type, and presentation specific basis. In fact, the manner in which CEMEX reported the freight expenses, as verified by the Department, tends to understate the per ton freight amounts deducted from normal value. Based on our findings at verification, the Department determined that respondent's reported freight costs for sales of Type I bulk cement are not distortive and provide a conservative estimate of actual transaction specific freight expenses. Therefore, we are granting CEMEX the home market freight adjustment for bulk Type I sales.

Comment 18: Petitioners argue that a credit expense adjustment should not be granted because CEMEX and CDC have failed to prove that its use of aggregate data to calculate credit expense is not distortive. Petitioners contend that the total sales and total accounts receivable data used by CEMEX and CDC to calculate average credit days outstanding includes non-comparison, outside the ordinary course, and out of scope merchandise for all customer categories and for affiliated and unaffiliated customers. Petitioners claim that CEMEX and CDC have also failed to use a transaction-specific, or even customer-specific allocation methodology. Petitioners argue that, as demonstrated in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.,* 58 FR 39729, 39747 (1993); *Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured From Japan,* 58 FR 30018, 30023 (1993); and *NSK Ltd.* v. *United States,* 896 F. Supp. 1263, 1274–76 (CIT 1995), the Department normally requires transaction-specific methodology in the calculation of credit expense and allows customer specific allocation methodology only in exceptional cases.

CEMEX asserts, in response, that the Department properly granted CEMEX's claimed credit expense adjustment, regardless of whether the days were calculated on a transaction-specific basis or as average days outstanding. CEMEX insists that it simply could not report actual payment dates for all transactions. CEMEX notes that the Department accepted and verified CEMEX's calculation of average credit days outstanding for those sales for which transaction-specific data were not available. CEMEX also notes that its calculation methodology for average credit days outstanding based on total accounts receivable (as opposed to customer-specific credit day calculations) is fully consistent with the Department's administrative practice, as evidenced in recent decisions in *Fresh Cut Flowers from Mexico,* 61 FR 40604 (1996), and *Color Television Receivers from Korea,* 56 FR 12701, 12708 (1991). To confirm that CEMEX's average credit day calculation was non-distortive, CEMEX compares the average number of credit days it calculated with the average number of credit days based on the August 9, 1996, home market sales tape.

CDC asserts that the guiding principle in evaluating this argument must be the standard established in the statute for differences in circumstance of sale, such as credit expenses—that is, the adjustment must be established ''to the satisfaction of the administering authority.'' 19 U.S.C. § 1677b(a)(6)(C). CDC states that the proposed rules (which petitioners refer to in their brief) simply reiterate the Department's preference for transaction-specific adjustments, and states the general rule that any alternative reporting must not be distortive.

CDC claims that the Department may accept averages (as CDC has provided) when a respondent can demonstrate that its books and records do not permit reporting of the costs on an individual-sale basis, and can demonstrate that the claimed adjustment is based upon a reasonable allocation of costs involved. *See Color Picture Tubes From Canada,* 52 FR 44161 (1987). CDC states that given its accounting methods and the way in which its customers make payments, transaction-specific reporting is not feasible, and CDC had little alternative but to calculate an average credit period for home market sales. CDC asserts that in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al. (''AFBs''),* 58 FR 39729 (1993) (which petitioners cite in their brief), the respondent's accounting system in that case permitted it to calculate customer-specific credit periods, unlike CDC in this case. In *Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan,* 58 FR 30018, 30023 (1993), CDC notes that the Department accepted the respondent's weighted average allocation over the POR. Finally, CDC asserts that there is no evidence in the record that the average method it used is distortive.

Department's Position: We agree with respondent. The Department has allowed CEMEX's and CDC's claimed credit expense adjustment for the following reasons. For the purposes of calculating imputed credit costs, it is our practice to calculate the number of credit days based on the number of days between the date of shipment and the date of payment. If actual payment dates are not readily accessible, we normally allow respondents to base the number of credit days on the average age of accounts receivables. *See, e.g., Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 56 FR 12701, 12708 (Comment 28)(1991). Based on our findings at verification, the Department determined that respondent's use of the average age of accounts receivables to calculate credit expenses is reasonable (*See Fresh Cut*

Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812 (Comment 2) (1996)).

Comment 19: Petitioners object to the Department's decision to grant CDC's so-called ''other'' adjustments. The Department categorized the other adjustments in the same manner as rebates and deducted them as a direct expense. Petitioners argue that CDC has not demonstrated that it is entitled to such an adjustment. ''Other'' adjustments include three types of post-sale adjustments to selling price: (1) A ''concrete pavers incentive discount'' provided to CDC's ready-mix customers as an incentive for municipalities to use concrete as a pavement material; (2) a price protection adjustment for all bulk cement customers in CDC's Juarez market in order to meet competition from other cement producers in that market; and (3) billing errors corrected subsequent to the sale.

Petitioners claim that the Department erred in granting an adjustment for these items for the following reasons. (1) The Department's uniform practice is to disallow a respondent's claim for a rebate unless the respondent provides a written agreement or other documentation that its customers were aware prior to the sale of both the conditions to be fulfilled to qualify for the rebate, and the amount of the rebate. Petitioners claim that CDC has provided no such documentation. (2) CDC has not reported expenses on a transaction-specific basis. Petitioners argue that the reported other adjustments merely represent an average of three different types of post-sale adjustments, none of which can be tied to a particular transaction. (3) Petitioners claim that at least one of the other adjustments is a direct selling expense for which an indirect selling adjustment may not be granted, similar to the adjustment claimed by the respondent and rejected by the court in *Torrington Co.* v. *United States,* 82 F.3d 1039 (Fed. Cir. 1996). (4) Petitioners claim that the ''concrete pavers discount'' granted to CDC's customers actually benefits the downstream customers on purchases of concrete, a product outside the scope of this review.

In response, CDC asserts that it does not collect as revenue the gross price listed on its invoices. CDC asserts that a normal value based on anything other than the revenue generated from a sale is unfair. CDC states that its claimed adjustments are product-specific and customer-specific. CDC claims that while it is unable to tie the adjustments to the specific invoices, there is no question that the adjustments are directly related to sales of the subject merchandise. As adjustments directly related to the sales and directly affecting the price at which the subject merchandise is sold, the so-called ''other'' adjustments are properly treated as an adjustment to gross price.

Department's Position: We agree with CDC. The Department has allowed CDC's claimed adjustments because these adjustments were reported in accordance with Departmental methodology and substantiated at verification. (*See* July 22, 1996 Verification Report.) As stated in the verification report, CDC was able to allocate these adjustments on a customer specific basis for the month in which the sale occurred. Therefore, we are granting CDC these adjustments.

Comment 20: Petitioners argue that CEMEX's rebate adjustment should not be granted. CEMEX failed to provide information and sample documentation on its rebate policy and claimed adjustment. Petitioners claim that the Department cannot, therefore, determine whether the claimed rebates are direct or indirect expenses or whether they relate to specific sales. Petitioners also note that CEMEX admitted at verification that a large number of rebates were not granted on a transaction-specific basis. Thus, petitioners suggest, the Department should, at most, accept the rebates as an indirect selling expense.

CEMEX asserts that the Department properly deducted its reported post-sale billing adjustments and post-sale rebates, allocated on a company specific basis, from the calculation of normal value. CEMEX states that the transaction-specific post-sale price adjustments reported as rebates were fully verified by the Department. CEMEX dismisses petitioners' suggestion that its customer-specific rebates are, at most, an indirect selling expense because they are not allocated on a transaction-specific basis. CEMEX counters that it has properly claimed these rebates as direct adjustments to price. Relying on *Corrosion Resistant Carbon Steel Flat Products from Canada,* 61 FR 13821 (1996), CEMEX asserts that rebates allocated on a customer-specific basis may be treated as adjustments to price in the same manner as rebates reported on a transaction-specific basis. In addition to being customer-specific, CEMEX maintains that the allocation at issue was made on a product-specific basis (Type I or Type II) and by method of distribution (bagged or bulk). Moreover, CEMEX argues that the calculation did not include non-subject merchandise, and that a customer-specific allocation methodology ensures that the rebates are directly related to sales of the merchandise at issue. Even if the Department determines that rebates can be direct adjustments to price only if they are incurred on a transaction-specific basis, CEMEX argues that rebates should still be deducted from normal value as indirect selling expenses pursuant to the CEP offset.

Department's Position: We agree with CEMEX. The Department has allowed CEMEX's claimed rebate adjustments because the data was submitted in accordance with Departmental methodology and was substantiated at verification. While the Department prefers that discounts, rebates and other price adjustments be reported on a transaction-specific basis, the Department has long recognized that some price adjustments are not granted to customers on that basis, and thus cannot be reported on that basis. Generally, ''we have accepted claims for discounts, rebates, and other billing adjustments as direct adjustments to price if we determined that the respondent, in reporting these adjustments, acted to the best of its ability and that its reporting methodology was not unreasonably distortive.'' *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081 (January 15, 1997).

Furthermore, the Department disagrees with petitioners' argument that the rebates at issue were not granted on a transaction-specific basis. These rebates were reported on a customer-specific basis for cement sold in a specific form, bag or bulk, and applied equally (as a fixed percentage of price) to all invoices for a given month. The Department does not agree with petitioners that respondent's methodology is sufficient to warrant treatment of the adjustments as indirect expenses in the home market. In this case, the amount of the ''allocation'' is limited to a few specific transactions, all to the same customer, and typically within a very limited period of time. Thus the danger of unreasonable distortions, which is the averaging effect on prices, is extremely limited in this case. This case is similar to situations, permitted by the Department as direct adjustments, in which a rebate is granted on a limited number of purchases by a single customer. Because CEMEX's method of reporting its rebate is reasonable, the Department has allowed it as a direct adjustment.

Comment 21: Petitioners assert that partial facts available should be used for

unreported downstream sales by CEMEX's affiliated distributors. Petitioners assert that there is no downstream sales data used in the calculation of normal value for affiliated customers failing the arm's length test. Moreover, petitioners claim that the excluded sales account for a percentage of total home market sales during the period of review that could potentially distort the calculation of normal value. Petitioners claim the use of facts available is appropriate because CEMEX did not act to the best of its ability to provide downstream sales data. Petitioners suggest that the Department use the highest normal value calculated for CEMEX to an unaffiliated distributor as adverse facts available for the excluded downstream sales.

CEMEX rebuts the petitioners' argument that the Department should substitute the highest calculated normal value for all sales made to CEMEX's affiliated distributors that do not pass the arm's length test. CEMEX contends that reporting downstream sales was not necessary, as these sales represented a small amount of home market sales, and would not have measurably increased the number of value matches between U.S. and home market sales. CEMEX argues that the questionnaire states that downstream home market sales need not be reported in cases where resales by affiliates constitute ''a small percentage of your total sales in the comparison market.'' CEMEX states that in this case, sales to affiliated distributors were of a percentage sufficient to satisfy this requirement.

CEMEX further argues that petitioners' suggestion that the Department substitute the highest calculated normal value is unduly harsh. In cases where downstream sales are small and sufficient price comparisons can be made without the use of the additional downstream sales, the Department will apply partial adverse facts available only in those cases in which there is no normal value match. CEMEX refers to various cold rolled carbon steel cases, which it believes established this general rule.

Department's Position: We agree with CEMEX. Consistent with our methodology in *Brass Sheet and Strip from Germany* 61 FR 49727 (1996), the Department has not included unreported downstream sales in the home market because these sales constitute an amount sufficiently small not to distort the calculation of normal value. Therefore, the Department has not relied on partial facts available for these sales.

Comment 22: CEMEX argues that pricing comparisons should be made between the same class of customer in each market. CEMEX claims that the Department's analysis memo for the preliminary results correctly indicated that the Department intended to calculate monthly normal value for each customer category, but failed to do so in the computer program. CEMEX states that it has established distinct customer classifications in both markets, and that there are significant price differences between such customer categories.

Petitioners argue that the Department should not average prices by customer category for the following reasons. (1) There is no basis in the statute or the SAA for averaging prices by customer category in administrative reviews. (2) CEMEX has not demonstrated that it is necessary to compare prices by customer category. Petitioners assert that the preamble to the Department's proposed regulations conditions the comparison of prices by customer category upon a showing that ''prices within a single level of trade, defined by seller function, [were] affected by the class of customer * * *'' Petitioners rebut CEMEX's claim that the amount of discount offered varies by customer, noting that CEMEX stated in its March 15, 1996 questionnaire response that ''the discounts granted did not vary by type of customer.''

Department's Position: We agree with the petitioners. As stated in the level of trade section of this notice (see Comment 5, above), the Department has determined that CEMEX sold at one level of trade in the home market. Therefore, we have not calculated normal values for each customer category as requested by CEMEX and have used our standard methodology for comparing normal value to U.S. price for purposes of this final results of review.

Comment 23: CEMEX asserts that calculation of normal value should be limited to home market sales of bulk cement. CEMEX argues that home market sales of bagged Type I cement are made through different channels of distribution than home market bulk cement sales. As prices differ between distribution channels, including home market bagged cement sales in normal value would be distortive, and represents an abrupt departure from past administrative practice in the second, third, and fourth reviews, as well as in cement cases pertaining to Venezuela, *Gray Portland Cement and Clinker from Venezuela,* 56 FR 56390 (1991) and Japan, *Gray Portland Cement and Clinker from Japan,* 56 FR 12156 (1991).

Petitioners respond that the Department correctly included bagged Type I cement in the calculation of normal value. Petitioners state that Type I bagged and bulk cement are identical in all regards except for packing. Petitioners state that inclusion of bagged cement sales in the normal value calculation is consistent with both Department precedent (petitioners cite *Japanese Cement*) and the statute. Petitioners claim that, except in instances prescribed by the statute, the Department is not authorized to exclude sales of the comparison merchandise from normal value. Petitioners argue that the Department's comparison of home market sales of both bulk and bagged cement to U.S. sales of only bulk Type I cement does not represent ''an abrupt departure'' from the Department's practice because ''in the second, third, and fourth reviews, the Department reached no definitive conclusion on this issue.'' Petitioners claim that the Department departed from practice in the original investigation by comparing only bulk cement sales, and has properly corrected its error in this review.

Department's Position: We agree with petitioners. The Department has included the entire universe of Type I sales in its calculation of normal value because bulk and bagged sales constitute identical merchandise. The only difference between these products is the packaging; therefore, the Department has made an adjustment for packaging differences. In addition, as stated in the level of trade section of this notice (see Comment 5, above), the Department has determined that CEMEX sold at one level of trade in the home market; therefore, comparing by discreet channel of distribution is not warranted as there is only one level of trade and one channel of distribution in that level. Therefore, we have not calculated normal values for each channel of distribution as requested by CEMEX and have used our standard methodology for comparing normal value to U.S. price for purposes of this final results of review.

Comment 24: CEMEX asserts that the Department should use the inland freight expenses reported for Type I bagged sales. CEMEX claims that reporting freight expenses on a plant-specific basis does not change the accuracy of the normal value calculation. CEMEX also claims that it reported inland freight expense by cement type at the greatest level of detail available. CEMEX asserts that the Department should use the verified freight information for bagged sales, and use the inland freight expense for Type I bulk sales as facts available for the non-sampled companies.

Petitioners respond that the Department correctly disallowed CEMEX's reported deduction of home market freight for Type I bagged cement. Petitioners maintain that CEMEX failed to cooperate with the Department's requests for plant-specific sales adjustment information. Furthermore, freight expenses were not reported on a transaction-specific, customer-specific, point-of-sale-specific, or plant-specific basis. Petitioners also state that CEMEX failed to separate freight expenses from plant to warehouse and from plant/warehouse to customer; failed to report freight expenses specific to Type I cement; and failed to report whether freight was provided by affiliated freight companies, or whether such freight charges were at arm's length. Finally, petitioners contend that the Department correctly denied CEMEX's freight adjustment for Type I bagged cement because CEMEX did not demonstrate that inclusion of out-of-scope merchandise in the freight allocation is non-distortive.

Department's Position: We agree with petitioners and have not allowed CEMEX's adjustment for freight on sales of bagged Type I cement in the home market. For the same reasons stated in our preliminary determination (October 3, 1996), the Department relied on partial facts available, in accordance with section 776(a) of the Act, because despite our attempts, the Department could not verify the information as required under section 782(i) of the Act. In addition, even after repeated requests by the Department, CEMEX refused to provide home market freight expenses for bagged Type I sales on a plant-specific basis. CEMEX, in a March 11, 1996 letter to the Department, proposed reporting bagged sales and transaction specific data, including plant-specific freight costs, if the Department was willing to sample sales of bagged cement in the home market. After considerable discussion and analysis, the Department determined that sampling was reasonable if the data provided was based upon a representative sample. The Department chose the plants to sample and provided CEMEX with explicit instructions in a March 27, 1996 letter outlining the methodology and the plants which we were sampling. Upon receipt of the database on April 30, 1996, it was discovered that CEMEX had not reported freight costs for bagged sales on a plant-specific basis for the plants selected in our sample and had reported the data on a company-wide basis. This called into question the validity of our sample; therefore, the Department issued a supplemental questionnaire, and CEMEX's response, submitted on May 24, 1996, stated that the freight data could not be provided on a plant-specific basis and they were providing the data on a company-wide basis. Due to the fact that CEMEX's reported data was inconsistent with the Department's explicit instructions, we are disallowing CEMEX's claimed home market bagged freight adjustment for purposes of this final results of review.

Comment 25: CEMEX argues that the Department should use the actual daily exchange rates for the hyper-inflationary period (January–July 1995), rather than the rates computed by the exchange rate model.

Department's Position: We agree with CEMEX. The Department's proposed regulations at section 351.415 state: ''[t]his [exchange rate] model is not suitable for use with hyper-inflationary currencies. In these cases, we intend to use the daily rate absent compelling evidence that a fluctuation or sustained movement in the currency's value has occurred.'' The actual daily exchange rate has been used in the final results for all currency conversions for the hyper-inflationary portion of this review (i.e., January–July 1995). In the case of hyper-inflationary currencies, not using the actual daily exchange rates could result in distortions in the margin calculations.

Comment 26: CEMEX asserts that the Department had no basis to disregard CEMEX's reported interest rate. CEMEX claims that there is no evidence on the administrative record that the Department requested CEMEX to revise its interest rate calculation to exclude long term loans. CEMEX claims that it did not have any short-term loans during the period of review, and that it provided the Department with two alternative short term rates—the Mexican treasury rate and the Interbank interest rate.

Petitioners argue that the Department properly resorted to facts available in calculating CEMEX's home market interest rate. Petitioners rebut CEMEX's assertion that use of facts available was unwarranted because the Department ''did not request CEMEX to provide additional interest rate data or request CEMEX to 'change their calculation'.'' Petitioners note that in its first and second supplemental questionnaires (dated February 14, 1996 and April 12, 1996, respectively), the Department requested worksheets showing how CEMEX calculated its monthly short-term debt. Petitioners assert that CEMEX failed to provide the Department with the requested information on the debt figures underlying CEMEX's interest rate calculation. Furthermore, petitioner argues that CEMEX contradicts itself by claiming in its case brief that it ''did not have any short term loans during the POR'', when the original and supplemental questionnaire responses indicate that CEMEX calculated the short-term interest rate based on its ''short term debt''. Furthermore, petitioners note that CEMEX's 1995 annual report shows peso denominated short term bank loans and notes payable. Petitioners dismiss CEMEX's assertion that the Department should use its reported interest rate because it is based on ''the current portion (short term) of CEMEX's long term loans'' (CEMEX case brief at 87), as an attempt to ''relabel'' the underlying figures used in the calculation, and that CEMEX still failed to provide any information about its methodology for calculating these source figures.

Department's Position: We agree with petitioners. CEMEX incorrectly included the long-term interest rate in its reported calculation. The Department has used the interest rate reported by CDC as a surrogate value for CEMEX's interest rate as facts available because it is a short-term market interest rate and was substantiated at verification.

Comment 27: Petitioners argue that CDC's freight adjustment should be denied. Petitioners assert that CDC failed to demonstrate that freight charges from affiliated companies were at arm's length. In addition, CDC did not segregate affiliated and unaffiliated expenses. Petitioners note that CDC ignored the Department's request, in the November 1, 1995 questionnaire, that CDC explain how it calculated the freight cost for each sale and provide the total expense incurred by type of expense (*e.g.*, fuel).

In response, CDC claims that it explained in its questionnaire responses the freight calculation for each sale, and that it provided information regarding expenses. CDC also claims that it provided information to support the arm's length nature of the freight charges from affiliated companies. CDC states that the Department verified that the reported freight charges are at arm's length by comparing unrelated and related transactions. Finally, CDC asserts that it did not segregate unaffiliated companies' expenses because it did not use the services of any unaffiliated companies.

Department's Position: We agree with CDC. The Department has allowed a deduction for freight expenses due to the fact that CDC reported its freight expenses in accordance with Departmental instructions and these expenses were substantiated at

verification. (*See* July 22, 1996 Verification Report.) Based on our findings at verification, the Department has determined that CDC's reported freight costs were at arm's length and therefore appropriately utilized in calculating normal value. Therefore, for the instant review, we have utilized all reported home market freight expenses in our final results of review.

Export Price/Constructed Export Price

Comment 28: Petitioners maintain that the Department should include all expenses associated with U.S. sales in calculating CEP profit. Specifically, petitioners claim that the Department should revise its calculation of total U.S. expenses to include imputed credit expense, inventory carrying costs, indirect selling expenses incurred in the home market, home market inventory carrying costs, and home market warehousing expenses incurred for the U.S. sale. Petitioners assert that, according to 19 U.S.C. § 1677a(f)(1) and (2)(A), profit is determined by multiplying the total actual profit by the ratio derived by dividing the ''total United States expenses'' by the ''total expenses.'' Total United States expenses are defined by 19 U.S.C. § 1677a(f)(2)(B) to include all the expenses that the Department is required to deduct in calculating CEP. These include any of the expenses ''generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise.'' Petitioners contend that the fact that certain expenses listed above were incurred in the home market does not affect whether they should be deducted from CEP or included in the ''total U.S. expenses'' for purposes of the CEP profit calculation. In particular, petitioners note that indirect selling expenses, inventory carrying costs, and warehousing expenses incurred in the home market for the sale to the U.S. are the same types of expenses that the Department deducted from CEP in *Pasta from Italy*, and *Printing Presses from Germany*.

CEMEX argued in its original brief that the Department should include in the calculation of CEP profit, foreign indirect selling expenses, as these are expenses associated with the U.S. sale. In addition, CEMEX argued that U.S. ''other'' transportation expenses and indirect selling expenses associated with further manufactured sales should also be included in the CEP profit calculation. However in their rebuttal brief, CEMEX reversed its position and agreed with the Department's methodology in the preliminary determination and stated that the Department properly calculated CEP profit by not including indirect selling expenses, pre-sale warehousing expenses, and inventory carrying costs, incurred in the home market for the sale to the U.S. affiliate.

Department's Position: Consistent with our methodology outlined in the discussion of foreign indirect selling expenses (See Comment 31, below) we will continue to use the same methodology for calculating CEP profit in our final results, as was done for the preliminary results. Due to the fact that indirect selling expenses incurred in Mexico, inventory carrying costs incurred in Mexico, and pre-sale warehousing expenses incurred in Mexico are expenses associated with the sale of the merchandise from the producer/exporter to the affiliated importer, these expenses are not considered U.S. selling expenses as defined by section 772(f)(2)(B) of the Act. The statute defines ''total United States expenses'' for use in the CEP profit calculation as ''the total expenses deducted in subsection (d)(1) and (2)'' (*i.e.*, those expenses ''generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise * * *''). By definition, these are not expenses incurred by the producer/exporter for sale of the merchandise to the affiliated importer. Thus, the Department will not include for purposes of the CEP profit calculation, those expenses not considered as an adjustment to CEP under subsection (d)(1) and (2) (see Comment 31, below), that is, the indirect selling expenses incurred by CEMEX in the home market for the sale to the affiliated importer: foreign indirect selling expense, presale warehousing expense, and foreign inventory carrying cost.

For those expenses associated with further manufacturing, the Department is substituting the surrogate value of CEP sales for further manufactured sales (see Comment 30, below) and is therefore not including those expenses associated with further manufactured sales in the calculation of CEP profit.

Comment 29: Petitioners state that the Department should recalculate CDC's credit expense based on its standard practice of using the difference between the shipment date and the payment date for each sale. CDC had calculated number of days outstanding based on the difference between the date of invoice and the date of payment.

CDC agrees with Petitioners that CDC's U.S. credit days outstanding should be recalculated based upon the difference between the date of payment and the date of the bill of lading, which represents the shipment date.

Department's Position: We agree with petitioners and CDC, and have revised CDC's U.S. credit days outstanding and U.S. credit expense.

Comment 30: CEMEX argues that its CEP sales through the Long Beach terminal should be excluded from the calculation of average net U.S. price for further manufactured sales. CEMEX believes that the Department should limit the calculation for the average net U.S. price to the geographic area in which the further manufactured product was sold, (e.g., the Arizona region).

Petitioners contend that CEMEX's argument is contrary to language in the statute which requires the Department to use all of CEMEX's non-further manufacturing sales in the calculation of the surrogate CEP. Petitioners refer to 19 U.S.C. 1677a(e)(1) & (2) which states that the surrogate price is ''[t]he price of identical subject merchandise sold by the exporter or producer to an un affiliated person'' or ''[t]he price of other subject merchandise sold by the exporter or producer to an un affiliated person.'' Petitioners claim that this language requires the Department to use as the surrogate price the price at which CEMEX—the exporter or producer—sold the merchandise in the United States. Petitioners claim that the statute does not permit the Department to carve up the universe of U.S. sales in the calculation of the surrogate price.

Department's Position: We agree with petitioners, and have substituted as the surrogate value for further manufactured sales the CEP for all sales made by CEMEX, the exporter and producer, to unaffiliated customers in the U.S., as required by the statute at 19 U.S.C. 1677 a(e)(1) & (2).

Comment 31: CEMEX argues that the Department should not deduct indirect selling expenses incurred in the country of manufacture from the calculation of net U.S. price. CEMEX claims that the SAA states at 153 that the deductions from the U.S. price for CEP sales under section 772(d) represent expenses ''associated with economic activities in the United States.'' Furthermore, CEMEX cites the preamble to the proposed regulations, which states that ''[c]onsistent with the SAA at 823, the Department will make deductions under 772(d) for those expenses enumerated in the Act which are due to economic activities in the United States * * * the foreign seller's expenses associated with selling to the affiliated reseller in the United States would not be deducted under 772(d) * * *'' 61 FR 7331. CEMEX claims that the indirect selling expenses it incurred in Mexico (indirect

selling expense, inventory carrying cost, and presale warehousing expense) included only those expenses associated with selling to the affiliated reseller, and are not related to economic activity in the United States. CEMEX claims that deducting indirect selling expenses incurred in Mexico is inconsistent with the Department's practice.

Furthermore, CEMEX contends that deducting foreign indirect expenses is inconsistent with the intent of the statute, which as described in the SAA at 153, seeks to construct an export price that is ''* * * as closely as possible, a price corresponding to an export price between non-affiliated exporters and importers.'' CEMEX claims that expenses not incurred on behalf of an importer should not be deducted to construct a price that an unaffiliated importer would be willing to pay, just as the same expenses are never deducted from a true export price.

Petitioners counter that the statute clearly directs the Department to deduct ''any * * * expenses generally incurred by or for the account of the exporter or producer or the affiliated seller in the United States, in selling the subject merchandise * * *'' Petitioners cite the House report from the URAA, which states that ''[n]ew sections 772(d)(1) and 772 (d)(2) retain current U.S. law with respect to the deduction made for direct and indirect expenses * * *'' (H.R. Rep. No. 826, 103rd Cong., 2d Sess. 79 (1994)). Petitioners assert that the Senate report similarly indicates that Congress intended the deduction of indirect selling expenses in calculating CEP to be made in the same manner as it was made in calculating ESP under the pre-1995 law. Petitioners assert that the Department's prior practice of deducting from ESP all foreign indirect selling expenses related to U.S. sales was affirmed by the CIT. Petitioners also cite the Department's proposed regulations at 351.402(b): the Department ''will make adjustments to constructed export price under section 772(d) of the Act for expenses associated with commercial activities in the United States, no matter where incurred.'' Petitioners contend that the proposed regulations are consistent with the statute and legislative history. Petitioners further argue that recent determinations decided under the new law in *Certain Pasta from Italy* and *Large Newspaper Printing Presses from Germany*, support the subtraction from CEP of all those selling expenses incurred in the home market to support export sales.

Petitioners argue that nothing in the language of the SAA or the preamble to the Department's proposed regulations, which CEMEX relies upon as the basis for its argument, directs the Department not to deduct expenses incurred in the home market on U.S. sales. Petitioners claim that the preamble is highly ambiguous in its reference to circumstances of sale adjustments, as such an adjustment may only be granted for direct, not indirect selling expenses. Moreover, the preamble does not provide a complete listing of those expenses considered to be associated with selling to the affiliated reseller. Petitioners rebut CEMEX's argument that language in the SAA at 823 intends CEP to reflect as closely as possible a price corresponding to an export price between non-affiliated exporters and importers. Petitioners state that the statute at 19 U.S.C. 1677a(d)(1) clearly requires the Department to account for the expenses incurred by the foreign producer or exporter. Finally, Petitioners contend that CEMEX's interpretation of the statute would open a loophole in the law which would allow respondents to avoid deduction of any selling expense by shifting offshore all selling activities relating to U.S. sales, or by shifting U.S. selling expenses from the books of their U.S. affiliates to those of the offshore parent companies.

Department's Position: Section 772(d)(1) of the Act instructs the Department to deduct from CEP ''the amount of * * * the expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise.'' Section 351.402(b) of the proposed regulations states that the Secretary will make adjustments to CEP under section 772(d) of the Act for expenses associated with commercial activities in the United States, no matter where incurred. The CEP is, by definition, the price obtained after removing from the first resale to an independent U.S. customer, profit and the activities for which expenses are deducted under section 772(d). Section 772(d) defines expenses to be deducted from CEP as those expenses representing activities undertaken by the affiliated importer to make the sale to the unaffiliated customer. As such they tend to occur after the transaction for which export price is constructed and the Department has properly deducted these expenses in calculating the CEP for comparison purposes.

In the instant review, we disagree with petitioners. The Department does not deduct indirect expenses incurred in selling to the affiliated U.S. importer under section 772(d) of the Act. *See Notice of Final Determination of Sales at Less than Fair Value: Certain Pasta from Italy,* 61 FR 30326, 30352 (1996). As stated clearly in the SAA, section 772(d) of the Act is intended to provide for the deduction of expenses associated with economic activities occurring in the United States. *See* SAA at 823. The Department, upon analysis, has determined that the indirect selling expenses involved in this case relate solely to the sale to the affiliated importer. For example, presale warehousing (DISWARU), inventory carrying costs (DINVCARU), and indirect selling expenses (DINDIRSU), occurred in the home market prior to exportation and relate solely to the sale to the affiliated importer and are not assumed by the producer/exporter on behalf of the U.S. affiliate for the ultimate sale to the unaffiliated customer. Due to the fact that the expenses under discussion are not associated with U.S. economic activity (the sale to the unaffiliated customer) and are incurred by the producer/exporter for the sale to U.S. affiliate, we have not deducted these expenses as indirect selling expenses for calculation of the net U.S. price in this final results of review.

Arm's Length

Comment 32: Petitioners contend that the Department should modify the arm's length test to account for inflation by calculating and comparing monthly prices, rather than period-wide averages.

CDC responds that the Department has conducted its standard arm's length test comparing period-wide prices in several cases where the home market experienced hyper-inflationary conditions. CDC claims that there is no basis in the record for the distortion petitioners fear would result from an arm's length test that does not account for hyper-inflation, because affiliated and unaffiliated customers made purchases on a regular basis throughout the POR.

Department's Position: Consistent with previous hyper-inflationary situations in *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line, and Pressure Pipe from Brazil,* 60 FR 31960, 31965 (1995) and *Certain Welded Carbon Steel Pipe and Tube from Turkey,* 61 FR 69071 (1996), the Department will continue to use its standard arm's length test comparing period-wide average prices to affiliated and unaffiliated customers.

Comment 33: CEMEX argues that the Department should perform the arm's length test comparing CEMEX's sales to each affiliated party with all sales to unaffiliated customers in the same customer category, and channel of

distribution. CEMEX argues that the Department's test is distortive as it compares affiliated-party sales to an inappropriate group of sales to unaffiliated customers. CEMEX relies on *Certain Hot-Rolled Carbon Steel Products from France,* 58 FR 37062 (1993), where the Department allegedly performed the arm's length test using only sales of the identical product to the same customer category in situations where sales of identical products occurred at both the same and different levels of trade. CEMEX also argues that the arm's length test should be conducted within the same channel of distribution, *i.e.*, comparing sales of bagged sales to bagged sales, and bulk sales to bulk sales.

Petitioners argue that no basis exists for performing the arm's length test by customer category or channel of distribution. Petitioners state that the SAA only permits the Department to compare prices by customer category in an investigation and not in an administrative review. Petitioners also argue that CEMEX's reliance on the Department's arm's length methodology in the flat-rolled steel investigations is misplaced. In those investigations, petitioners assert, the Department performed the arm's length test by comparing sales made at the same level of trade, which under the law at that time, was determined by customer category. Petitioners state that under current law, level of trade is determined by selling functions. Finally, petitioners maintain that CEMEX failed to establish that its prices varied significantly by customer category or channel of distribution.

Department's Position: We agree with the petitioners. As stated under the level of trade section of this notice (see Comment 5: above), the Department has determined that CEMEX sold at one level of trade in the home market; therefore comparing by discreet channel of distribution or customer category is not warranted as there is only one level of trade and one channel of distribution in that level. We have not revised our arm's length test and have compared sales to affiliated customers to sales to unaffiliated customers for purposes of this final results of review.

Facts Available

Comment 34: Petitioners argue that CEMEX's dumping margin should be based entirely on facts available because CEMEX has significantly impeded this administrative review. Petitioners claim that CEMEX failed to cooperate on several occasions with Department requests for Type I bulk and bagged cement sales information, and misrepresented its burden for providing Type I bagged cement sales data. Furthermore, petitioners hold that CEMEX further impeded the review by refusing to provide the Department with certain plant-specific data (i.e., selling expense information) which CEMEX claimed it could provide under the sampling methodology it devised. Petitioners assert that CEMEX's database is ''irreparably flawed,'' as it contains only partial transaction-specific data on CEMEX's home market sales of Type I bagged cement.

Citing to *Fresh Cut Flowers from Mexico and* Certain Pasta from Turkey, petitioners argue that the Department's practice is to apply total adverse facts available when a respondent ''significantly impedes'' a proceeding. Petitioners assert that the Department should find that CEMEX significantly impeded this review for the reasons stated above. Petitioners suggest that the Department use as total adverse facts available the highest margin calculated in any previous administrative review (i.e., the 109.43 percent margin calculated on remand for the second administrative review).

CEMEX counters that the Department's final determination must be based on evidence contained in the verified administrative record. CEMEX claims that the Department recognized it was a cooperative respondent by successfully conducting extensive verifications in the home and U.S. markets of the information that CEMEX provided. CEMEX states that petitioners' appeal for total facts available confirms its ''unrelenting desire'' for the Department to impose the highest mathematically possible antidumping margin to CEMEX. CEMEX states that petitioners should not be permitted to ''usurp the DOC's authority'' by insisting upon the imposition of total facts available.

Department's Position: Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if

(1) the information is submitted by the deadline established for its submission,

(2) the information can be verified,

(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and,

(5) the information can be used without undue difficulties.

We find that the information provided by CEMEX was submitted within the deadlines established by the Department, the information submitted was verified, the information provided is not incomplete and can serve as a reliable basis for reaching our current determination, CEMEX has demonstrated that it acted to the best of its ability to provide the information required by the Department, and we are able to use the submitted data without undue difficulties. In addition, the Department conducted extensive verification of CEMEX's home market sales, U.S. sales, cost of production, and found that the information provided was accurate and usable for purposes of a preliminary and final determination. Therefore, we are not basing this determination on facts otherwise available and have used the CEMEX's submitted data, except where noted above, in reaching our determination.

Reimbursement

Comment 35: Petitioners contend that the Department should determine that CEMEX has reimbursed Sunbelt Cement, its U.S. affiliated party, for antidumping duties. Petitioners note that CEMEX's 1995 annual report shows an unexplained long-term intra-corporate receivable account from Sunbelt Enterprises. Petitioners contend that at verification, Sunbelt implied that its earnings were sufficient to cover its antidumping duty cash deposit. However, based on the sum of Sunbelt, PCC's, Fenton's and Sunward's earnings before interest and taxes during the POR, as reported on their income statement summaries, petitioners infer that Sunbelt does not appear to be capable of paying antidumping cash deposits without significant assistance from CEMEX. Petitioners recommend that the Department assess double the amount of antidumping duties calculated in this review upon liquidation of entries of the subject merchandise.

CEMEX argues that petitioners failed to provide any evidence that CEMEX reimbursed its U.S. subsidiary, Sunbelt Cement, for antidumping duties. CEMEX states that Sunbelt Enterprises is a holding company for CEMEX's operations in Spain, the Caribbean, Venezuela, and the United States. Furthermore, CEMEX states that the Department inquired into Sunbelt's payment of antidumping duties at verification. CEMEX argues that the mere existence of a loan between

affiliated parties is insufficient to establish the reimbursement of antidumping duties, absent other evidence. CEMEX also cites *Torrington Co.* v. *United States,* in which the Court of International Trade ruled that the Department properly decided not to make a deduction to U.S. price, absent any evidence of a link between intra-corporate transfers and the reimbursement of antidumping duties. Second, CEMEX claims that petitioners' argument is without merit on factual grounds. CEMEX, in their rebuttal brief, provides a detailed analysis of Sunbelt's cash flow (or earnings before income taxes, depreciation, and amortization), which it claims is more than sufficient to cover antidumping duty liabilities.

Department's Position: We agree with CEMEX. At verification, the Department inquired into Sunbelt's financial situation and its antidumping duty liability, and found no evidence that Sunbelt was reimbursed by CEMEX for the payment of dumping duties (see verification report dated July 22, 1996). Therefore, we are not assessing double the amount of antidumping duty for purposes of this final results of review.

Other Issues

Comment 36: Respondents claim that the Department made the following errors in the computer program: 1) The Department should convert U.S. sales information, which was reported per short ton of cement, should be converted to the same unit of measure as the home market sales reported in metric tons; 2) the semicolon at line 1505 should be removed so that USOTREU and INDIRS2U are included in the calculation of USMOVEU and INDEXUS; and 3) the Department should correct the arm's length test such that sales are assigned the appropriate customer code. In addition, DIFMER should be converted to the same unit of measure as the normal value.

Department's Position: The Department has corrected these errors in the final results.

Final Results of Review

As a result of this review, we have determined that the following margins exist for the period August 1, 1994, through July 31, 1995:

Company	Margin percent-age
CEMEX, S.A.	103.82
All Other	61.85

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of review for all shipments of gray portland cement and clinker from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original LTFV investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these reviews, the cash deposit rate for this case will continue to be 61.85 percent, which was the ''all others'' rates in the LTFV investigations. *See Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico,* 55 FR 29244, (1990).

The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with § 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9123 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–429–601]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Solid Urea From the Former German Democratic Republic

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: April 9, 1997.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping order on Solid Urea from the Former German Democratic Republic, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Steven Presing, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–0194.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete this review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa (March 24, 1997).

Because it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 days after publication of the preliminary determination for final results), in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits as follows:

Product	Country	Review period	Initiation date	Prelm due date	Final due date*
Solid Urea (A–429–601)	Germany	95/96	08/15/96	06/02/97	09/30/97

*The Department shall issue the final determination 120 days after the publication of the preliminary determination. This final due date is estimated based on publication of the preliminary notice five business days after signature.

Dated: April 2, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 97–9115 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–811]

Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order.

SUMMARY: On December 3, 1996, the Department of Commerce (the Department) published the preliminary results of its 1995–96 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part (61 FR 64058). The review covers 12 manufacturers/exporters for the period March 1, 1995, through February 29, 1996 (the POR). We have analyzed the comments received on our preliminary results and have determined that no changes in the margin calculations are required. The final weighted-average dumping margins for each of the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum or Thomas O. Barlow, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On December 12, 1996, the Department published in the **Federal Register** the preliminary results of its 1995–96 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part (61 FR 64058) (Preliminary Results). We gave interested parties an opportunity to comment on our preliminary results. We received case briefs from the petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), and rebuttal briefs from six respondents, including Chung-Woo Rope Co., Ltd. (Chung Woo), Chun Kee Steel & Wire Rope Co., Ltd. (Chun Kee), Manho Rope & Wire Ltd. (Manho), Kumho Wire Rope Mfg. Co., Ltd. (Kumho), Ssang Yong Steel Wire Co., Inc. (Ssang Yong), and Sungjin Company (Sungjin). There was no request for a hearing.

We have conducted this administrative review in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 353.22.

Revocation In Part

We are revoking the order for Chun Kee and Manho. Chun Kee and Manho have sold the subject merchandise at not less than normal value (NV) for three consecutive review periods, including this review. Further, on the basis of no sales at less than NV for these periods and the lack of any indication that such sales are likely in the future, we have determined that Chun Kee and Manho are not likely to sell the merchandise at less than NV in the future. Chun Kee and Manho have also submitted certifications that they will not sell at less than NV in the future, along with an agreement for immediate reinstatement of the order if such sales occur. See our discussion in response to Comment 1 below.

Scope of Review

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, *i.e.*, ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. Although HTS subheadings are provided for convenience and Customs purposes, our own written description of the scope of this review is dispositive.

Use of Facts Otherwise Available

We have determined, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for Boo Kook Corporation (Boo Kook), Dong-Il Steel Mfg. Co., Ltd. (Dong-Il), and Yeonsin Metal (Yeonsin) because they did not respond to our antidumping questionnaire. We find that these firms have not provided ''information that has been requested by the administering authority.'' Furthermore, we determine that, pursuant to section 776(b) of the Act, it is appropriate to make an inference adverse to the interests of these companies because they failed to cooperate by not responding to our questionnaire.

Where the Department must base the entire dumping margin for a respondent in an administrative review on facts otherwise available because that respondent failed to cooperate, section 776(b) of the Act authorizes the use of an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. (*See* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994).)

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse best information available (BIA) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

For a discussion of our application of facts available regarding specific firms, see our response to Comment 3 below.

Analysis of Comments Received

Comment 1: The Committee contends that Chun Kee and Manho failed to establish the second of three requisite regulatory criteria for revocation of an antidumping duty order. It argues, citing *Toshiba Corp. v. United States,* 15 CIT 597, 600 (1991), that the burden is on the respondent requesting revocation to demonstrate, by placing substantial evidence on the record, that there is no likelihood of a resumption of sales at less than normal value and that Chun Kee and Manho failed to demonstrate this.

The Committee claims that several factors demonstrate that Chun Kee and Manho are likely to resume selling steel wire rope at less than normal value. First, it contends that the U.S. steel wire rope market is characterized by intensely competitive conditions among many foreign suppliers who compete against one another based mainly on price. According to the Committee, since the antidumping duty order on this product went into effect (March 26, 1993), total U.S. imports of steel wire rope have decreased and foreign competition has increased. The Committee argues that these market trends place pressure on Chun Kee and Manho to reduce their prices and remain competitive in the U.S. market. The Committee further contends that these pressures are intensified by the fact that both Chun Kee and Manho export only to the United States and that the U.S. market represents a substantial percentage of each company's total sales. The Committee contends that neither Chun Kee nor Manho can afford to abandon the U.S. market and must price their products competitively, forcing them sell steel wire rope at the lowest possible price.

The Committee claims that the volatility of the Korean won makes it inappropriate to conclude that there is no likelihood of a resumption of sales at less than normal value. The Committee states that, in *Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part,* 61 FR 49731 (September 23, 1996) (Brass Sheet and Strip), the Department determined that it could not conclude that there was no likelihood of a resumption of sales at less than normal value, in part due to the continued strengthening of the Deutsche mark. The Committee also notes that in *Titanium Sponge from Japan; Preliminary Results of Antidumping Duty Administrative Review,* 53 FR 26099 (July 11, 1988) (*Titanium Sponge*), the Department refused to grant partial revocation due in part to the decline in purchasing power of the U.S. dollar against the Japanese yen.

The Committee claims that throughout the three periods of review in this case, the Korean won appreciated against the U.S. dollar, which increases the likelihood that a respondent's future sales will be made at less than normal value. The Committee notes that, since the end of this POR, the Korean won has depreciated quickly and steadily against the U.S. dollar, illustrating the volatility of the Korean currency. The Committee further notes that such volatility suggests that the currency could experience a sudden and substantial appreciation in the future. The Committee argues that this appreciation could force Korean exporters to decrease their prices on steel wire rope sales to the United States to maintain their competitiveness.

The Committee also claims that the Korean won's fluctuation vis-a-vis the Japanese yen militates against a finding of no likely future dumping. The Committee states, first, that the won depreciated against the yen during the 1993/94 and 1994/95 periods, thereby increasing the costs of inputs into subject merchandise. The Committee claims that, despite this increase in costs, the Korean respondents continued to sell subject merchandise in the United States at unfairly low prices. The Committee suggests that the won's subsequent appreciation against the yen (since the last quarter of the 1994/95 period) will allow respondents to sell in the United States at even lower prices.

The Committee also argues that the Department should not revoke the antidumping duty order in part because Chun Kee and Manho have failed to provide any evidence on the record of this proceeding to establish that there is no likelihood of a resumption of sales at less than normal value. The Committee claims that, because the Department conducted verifications of Chun Kee's and Manho's sales responses, both companies had ample time to submit evidence in support of their revocation requests. Therefore, according to the Committee, the Department does not have the authority to revoke the order with respect to Chun Kee and Manho because of the lack of verification of any evidence in support of their requests for verification.

Finally, the Committee contends that, although Chun Kee and Manho received *de minimis* or zero-percent dumping margins in the 1993/94 and 1994/95 reviews and in the preliminary results of this review, the Department determined that both companies sold subject merchandise in the home market at prices below the cost of production. It argues that this pattern of selling below cost greatly increase the likelihood that the companies will sell at less than normal value in the future. The Committee also suggests that the Department must consider the fact that Chun Kee received *de minimis* rather than zero-percent margins in the prior reviews. Hence, claims the Committee, the slightest shift in Chun Kee's pricing practice could easily result in a resumption in sales at less than fair value.

Chun Kee and Manho respond that they have both established all of the requisite regulatory criteria for revocation. They state that the Department's regulations authorize the

Department to revoke an antidumping order when: (1) The producer has sold the merchandise at not less than normal value for three consecutive years; (2) it is not likely that the producer will in the future sell the merchandise at less than normal value; and (3) the producer agrees in writing to immediate reinstatement of the order if the Department later finds that the revoked producer is selling the merchandise at less than normal value (*citing* 19 CFR 353.25(a)(2)). Respondents claim that, since the current version of 19 CFR 353.25 was adopted in 1989, the Department has granted revocation in virtually every case where a respondent has established three consecutive years of no dumping and furnished the required certifications.

Respondents cite *Tatung Company* v. *United States,* 18 CIT 1137 (December 14, 1994) (*Tatung Company*), where the court found that past behavior constitutes substantial evidence of expected future behavior. Respondents state that, during the history of this proceeding, the only dumping margin found for any responding company was a 1.51 percent margin for Manho during the 1992 less-than-fair-value (LTFV) investigation. They further note that, under the post-URAA law, a 1.51 percent margin is *de minimis*; therefore, they contend, under the current law neither Chun Kee nor Manho have ever sold the subject merchandise at less than normal value.

With respect to the Committee's arguments concerning competitive U.S. market conditions, respondents state that they have been selling steel wire rope in the United States without dumping for at least 18 years and that the Korean market is equally if not more competitive than the U.S. market and becoming more competitive with a depreciating currency (*citing Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 61 FR 63822, 63825 (December 2, 1996) (*Fresh Cut Flowers*), where the Department granted revocation to a respondent while agreeing that the devaluation of the home market currency makes dumping less likely).

Respondents dispute the Committee's argument that an increase in imports into the United States from countries other than the Republic of Korea will cause Chun Kee and Manho to sell subject merchandise at unfair prices in the United States in the future. Respondents note that Korean imports have decreased relative to total imports since the 1992 LTFV investigation, during which time they have not sold at less than normal value.

Respondents also state that they have not artificially decreased or manipulated product lines to ensure revocation. Respondents distinguish this case from *Brass Sheet and Strip* where the respondent had an incentive to continue dumping, intentionally avoided sales of lower-priced subject merchandise, and purposefully sold small and controlled quantities for a three-year period.

Respondents claim that there is no evidence on the record to support the assertion that either company depends on sales to the United States for financial viability or that this alleged financial dependence will cause Chun Kee and Manho to sell at prices below the normal value in the future. In this regard, respondents claim that the Committee misrepresents the facts by claiming that Chun Kee and Manho do not sell subject merchandise to third countries. Respondents claim that they both sold significant volumes of subject merchandise to third countries and proved so at verification.

Respondents characterize as illogical the Committee's argument that the Department should deny revocation now that the Korean won is depreciating relative to the U.S. dollar. Respondents state that a depreciating Korean won in facts makes selling at below normal value *less* likely to occur and note that Chun Kee and Manho have a proven record of selling subject merchandise above normal value when the Korean won appreciates. They claim that the Department has granted revocation in past cases when respondents have shown a proven track record that it had not sold its merchandise at less than fair value when the home market currency appreciated during past administrative reviews (*citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding*, 61 FR 57650, (November 7, 1996) (*TRBs*), and *Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results*, 55 FR 47093 (November 9, 1990) (*Color TVs*)). Respondents also note that, in *Color TVs*, as in this case, respondents were never found to have sold at less than normal value either before or since the order was issued, and respondents sold substantial and increasing quantities of subject merchandise throughout the three review periods.

Respondents also deny the Committee's claim that Chun Kee and Manho imported wire rod from Japan in the period of review and argue that, even if they did import from Japan, the cost for the input would be reflected in the home market and in the United States price.

With respect to the Committee's argument that respondents did not demonstrate ''no likelihood'' to resume selling at prices below the normal value at verification, respondents claim that the Department's verifications of Chun Kee and Manho were consistent with its regulations and claim that the Committee never asked prior to verification that the Department consider the issue of likelihood of resumption of sales at less than fair value at verification. Respondents cite 19 CFR 353.36(c) and claim that at verification the Department's only obligation is to have access to all files, records and personnel which the Secretary considers relevant to submitted factual information. They claim that at both verifications the Department had access to all the information it needed to make a preliminary finding to partially revoke the order and it had the responsibility to request any other information it considered relevant.

Finally, respondents state that the Department considers a weighted-average *de minimis* margin to be equivalent to a zero margin for all sales regardless of the actual margin on individual sales for purposes of eligibility for revocation (*citing Color TVs*). Therefore, argue respondents, the Committee's statement that Chun Kee's margin was 0.1 percent rather than zero is irrelevant.

Department's Position: We disagree with the Committee and are revoking in part the antidumping duty order with respect to Chun Kee and Manho. Both respondents have obtained *de minimis* margins for the requisite consecutive review periods and have provided us with the necessary certifications in accordance with our regulations. In addition, based on the evidence on the record, we have concluded that it is not likely that in the future that these respondents will sell the subject mechandise at less than normal value. As noted above, in the past two reviews and for the final results of review, Chun Kee and Manho have had *de minimis* weighted-average margins. As the CIT affirmed in *Tatung Company*, past behavior constitutes substantial evidence of expected future behavior.

The Committee claims that recent market trends place pressure on Chun Kee and Manho to reduce their prices in

the United States and state this is partially because Chun Kee and Manho export only to the United States. There is no evidence to suggest that competition in the United States steel wire rope industry is any more fierce than in past years, during which Chun Kee increased its sales of steel wire in the United States and Manho's sales volume has fluctuated, both without selling at prices below normal value. Further, both Chun Kee and Manho sell steel wire rope in countries other than the Republic of Korea and the United States and are not solely dependent on the United States for financial viability as suggested by the Committee. *See Home Market and Export Price Verification of Chun Kee Steel & Wire Rope Company* at 3 and *HM and Export Price Verification of Manho Rope & Wire, Ltd.* at 3.

While the Committee argues that the volatility of the Korean won and a possible future appreciation of the Korean won make it difficult to conclude that it is not likely that these respondents will resume sales at less than normal value, neither Chun Kee nor Manho have had above *de minimis* weighted-average dumping margins over the past three reviews during which the Korean won has appreciated against the U.S. dollar. During a period of a depreciating Korean won, as the Committee acknowledged has occurred since the end of this review period, there is even less pressure to engage in less-than-normal-value pricing. Given that the past appreciation of the Korean won did not cause Chun Kee and Manho to sell steel wire in the United States at prices below normal value, we have no basis to conclude that a possible currency appreciation in the future will cause them to change their pricing practices. *See Fresh Cut Flowers* at 63825. Further, while in *Brass Sheet and Strip* we acknowledged that the continued strengthening of the home market currency provides an impetus to resume sales at less than normal value in the absence of an antidumping duty order, this was only one of many reasons to deny revocation of the antidumping duty order. We stated in *Brass Sheet and Strip* that the exchange rate trend was one element in determining the likelihood of resumption of sales at less than normal value. Further, in *Brass Sheet and Strip*, we were concerned with a continuing strengthening of the home market currency whereas in this case the Korean won is currently depreciating relative to the U.S. dollar. *See Brass Sheet and Strip*, 61 FR at 49731. The present case is also distinct from *Titanium Sponge*, where at the time of the decision not to revoke the antidumping duty order the Japanese yen was appreciating against the U.S. dollar.

Regarding the fluctuations of the Korean won against the Japanese yen as an influence on respondents' costs, the Committee did not point to any evidence on the record in this review that Chun Kee or Manho purchased any inputs of steel wire rope from Japan. Further, the Committee acknowledges that, since the 1994/95 period, the Korean won has appreciated against the Japanese yen, thereby making purchases of Japanese inputs less expensive. For the three consecutive review periods and during the volatility of the Korean won against the Japanese yen, we have consistently calculated a zero-percent weighted-average dumping margin for Manho and a 0.01 percent weighted-average dumping margin for Chun Kee. Finally, any changes in respondents' input costs due to currency fluctuations would be reflected in both the home market and U.S. prices.

Moreover, the Committee provides no support for its claim that, because we have found Chun Kee and Manho to have sold steel wire rope at prices below cost in the home market, they are likely to sell at prices at less than fair value in the future. All of the evidence in this case, as mentioned above, leads us to believe that it is not likely that Chun Kee and Manho will sell at prices below the normal value in the future.

Finally, the Committee is incorrect in citing *Titanium Sponge* to argue that the Department must consider the fact that Chun Kee's weighted-average antidumping duty margin has been *de minimis* rather than zero in denying revocation to Chun Kee. *Titanium Sponge* does not imply that a *de minimis* margin should be treated as anything other than equivalent to a zero margin for the purposes of eligibility for revocation. In *Titanium Sponge*, 53 FR at 26100, we stated only that the contributing factors to our decision not to revoke the antidumping duty order include ''the large surplus of titanium sponge inventories, the decline in purchasing power of the dollar against the yen, and the minimal pricing differential currently existing between the U.S. and domestic market.'' In fact, in *Color TVs*, 55 FR at 47097, the Department stated that it ''considers a *de minimis* margin to be equivalent to a zero margin, and a weighted-average *de minimis* margin to be equivalent to zero for all sales, regardless of the actual margin on individual sales, for purposes of eligibility of revocation.''

Chun Kee and Manho have each met the requirement established by our regulations of *de minimis* margins for the requisite consecutive number of years. In addition, each has agreed to immediate reinstatement in the order if we conclude that subsequent to the partial revocation of the order, the particular respondent sold the merchandise at less than normal value. Finally, based on the evidence on the record of this review and conclusions drawn from our experience with these respondents in prior reviews, we conclude that it is not likely that in the future these respondents will sell the subject merchandise at less than normal value. Therefore, we are revoking the order with respect to Chun Kee and Manho.

Comment 2: The Committee claims that, because the Department performed the arm's-length test on a customer-specific basis by comparing the average net price to affiliated parties against prices to unaffiliated parties, the Department used sales to affiliated parties which were found not to be arm's-length transactions in its calculation of normal value. The Committee asserts that the Department must examine home market sales to affiliated parties on a transaction-by-transaction basis and exclude those particular sales which are found not to be arm's-length transactions. The Committee maintains that the inclusion of such sales is violative of the controlling regulation, precedent and the proposed regulations (citing 19 CFR 353.45(a), 19 CFR 351.403 (proposed regulation), and *Welded Carbon Steel Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review*, 55 FR 42230 (October 18, 1990) (*Pipe and Tube*)). The Committee asserts, therefore, that the Department must recalculate NV excluding such sales by Chun Kee. The Committee notes an apparent discrepancy between the preliminary results analysis memorandum and the notice of Preliminary Results, the latter of which suggests such sales were excluded.

Respondents assert that sales to affiliated parties are not automatically removed from consideration as part of the home market sales database and are included in the margin calculation as long as they are deemed to be arm's-length transactions (*citing Connors Steel Company v. United States*, 527 F. Supp. 350, 354 (CIT 1981), and *Usinor Sacilor et al. v. United States*, 872 F. Supp. 1000, 1002 (CIT 1994) (*Usinor*)). Respondents state that the Department's 99.5% arm's-length test, which compares the customer-specific average

prices at which the respondent sells to affiliated and unaffiliated customers, is well established and note that Chun Kee's sales passed the test (*citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57393 (November 6, 1996) (*TRBs Prelim.*)). Respondents maintain that the Department uses customer-specific averages rather than individual sales to ensure that the comparison is not distorted by normal price fluctuations. Respondents note that this practice has been upheld by the Court of International Trade (CIT).

Department's Position: We disagree with the Committee that we must perform the arm's-length test on a transaction-by-transaction basis. Performing the test in such a manner would conflict with our long-standing practice of using customer-specific weighted-average prices (*see, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900, 10946 and 10947 (February 28, 1995); *Industrial Phosphoric Acid From Belgium; Final Results of Antidumping Duty Administrative Review*, 61 FR 51424, 51425 (October 2, 1996); *TRBs Prelim.*, 61 FR at 57393–94). The Committee's reliance on *Pipe and Tube* to support its position that average prices cannot be used in an arm's-length test is misplaced. In *Pipe and Tube*, 55 FR at 42231, we merely confirmed our practice of disregarding sales not made at arm's length; we did not expound on the methodology for determining the arm's-length nature of such sales.

In addition, the CIT has implicitly approved of our use of weighted-average prices to conduct the test. In *Usinor*, we used the same arm's-length test as in the instant review. In finding the Department's application of the arm's-length test reasonable on other grounds, the CIT implicitly approved of the Department's practice of weight-averaging prices (*Usinor*, 872 F. Supp. at 1002–04). We believe that our application of the test is reasonable and have maintained our approach for the final results.

Comment 3: The Committee argues that the Department's use of a 1.51 percent dumping margin as adverse facts available for Boo Kook, Dong-Il and Yeonsin undercuts the cooperation-inducing purpose of the facts-available provision of the statute. The Committee contends that, instead of using the highest rate available from any prior segment of the proceeding, the Department should apply a dumping rate based on the rate calculated in the petition of the original investigation (148.94 percent) or the calculations set forth in the Committee's submissions to the Department in the 1994/95 administrative review (23.5 percent).

The Committee states that, pursuant to section 776(a) of the Act, if the Department finds that an interested party has not cooperated with the Department's request for information, the Department may use an inference that is adverse to the interests of that party in selecting from facts available; further, this adverse inference may be based on information derived from the petition or any other information placed on the record. The Committee also contends that the SAA states that the Department does not need to prove that the facts available that it selects constitute the best alternative, but that the facts available need only to be information or inferences which are reasonable to use under the circumstances (*citing* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994)).

The Committee states that the SAA provides that the Department may employ an adverse inference about missing information to ensure that the non-responding party does not obtain a more favorable result by failing to cooperate that if it had cooperated fully. It argues that it is apparent that continuing use of the 1.51 percent rate has failed to achieve the cooperation-inducing purpose of the facts-available rule. The Committee argues that Boo Kook, Dong-Il and Yeonsin have expressly failed to cooperate with the Department's request for information and have never submitted a response to the Department's questionnaire in the three reviews of this antidumping duty order. It further claims that the 1.51 facts-available rate that the three companies have received has remained low enough to encourage them not to respond to the Department's requests for information. The Committee also argues that the Department's rigid application of the facts-available methodology employed in prior reviews provides a safe harbor for the companies that did not respond in this proceeding and allows the respondent to control the proceeding. The Committee cites *Olympic Adhesives, Inc. v. United States*, 899 F.2d 1565, 1571–72 (Fed. Cir. 1990) (*Olympic Adhesives*), in arguing that parties should not be allowed to control the magnitude of the dumping margin by selectively providing the Department with information.

Department's Position: We disagree with the Committee that reliance on the petition rate from the original investigation or petitioner-supplied data from the 1994/95 review as a basis for facts available would be appropriate in the context of this review.

The Department has broad discretion in determining what constitutes facts available in a given situation. *Krupp Stahl AG v. United States*, 822 F. Supp 789, 792 (CIT 1993); *see also Allied-Signal Aerospace Co. v. United States*, 996 F.2d. 1185, 1191 (Fed. Cir. 1993) (''[b]ecause Congress has 'explicitly left a gap for the agency to fill' in determining what constitutes the [best information available], the ITA's construction of the statute must be accorded considerable deference,'' citing *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 833–44 (1984)).

In any given review, a respondent will have knowledge of the antidumping rates from the investigation and past reviews but not of the rates that will be established in the ongoing review. Because under our facts-available policy we consider the highest rate from the current review as one possible source of facts available, potentially uncooperative respondents will generally be less able to predict their facts-available rate as the number of participants in the ongoing review increases. Thus, respondents that do not participate and receive their own known rates risk receiving a potentially much higher unknown rate. Accordingly, this uncertainty in the facts-available rate which may be selected ordinarily satisfies the cooperation-inducing function of the facts-available provision.

In addition, respondents have an incentive to respond to our request for information because of the possibility of eventual revocation of the antidumping duty order with respect to the company. A respondent with a rate above *de minimis* that does not participate in the administrative review is not eligible for revocation. Hence, a further reason the rate assigned to uncooperative respondents in reviews in accordance with our practice may be considered adverse because it results in respondents with a rate above *de minimis* remaining subject to the order without eligibility for revocation.

We recognize that there are instances in which the uncooperative rate resulting from our standard

methodology may not induce respondents to cooperate in subsequent segments of the proceeding. We recognize that this case may be an instance where our methodology may no longer be inducing cooperation; however, we are unable to make such a determination based on the facts of this record.

The few cases in which we have not relied on our standard approach have involved an extremely limited number of participants and, therefore, a consequently small number of rates available for use as a basis for the uncooperative rate.[1] For instance, in *Sodium Thiosulfate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 59 FR 12934 (March 8, 1993) (*Sodium Thiosulfate*), we used information supplied by the petitioner to establish the uncooperative rate for the only respondent that had shipments of subject merchandise during the POR. Similarly, in *Silicon Metal From Argentina: Final Results of Antidumping Duty Administrative Review,* 58 FR 65336, 65337 (December 14, 1993) (*Silicon Metal*), we resorted to petitioner-supplied data where we had a calculated rate for only one firm: ''[i]n this instance, we have only Andina's rate from the LTFV investigation * * *. Because Andina's rate is also the 'all other' rate, Silarsa would be assured a rate no higher than Andina's, *the only respondent who cooperated fully with the Department in this administrative review.* The use of the uncooperative BIA methodology, *in this instance,* restricts the field of potential BIA rates *to the rate established for one firm.*'' *Silicon Metal,* 58 FR at 65336 and 65337 (emphasis added).

Our determination in *Certain Malleable Cast Iron Pipe Fittings from Brazil; Final Results of Antidumping Duty Administrative Review,* 60 FR 41876 (August 14, 1995) (*Pipe Fittings*), is a further example of a situation in which the circumstances of the case clearly demonstrated that the uncooperative rate was not sufficient to induce the respondent to cooperate. In *Pipe Fittings,* we applied a petition-based rate to a non-responsive company that was the only company to have ever been investigated or reviewed: ''[we] have only calculated one margin, which was in the LTFV investigation. Due to the unusual situation, we have determined to use as BIA the simple average of the rates from the petition. * * * In not responding to our requests for information, Tupy could be relying upon our normal BIA practice to lock in a rate that is capped at its LTFV rate'' (*see Pipe Fittings,* 61 FR at 41877–78).

The concern in such cases with respect to the uncooperative-rate methodology is that the lack of past rates, as well as the small number of participants in the current review, could allow a respondent in such a review to manipulate the proceeding by choosing not to comply with our requests for information. In such cases the cooperation-inducing function of the facts-available provision of the Act may not be achieved by use of the uncooperative-rate methodology, in which case the Department will resort to alternatives sources in determining the appropriate rate for uncooperative respondents. That is not to say that we will deviate from our standard uncooperative-rate methodology only when those case facts are present.

These cases establish that we will consider, on a case-by-case basis as appropriate, petitioner-supplied data in situations involving a number of calculated rates insufficient to induce cooperation by respondents in the proceeding. Unlike the instant case, in these cases, we did not have rates for more than one company and therefore determined that the use of a BIA rate higher than the highest rate in the history of the case was appropriate to encourage future cooperation. However, as expressed above, this case may be an instance where deviation from our standard uncooperative-rate methodology might be appropriate with the proper facts of record.

While the Committee cites *Olympic Adhesives* in support of its position that a party should not be allowed to control the proceeding by using evasive tactics, this case essentially addresses whether a company should be assigned facts available (formerly the best information available) and not the magnitude of the facts-available rate as is the issue in this case. In the instant case we are assigning facts available to the three above-mentioned companies, whereas in *Olympic Adhesives* the court found that we should not apply facts available to the participating company in the relevant case.

Because we have calculated rates from three companies in the LTFV final determination, eight companies in the 1992/94 review, six companies in the 1994/95 review, and six companies in this review, the concern over potential manipulation of antidumping rates cited in *Sodium Thiosulfate, Silicon Metal,* and *Pipe Fittings* is less likely to be present in this review. As mentioned above, based on the facts of this record, we feel that the facts-available rate in this case satisfies the cooperation-inducing function of the facts-available provision and does not allow the three non-responding companies in this review to control the proceeding. However, the facts-available rate available to us in this review may no longer be having the desired effect of inducing cooperation by potential respondents. Therefore, in the event a subsequent review is conducted, we will collect information bearing on this issue to permit us to make a determination on the cooperation-inducing effect of our rate and, if necessary, adjust our rate accordingly.

Final Results of Review

We determine the following percentage weighted-average margins exist for the period March 1, 1995, through February 29, 1996:

Manufacturer/exporter	Margin (percent)
Boo Kook Corporation	1.51
Chun Kee Steel & Wire Rope Co., Ltd	0.01
Chung Woo Rope Co., Ltd	0.24
Dong-Il Steel Manufacturing Co., Ltd	1.51
Hanboo Wire Rope, Inc	1.51
Kumho Wire Rope Mfg. Co., Ltd	0.01
Manho Rope & Wire, Ltd	0.00
Myung Jin Co	[1] 1.51
Seo Jin Rope	1.51
Ssang Yong Steel Wire Co., Ltd	0.01
Sung Jin	0.03
Yeonsin Metal	1.51

[1] No shipments subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(1) of the Act. (1) For Chun Kee and Manho, the revocation of the antidumping duty order applies to all entries of subject merchandise

[1] As noted, although we have explained our practice in terms of a two-tiered methodology in pre-URAA reviews, the cases where we deviated from this approach, as cited by the Committee, involved first-tier, uncooperative respondents, and our practice regarding the derivation of the dumping margin assigned to uncooperative companies has not changed.

entered, or withdrawn from warehouse, for consumption on or after March 1, 1996. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds. The Department will further instruct the Customs Service to refund with interest any cash deposits on post-March 1, 1995 entries. (2) The cash deposit rates for the other reviewed companies will be those rates established above (except that, if the rate for a firm is *de minimis, i.e.*, less than 0.5 percent, a cash deposit of zero will be required for that firm). (3) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period. (4) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise. (5) If neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 1.51 percent, the ''All Others'' rate established in the *LTFV Final Determination* (58 FR 11029).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) and 751(d) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 and 19 CFR 353.25.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 97–9114 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on April 28, 1997 from 10:30 a.m. to 3 p.m. at the U.S. Department of Commerce in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, DC. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c) (4) and (9) (B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: April 2, 1997.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 97–9084 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of Availability of Evaluation Final Findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for the Virginia, Maine, New Hampshire, Rhode Island, and Oregon Coastal Management Programs, and Sapelo Island (Georgia) National Estuarine Research Reserve (NERR). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approved coastal management programs and the operation and management of NERRs.

The States of Virginia, Maine, New Hampshire, Rhode Island, and Oregon were found to be implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

Sapelo Island NERR was found to be adhering to programmatic requirements of the NERR system. Copies of these final evaluation findings may be obtained upon written request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 11th Floor,

Silver Spring, Maryland 20910 (301) 713–3087x126.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: April 2, 1997.

David L. Evans,

Acting Deputy Assistant Administrator.

[FR Doc. 97–9111 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032597A]

Endangered Species; Permits

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

ACTION: Notice of receipt of application for a modification to permit #875 (P774).

SUMMARY: Notice is hereby given that the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC) (P774) has applied in due form for a modification of scientific research permit #875.

DATES: Written comments or requests for a public hearing on this application must be received on or before May 9, 1997.

ADDRESSES: The application and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508–281–9250).

Written comments, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service, NEFSC (P774) requests a modification to permit #875 under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Currently, the applicant is authorized to take listed loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), Kemp's Ridley (*Lepidochelys kempi*), hawksbill (*Eretmochelys imbricata*), and green (*Chelonia mydas*) sea turtles which have been incidentally taken in commercial fishing operations within U.S. waters of the Atlantic Ocean and Gulf of Mexico for the purposes of scientific research. The applicant has requested an increase in take of leatherback *(Dermochelys coriacea*) turtles from 20 to 85 turtles per year. Additionally, the applicant has requested authorization to obtain blood samples from turtles incidentally captured in the pelagic drift gillnet swordfish fishery for purposes of health assessment and genetics research. Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: April 3, 1997

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–9017 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040297E]

Endangered Species; Permits

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

ACTION: Receipt of an application for modification 2 to scientific research permit 994 (P497D).

SUMMARY: Notice is hereby given that the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU) has applied in due form for a modification to a permit that authorizes a take of endangered and threatened species for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on this application must be received on or before May 9, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Environmental and Technical Services Division in Portland, OR.

SUPPLEMENTARY INFORMATION: ICFWRU requests a modification to a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Permit 994 currently authorizes ICFWRU (P497D) takes of adult, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) and adult, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to assess the passage success of migrating adult salmonids at the four dams and reservoirs in the lower Columbia River in the Pacific Northwest, evaluate fish responses to specific flow and spill conditions, and evaluate measures to improve passage. For modification 2, ICFWRU requests an increase in the take of adult, threatened, Snake River spring/summer chinook salmon and adult, threatened, Snake River fall chinook salmon associated with a study designed to determine if adult salmon successfully return to natal streams or hatcheries and if homing is affected by mode of seaward migration (in-river versus transport). ESA-listed adult salmon are proposed to be captured at Lower Granite Dam in WA, anesthetized, fitted with radio transmitters and identifier tags, allowed to recover from the anesthetic, and released. Once returned to the river, ESA-listed adult fish will be tracked electronically to hatcheries and spawning grounds. Modification 2 is requested to be valid in 1997 only. Permit 994 expires on December 31, 2000.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: April 3, 1997.

Joseph R. Blum,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–9018 Filed 4-8-97; 8:45 am]

BILLING CODE 3510-22-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Permanent Exemption of ''Fashion Samples'' From Visa and Quota Requirements

April 4, 1997

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs exempting ''fashion samples'' from visa and quota requirements.

EFFECTIVE DATE: April 11, 1997

FOR FURTHER INFORMATION CONTACT: Brian Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on February 6, 1996 (61 FR 4418) announces a temporary exemption from visa and quota requirements for textile and apparel articles described as ''fashion samples.''

The Committee for the Implementation of Textile Agreements has determined that, effective on April 11, 1997, textile and apparel articles described as ''fashion samples'' which are produced or manufactured in various countries and entered into the United States for consumption shall no longer be subject to quota and visa requirements.

The term ''fashion samples'' is limited to wearing apparel and other textile articles purchased at retail and not imported in multiple units, i.e., no more than a single article in a particular style and/or color. These shipments must not be greater than twenty-four (24) pieces and must accompany a returning buyer. Mail and cargo shipments would not be eligible for treatment as ''fashion samples.''

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 4, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements. This directive also amends, but does not cancel, all visa requirements for all countries for which visa arrangements are in place with the United States.

Effective on April 11, 1997, you are directed to no longer require a visa for textile and apparel articles described as ''fashion samples'' which are produced or manufactured in various countries and entered into the United States for consumption. Also, these textile and apparel articles shall not be subject to existing quota.

These textile and apparel items, frequently called buyers ''fashion samples'' are limited to textile and apparel items purchased at retail. The ''fashion samples'' must accompany a buyer returning to the United States, must not be more than a single article in a particular style or color and must not exceed more than 24 pieces total. Mail and cargo shipments would not be eligible for treatment as ''fashion samples.''

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–9069 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar & Cocoa Exchange, Inc. Update of Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of update of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: Coffee, Sugar & Cocoa Exchange, Inc. (''CSCE'' or ''Exchange'') has submitted an update of its October 19, 1993 petition for exemption from the prohibition against dual trading in thirteen contract markets. Copies of the entire file, including any future submissions, will be available to the public upon request, except to the extent the Exchange has requested confidential treatment.

ADDRESSES: Copies of the file are available from the Office of the Secretariat, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Reference should be made to the CSCE dual trading exemption petition file.

FOR FURTHER INFORMATION CONTACT: Duane Andresen, Special Counsel, or Evan Davis, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581; telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION: Pursuant to section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder, a board of trade may submit a petition to the Commodity Futures Trading Commission (''Commission'') to exempt any of its affected contract markets (markets with an average daily volume of over 8,000 contracts traded for four consecutive quarters) from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by section 4j(a)(5) of the Act.

CSCE originally submitted a petition for dual trading exemption on October 19, 1993. That petition was made available to the public by a notice of availability published in the **Federal Register** on December 22, 1993. Pursuant to a request from the Commission, CSCE submitted a dual trading exemption petition update dated March 21, 1997 for its contract markets in sugar #11, coffee ''C'' and cocoa futures contracts and its options on sugar #11, coffee ''C'' and cocoa futures contracts.

Copies of the file containing all these materials and any future submissions, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 1155 21st Street, NW., Washngton, DC 20581, and may be obtained by mail at that address or by telephone at (202) 418–5100.

Petition materials subject to CSCE's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145), except to the extent they are

entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

The CSCE timely submitted its original petition before October 26, 1993, the effective date of the dual trading prohibition. Therefore, application of the prohibition against the contract markets covered by the petition has been suspended in accordance with Commission Regulation 155.5(d)(5) and will remain suspended until the petition is acted upon.

Issued in Washington, DC, on April 3, 1997.

Jean A. Webb,

Secretary.

[FR Doc. 97–8999 Filed 4–8–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Technology Thrust of the HQ USAF Scientific Advisory Board will meet on April 29, 1997 at Armstrong Laboratory, Brooks AFB, TX from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–9085 Filed 4–8–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Technology Thrust of the HQ USAF Scientific Advisory Board will meet on May 6, 1997 at Rome Laboratory, Syracuse, NY from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–9086 Filed 4–8–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Technology Thrust of the HQ USAF Scientific Advisory Board will meet on May 29, 1997 at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–9087 Filed 4–8–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Seven Oaks Dam Water Conservation Feasibility Study, San Bernardino County, California

AGENCY: Army Corps of Engineers, Los Angeles District, DoD.

ACTION: Notice of Availability.

SUMMARY: The Los Angeles District Corps of Engineers and San Bernardino County Flood Control District propose establishing a seasonal water conservation and supply pool at Seven Oaks Dam. The study was developed in response to local concerns regarding future water supply sources, given continued regional population growth, dwindling imported water supplies, and continued increases in the cost of water. As proposed the project would retain water behind Seven Oaks Dam beginning in March through May until the target conservation pool elevation is reached, with releases to the downstream spreading grounds from June through September. Releases would be made to ensure the conservation pool is drained each year by September 30, prior to the winter flood control season.

FOR FURTHER INFORMATION CONTACT: For a copy of the draft EIS/EIR, or for additional information, please contact Mr. William O. Butler at (213) 452–3845 or Mr. Jared Miller at (213) 452–3837, or by writing to the U.S. Army Corps of Engineers, Los Angeles District (Attn: Mr. William O. Butler, CESPL–PD–RN, Room 14005 or Attn: Mr. Jared Miller, CESPL–PD–CN, Room 14082), P.O. Box 532711, Los Angeles, California 90053–2352.

SUPPLEMENTARY INFORMATION: No significant short or long-term adverse environmental effects were identified in the draft EIS/EIR as a result of implementing or operating the Seven Oaks facility for water conservation purposes.

The public review period for the draft EIS/EIR will be for 45 days, from April 15 to May 29, 1997.

Scoping: A public scoping meeting was held in Redlands, California on Thursday, September 14, 1995. The date, time and location of this scoping meeting was announced in the local news media and with separate notification to all parties on the project mailing list.

A public scoping meeting will be held to give individuals and groups the opportunity to comment, either orally and/or in writing on the environmental, social and economic impacts of the proposed action as presented in the draft EIS/EIR. A public meeting is scheduled for April 30, 1997 at 7:00 p.m. at the San Bernardino Valley Municipal Water District, 1350 South ''E'' Street, San Bernardino, California. At the public meeting, the report findings and DEIS/EIR will be reviewed. Separate notification of the meeting will also be sent to all parties on the project mailing list.

Written public comments and suggestions received by May 29, 1997 will be addressed in the final EIS/EIR.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–9039 Filed 4–8–97; 8:45 am]

BILLING CODE 3710–KF–7

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 9, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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 Director of the Information Resources Management Group publishes this 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 at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 3, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Quarterly Cumulative Caseload Report.

Frequency: Quarterly.

Affected Public: State, local or Tribal Government, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 82

Burden Hours: 328

Abstract: State VR agencies who administer vocational rehabilitation programs provide key caseload indicator data on this form, including numbers of persons who are applicants, determined eligible/ineligible, waiting for services, and also their program outcomes. This data is used for program planning, management, budgeting and general statistical purposes.

[FR Doc. 97–9037 Filed 4–8–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the proposed agenda of the National Advisory Committee on Institutional Quality and Integrity. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend this public meeting.

DATES AND TIMES: June 16–18, 1997, 8 a.m. until 6 p.m.

ADDRESSES: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Carol F. Sperry, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, 600 Independence Avenue, SW, Room 3082, ROB 3, Washington, DC 20202–7592, telephone: (202) 260–3636. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Institutional Quality and Integrity is established under Section 1205 of the Higher Education Act (HEA) as amended by Public Law 102–325 (20 U.S.C. 1145). The Committee advises the Secretary of Education with respect to the establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA, the recognition of specific accrediting agencies or associations, the preparation and publication of the list of nationally recognized accrediting agencies and associations, and the eligibility and certification process for institutions of higher education under Title IV, HEA. The Committee also develops and recommends to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish eligibility for such institutions on an interim basis for participation in federally funded programs.

AGENDA: The meeting on June 16–18, 1997 is open to the public. The following agencies will be reviewed during the June 1997 meeting of the Advisory Committee:

Petitions for Renewal of Recognition

1. American Academy for Liberal Education (requested scope of recognition: the accreditation and preaccreditation of institutions of higher education and programs within institutions of higher education that offer liberal arts degree(s) at the baccalaureate level or a documented equivalency)

2. Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (requested scope of recognition: the accreditation

and preaccreditation of advanced rabbinical and Talmudic schools)

3. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (requested scope of recognition: the accreditation of professional law schools)

4. American Board of Funeral Service Education, Committee on Accreditation (requested scope of recognition: The accreditation of institutions and programs awarding diplomas, associate degrees and bachelor's degrees in funeral service or mortuary science)

5. American Speech-Language-Hearing Association (requested scope of recognition: the accreditation of graduate degree programs in speech-language pathology and audiology

6. American Veterinary Medical Association, Council on Education (requested scope of recognition: the accreditation of colleges of veterinary medicine offering programs leading to a professional degree)

7. The Council on Chiropractic Education, Commission on Accreditation (requested scope of recognition; the accreditation of programs and freestanding institutions that award the D.C. degree)

8. Council on Education for Public Health (requested scope of recognition: the accreditation and preaccreditation of graduate schools of public health and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)

9. Commission on Opticianry Accreditation (requested scope of recognition: the accreditation of two-year programs for the ophthalmic dispenser and one-year programs for the ophthalmic laboratory technician)

10. Liaison Committee on Medical Education of the Council on Medical Education of the American Medical Association and the American Medical Colleges (requested scope of recognition: the accreditation and preaccreditation of programs leading to the M.D. degree)

11. Montessori Accreditation Council for Teacher Education (requested scope of recognition: the accreditation of Montessori teacher education programs and institutions)

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted recognition to the agency)—

1. Accrediting Bureau of Health Education Schools
2. Accrediting Commission of Career Schools and Colleges of Technology
3. Accrediting Commission on Education for Health Services Administration
4. Accrediting Council for Independent Colleges and Schools
5. American College of Nurse-Midwives, Division of Accreditation
6. American Dental Association, Commission on Accreditation
7. Association of Theological Schools in the United States and Canada, Commission on Accrediting
8. Council on Occupational Education
9. Joint Review Committee on Educational Programs in Nuclear Medicine Technology
10. Joint Review Committee on Education in Radiologic Technology
11. Western Association of Schools and Colleges, Accrediting Commission for Schools
12. Commission on Accreditation of Allied Health Education Programs—for the accreditation of the following health education programs:
    a. Cytotechnology
    b. Diagnostic Medical Sonography
    c. Electroneurodiagnostic Technology
    d. Emergency Medical Services
    e. Perfusion
    f. Physician Assistant Education
    g. Surgical Technology
13. Middle States Association of Colleges and Schools, Commission on Secondary Schools

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Interim Report

1. Board of Trustees of the Minnesota State Colleges and Universities

Remand of an Agency's Appeal of Previous Advisory Committee Recommendation to withdraw the Agency's Recognition

1. National League of Nursing

A request for comments on agencies that are being reviewed during this meeting was published in the **Federal Register** on December 16, 1996 and on March 14, 1997.

This notice invites third-party oral presentations before the Advisory Committee. It does not constitute another call for written comment. Requests for oral presentation before the Advisory Committee should be submitted in writing to Ms. Sperry at the address above by May 9, 1997. Requests should include the names of all persons seeking an appearance, the organization they represent, and a brief summary of the principal points to be made during the oral presentation. Presenters are requested not to distribute written materials at the meeting. Any written materials presenters may wish to give to the Advisory Committee must be submitted to Ms. Sperry by May 9, 1997 (one original and 25 copies). Only documents presenters submit by that date will be considered by the Advisory Committee.

At the conclusion of the meeting, attendees may, at the discretion of the Committee chair, be invited to address the Committee briefly on issues pertaining to the functions of the Committee, as identified in the section above on Supplementary Information. Attendees interested in making such comments should inform Ms. Sperry before or during the meeting.

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education. U.S. Department of Education, 7th and D Streets, SW., room 3082, ROB 3, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Authority: 5 U.S.C.A. Appendix 2

Dated: April 3, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–9099 Filed 4–8–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–304–000]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1997.

Take notice that on March 31, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1997:

Twenty-first Revised Sheet No. 8
Twenty-third Revised Sheet No. 9
Twenty-second Revised Sheet No. 13
Twenty-third Revised Sheet No. 16
Twenty-seventh Revised Sheet No. 18

In compliance with the approved Stipulation and Agreement in the referenced proceeding, ANR states that the above-referenced tariff sheets are being filed to terminate early its related GSR cost recovery consisting of a $0.041 reservation surcharge, a $0.006 Southeast Area Short Haul reservation surcharge, a $0.008 Southwest Area Short Haul reservation surcharge, as

well as base tariff rate adjustments applicable to Rate Schedule ITS shippers, and overrun rendered pursuant to Rate Schedule TRS–2.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9025 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–305–000]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1997.

Take notice that on March 31, 1997, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, the tariff sheets which ANR proposes to be effective May 1, 1997:

Second Revised Volume No. 1
Eighteenth Revised Sheet No. 17
Original Volume No. 2
Eleventh Revised Sheet No. 14

ANR states that the referenced tariff sheets are being submitted to update the ''Eligible Throughout Actually Experienced'' as required by Sections 26.4 and 27.3 of the General Terms and Conditions of ANR's FERC Gas Tariff Second Revised Volume No. 1 to adjust the Order No. 528 Volumetric Buyout Buydown Surcharge and Upstream Pipeline Surcharge, commencing May 1, 1997.

With respect to the Volumetric Buyout Surcharge, the proposed changes are designed to recover the same amount on an annual basis as is designed in the currently effective Buyout Buydown Volumetric Surcharge. With respect to the Upstream Pipeline Surcharge, the proposed charges are designed to recover $0.2 million less on an annual basis than the currently effective Upstream Pipeline Surcharge.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9026 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–307–000]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1997.

Take notice that on March 31, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, to become effective May 1, 1997:

Second Revised Volume No. 1
Seventh Revised Sheet No. 17A
Original Volume No. 2
Fourth Revised Sheet No. 15

ANR states that the above-referenced tariff sheets are being submitted pursuant to the ''Deferred Transportation Cost Adjustment'' tariff provision contained in Section 29 of the General Terms and Conditions of its Second Revised Volume No. 1 FERC Gas Tariff.

ANR states that the net result is a charge to its customers of $7.226 million, inclusive of carrying charges. ANR proposes to make the revised tariff sheets effective May 1, 1997.

ANR states that all of its Volume No. 1 and Volume No. 2 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 153.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9030 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. RP97–52–000]

Columbia Gulf Transmission Co.; Notice of Informal Settlement Conference

April 3, 1997.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10:00 a.m. on Thursday, April 10, 1997, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, for the purpose of exploring the possible settlement of the above referenced dockets.

Any party as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) prior to attending.

For additional information please contact Michael D. Cotleur, (202) 208–1076, or Thomas Burgess (202) 208–2058.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9019 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–9–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

April 3, 1997.

Take notice that on March 31, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty-First Revised Sheet No. 5A, with a proposed effective date of April 1, 1997.

National states that pursuant to Article I, Section 4, of the approved settlement at Docket Nos. RP94–367–000, *et al.*, National is required to redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 13.21 cents per dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9033 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–239–002]

Northwest Pipeline Corp.; Notice of Compliance Filing

April 3, 1997.

Take notice that on March 31, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective March 1, 1997.

Substitute Second Revised Sheet No. 253
Substitute First Revised Sheet No. 254
Substitute Second Revised Sheet No. 255
Substitute Second Revised Sheet No. 256
Second Revised Sheet No. 257

Northwest states that this filing is submitted in compliance with the Commission's February 27, 1997 Order in Docket No. RP97–239–00 (78 FERC ¶ 61,189) accepting Northwest's proposal to change the Facilities Reimbursement provisions in Section 21 of the General Terms and Conditions of its tariff, subject to the revisions shown on the tendered tariff sheets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9021 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. RP97–109–001]

Sabine Pipe Line Co.; Notice of Compliance Filing

April 3, 1997.

Take notice that on March 31, 1997, Sabine Pipe Line Company (Sabine) tendered for filing the tariff sheets listed on Attachment A to the filing.

Sabine states that the instant filing is being made to comply with the provisions of Order No. 587 issued July 17, 1996, in Docket No. RM96–1–000, and the Commission's order issued March 3, 1997 in Docket No. RP97–109–000. The filing, to be effective June 1, 1997, incorporates all of the GISB Standards (Version 1.0) adopted by the Commission in Order Nos. 587 and 587–B. The GISB Standards were incorporated into Sabine's FERC Gas Tariff through either modification of the specific tariff language, or by reference. As required by the March 3 Order, Sabine has incorporated 54 additional Standards into its Tariff, including the Data Dictionary and Electronic Delivery Mechanism (EDM) Standards.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9020 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–308–000]

Southern Natural Gas Co.; Notice of GSR Revised Tariff Sheets

April 3, 1997.

Take notice that on March 31, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of April 1, 1997:

Tariff Sheets Applicable to Contesting Parties:

Twelfth Revised Sheet No. 14a
Nineteenth Revised Sheet No. 15a
Twelfth Revised Sheet No. 16a
Nineteenth Revised Sheet No. 17a
Ninth Revised Sheet No. 18a

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, in accordance with Article VII of the Stipulation and Agreement in Docket Nos. RP89–224–012, et al. (Settlement), approved by Commission order on September 29, 1995. Under Article VII, Southern is required to adjust the GSR volumetric surcharge that was placed into effect

January 1, 1997, based on actual GSR costs incurred and the actual GSR revenues collected in 1996 from parties supporting the Settlement. As a result of the adjustment, the volumetric surcharge increased from $.0074/Dth $.0084/Dth, effective April 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9031 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. RP97–309–000]

Southern Natural Gas Co.; Notice of GSR Revised Tariff Sheets

April 3, 1997.

Take notice that on March 31, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of April 1, 1997:

Tariff Sheets Applicable to Contesting Parties:

Twenty Third Revised Sheet No. 14
Forty Fifth Revised Sheet No. 15
Twenty Third Revised Sheet No. 16
Forty Fifth Revised Sheet No. 17
Thirtieth Revised Sheet No. 29

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to an increase in GSR billing units effective April 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9032 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–306–000]

Williams Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1997.

Take notice that on March 31, 1997, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet Nos. 253 and 254 and First Revised Sheet No. 255. The proposed effective date of these tariff sheets is May 1, 1997.

WNG states that the purpose for the instant filing is to amend Article 14 of the General Terms and Conditions of WNG's FERC Gas Tariff to modify WNG's pricing differential mechanism (PDM) calculation.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9028 Filed 4–8–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5808–2]

A Public Meeting on the Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency is announcing a public meeting on the upcoming proposed effluent limitations guidelines and standards for the Transportation Equipment Cleaning Category. The EPA intends to propose effluent limitations guidelines and standards in early 1998, and this is the only public meeting that the Agency plans to sponsor prior to proposal. EPA will report on the status of the regulatory development, and interested parties can provide information and ideas to the Agency on key technical, scientific, economic, and other issues.

DATES: The public meeting will be held on Thursday, May 8, 1997, from 9:30 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the National Wildlife Visitor Center Auditorium, U.S. Fish and Wildlife Service, Patuxent Research Refuge, 10901 Scarlet Tanager Loop, Laurel, MD.

FOR FURTHER INFORMATION CONTACT: Gina Matthews , Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW, Washington DC 20460. Telephone (202) 260-6036, fax (202) 260–7185 or E-Mail matthews.gina@epamail.epa.gov

SUPPLEMENTARY INFORMATION: EPA is developing proposed effluent limitations guidelines and standards for the Transportation Equipment Cleaning Category under authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*). The Transportation Equipment Cleaning Category includes facilities that generate

wastewater from cleaning the interior of tank trucks, hopper trucks, rail tank cars, rail hopper cars, intermodal tank containers, intermediate bulk containers, tank barges, hopper barges, and ocean/sea tankers. The three major cargo types cleaned by TEC facilities are chemical, petroleum, and food-grade products.

Topics for the public meeting include subcategorization, summary of industry information, and preliminary plans for technology-based options. The meeting will not be recorded by a reporter or transcribed for inclusion in the rulemaking record.

Documents relating to the topics mentioned above and a more detailed agenda will be available at the meeting. For those unable to attend the meeting, a document summary will be available following the meeting, and can be obtained upon request to Gina Matthews at the previously mentioned address.

Driving directions to the National Wildlife Visitor Center: Take the Baltimore-Washington Parkway (I–295) to the exit for the Beltsville Agriculture Research Center (Powder Mill Road (East)). Go approximately 2.0 miles and turn right into Visitor Center entrance (Scarlet Tanager Loop). Go 1.4 miles to Visitor Center Parking area.

Dated: April 1, 1997.

Tudor Davies,

Director, Office of Science and Technology.

[FR Doc. 97–9089 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–340109; FRL 5598–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on October 6, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the five pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before October 6, 1997 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000432–00605	SBP-1382 Insecticide Emulsifiable Concentrate 26% Formula I	Resmethrin	Lathhouses, commercial greenhouses
000655–00549	Prentox Malathion W-25	Malathion	Ornamentals, potatoes
001021–01340	Formula 7243	Piperonyl butoxide; Pyrethrins	Planes (in storage sites)
019713–00302	Green Devil Malathion Wettable Powder	Malathion	Use on tomatoes
019713–00359	Best 4 Servis Brand 25% Malathion Wettable Powder	Malathion	Use on tomatoes, beef cattle

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000655	Prentiss Incorporated, CB 2000, Floral Park, NY 11002.
001021	McLaughlin Gormley King Co., 8810 Tenth Avenue North, Minneapolis, MN 55427.
019713	Drexel Chemical Co., P.O. Box 13327, 1700 Channel Ave., Memphis, TN 38113.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 27, 1997.

Linda A. Travers,

Director, Program Management Support Division, Office of Pesticide Programs.

[FR Doc. 97–8668 Filed 4-8-–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5808–3]

Federal Information Processing Standards Waiver

ACTION: Notice of FIPS waiver.

SUMMARY: The Chief Information Officer for the Environmental Protection Agency has granted a waiver to the Agency to use the RSA cryptographical features provided in Lotus Notes in lieu of the Secure Hashing Standard (FIPS PUB 180–1), Digital Signature Standard (FIPS PUB 186), and Data Encryption Standard (FIPS PUB 46–2). This waiver is pursuant to section 111(d)(3) of the Federal Property and Services Act of 1949, as amended.

DATES: The waiver takes effect on March 21, 1997 and is valid until January 1, 1999. If the vendor incorporates Federal standards into the core product prior to January 1, 1999, EPA will end the waiver early at that time.

FOR FURTHER INFORMATION CONTACT: Paul Wohlleben, Office of Information Resources Management, 401 M Street SW (3401), Washington, DC 20460, 202–260–4465.

SUPPLEMENTARY INFORMATION: Federal Information Processing Standards publications (FIPS PUBS) for the Secure Hashing Standard (FIPS PUB 180–1), Digital Signature Standard (FIPS PUB 186), and the Data Encryption Standard (FIPS PUB 46–2) establish standards for generating digital signatures (which can be used to verify authenticity) and for the encryption of sensitive information transmitted and stored electronically. These FIPS publications also allow Federal agencies to waive them under certain circumstances:

A waiver may be granted if compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or compliance with a standard would cause a major financial impact on the operator which is not offset by Government-wide savings.

The Chief Information Officer for the Environmental Protection Agency (EPA) has granted a waiver of FIPS PUBS 180–1, 186, and 46–2 to enable EPA to use the built-in cryptographical features of the groupware product Lotus Notes. The installed version of Lotus Notes, currently used by EPA, does not employ FIP standard cryptography. Rather it uses cryptography that enjoys widespread use in the private sector, domestically and internationally. This cryptography is Message Digest 2 (MD–2), the Rivest, Shamir, and Adelman (RSA) signature algorithm, and RC–4 symmetric encryption algorithm.

EPA determined that the cryptographic protection embedded in Lotus Notes provides an appropriate level of security to protect the unclassified information used, communicated, and stored by EPA. Upon reviewing RSA's cryptographic capabilities, Agency personnel have concluded that if properly implemented, Lotus Notes provides a full range of security functionality that fully satisfies Agency requirements.

The additional costs required to purchase and maintain FIPS-compliant products that provide equivalent security functionality as that provided by non-standard, but commercially acceptable cryptography found in Lotus Notes is a significant factor underlying the granting of this waiver. The acquisition costs for either software- or hardware-based products that implement existing Federal cryptographic standards are unnecessary. By using the cryptography embedded in Lotus Notes, EPA is able to avoid unnecessary costs, while utilizing security functionality widely accepted by the public and private sectors.

In accordance with FIPS requirements, notice of this waiver has been sent to the National Institute of Standards and Technology, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Dated: March 21, 1997.

Alvin M. Pesachowitz,

Acting Assistant Administrator and Chief Information Officer.

[FR Doc. 97–9092 Filed 4–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5807–7]

Sole Source Aquifer Designation for the Columbia and Yorktown-Eastover Multiaquifer System

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In response to a petition from the Bi-County Ad Hoc Citizens Committee on Oversight, notice is hereby given that the Regional Administrator of Region III of the U.S. Environmental Protection Agency (EPA) has determined that the Columbia and Yorktown-Eastover Multiaquifer System satisfies all determination criteria for designation as a sole source aquifer, pursuant to Section 1424(e) of the Safe Drinking Water Act. The following findings were made in accordance with the designation criteria: the Columbia and Yorktown-Eastover Multiaquifer System supplies more than 50% of the water needs for the communities within the service area boundaries; there are no viable alternative sources of sufficient supply; the boundaries of the designated area and the project review area have been reviewed and approved by the EPA; and, if contamination were to occur, it would pose a significant public hazard and a serious financial burden to the communities within the aquifer service area. As a result of this action, the EPA may review, suggest modifications to, or withhold funding for, any federally financially assisted projects proposed for construction within the Columbia and Yorktown-Eastover Multiaquifer System that may pose an adverse risk of ground water contamination.

DATES: This determination shall become effective May 9, 1997.

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency—Region III, Water Protection Division, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Barbara M. Smith, Drinking Water Branch, (215) 566–5786.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h–3(e), states:

If the Administrator determines, on his own initiative or petition, that an area has an

aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

The Sole Source Aquifer designation process consists of four phases, as outlined in the ''Sole Source Aquifer Designation Petitioner Guidance'': Phase I—Petition Preparation, Phase II—Initial Petition Review/Determination of Completeness, Phase III—Detailed Review/Technical Verification, and Phase IV—Designation Determination.

In August 1992, EPA Region III received a petition from the Bi-County Ad Hoc Citizens Committee on Oversight, requesting the designation of the Columbia and Yorktown-Eastover Multiaquifer System as a sole source aquifer under Section 1424(e) of the SDWA. EPA returned the petition following an initial review with a ''Notice of Deficiencies'' to be corrected prior to further consideration by EPA. On July 28, 1993 a revised petition was submitted to EPA which was determined to be complete. EPA determined that the Bi-County Ad Hoc Citizens Committee on Oversight's petition fully satisfied the first three phases of the designation process and announced a public hearing on the petition on December 15, 1993. EPA conducted a public hearing in Onley, Virginia on January 25, 1994. The public comment period on the petition closed on February 22, 1994.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under Section 1424(e) were:

1. The Columbia and Yorktown-Eastover aquifers are high-yielding aquifers which the service area population relies on for more than 50% of its drinking water needs.

2. There exists no viable economical alternative drinking water source or combination of sources to supply the designated service area.

3. The EPA has found that the Bi-County Ad Hoc Citizens Committee on Oversight has appropriately delineated the boundaries of the aquifer project review area.

4. While the quality of the Columbia and Yorktown-Eastover aquifer's ground water is considered to be good, it is highly vulnerable to contamination due to its geological characteristics and possible land-use activities. The designated area is a multiaquifer system with a surficial aquifer (Columbia aquifer) consisting of shallow sand and gravel deposits and a deeper confined aquifer (Yorktown-Eastover aquifer) which is recharged by water from the surficial aquifer. The shallow nature of the surficial aquifer allows contaminants to be rapidly introduced into the ground water with minimal assimilation. It is this high vulnerability to contamination, especially on the central ''spine'' of the peninsula, coupled with the aquifer's value as the principal source of drinking water for the residents served, that could pose a significant public health hazard.

5. Definable Aquifer Boundaries: EPA guidance allows designations to be made for entire aquifers, hydrologically connected aquifers (aquifer systems), or part of an aquifer if that portion is hydrologically separated from the rest of the aquifer. The Yorktown-Eastover Multiaquifer System boundary is based on hydrological principles and EPA's interpretation of available data.

III. Description of the Columbia and Yorktown-Eastover Multiaquifer System Designated Area and Project Area

The Columbia and Yorktown-Eastover Multiaquifer System is part of the Atlantic Coastal Plain physiographic province. The designated and project area of the Columbia and Yorktown-Eastover Multiaquifer System underlies the political boundaries of Accomack and Northampton Counties (known as the Eastern Shore of Virginia), located on the southern tip of the Delmarva Peninsula. The designated/project area (Accomack and Northampton Counties) is approximately 695 square miles in surface area. The topography of the two counties is generally low-lying and near sea level with elevations ranging from sea level to 50 feet above mean sea level.

The Atlantic Coastal Plain physiographic province in Virginia consists of an eastward-thickening wedge of unconsolidated sediments. The sediments were deposited on a crystalline bedrock platform which has subsided since early Cretaceous time. The sediments consist of gravels, sands, clays and varying amounts of shell material. The sediments were deposited from early Cretaceous time to the Holocene period from the ancient Appalachian mountain chain to the west and can be classified as continental, coastal or marine deposits. Due to the presence of salt water at depth only the Columbia and Yorktown-Eastover aquifers constitute the freshwater system on the Eastern Shore. The Yorktown-Eastover aquifer is further subdivided into an upper, middle and lower aquifers, bounded by confining units. The aquifer materials of the Yorktown-Eastover aquifer generally consist of shelly sands while the confining units are silts and clays. The Columbia aquifer on the Eastern Shore of Virginia is an unconfined aquifer above the upper Yorktown confining unit and consists of sandy unconsolidated deposits.

The climate for the region is temperate with an average rainfall of 43 inches. The total recharge to the Columbia aquifer is estimated to be 257 Mgal/day. Although most of this recharge is eventually discharged to either the Atlantic Ocean or the Chesapeake Bay, an estimated 11 Mgal/day leaks through the first confining unit into the upper portion of the Yorktown-Eastover aquifer. Most of the recharge to the confined Yorktown-Eastover aquifer takes place in a narrow zone along the center of the peninsula called the spine. Generally, patterns of vertical flow are downward in the spine area and upward in the coastal areas. Natural ground water flow patterns have been subsequently altered by ground water development. Under pumping conditions ground water flow directions are similar to prepumping directions, however downward leakage from the Columbia aquifer increases and the area of recharge becomes larger.

Nearly all drinking water on the Eastern Shore of Virginia is derived from groundwater as there are no surface water bodies capable of supplying a large quantity of water. Most residents obtain their drinking water from private wells since the percentage of housing units in Accomack county having water supplied by a public water system is listed at 31% (out of 15,840 units) in the most recent U.S. Census data; for Northampton county the figure is 12% (out of 6,183 units). Municipal wells are usually completed in the Yorktown-Eastover aquifer system, typically with multi-screened wells. Total ground water use was estimated to be 5 million gallons per day (Mgal/d) by the U.S. Geological Survey and using records contained within the EPA Federal Data Reporting System. A population of approximately 52,000 is served by public water supply systems (which rely on ground water). Withdrawals by

private wells from the Columbia were estimated to be at least 1.7 Mgal/day. Other large ground water withdrawals include those for industry and irrigation.

The quality of ground water in Accomack and Northampton counties is generally good, but both the highly permeable nature of the aquifer material and the shallow depths to the water table reduce the capacity for contaminant attenuation, making the aquifer vulnerable to contamination from point and nonpoint sources. The Columbia aquifer is especially vulnerable to potential sources of contamination. Ground water data collected for the surficial aquifer on Delmarva peninsula indicates ground water quality has been affected by human activities. These impacts include statistically significant increases in dissolved minerals, elevated nitrate levels and pesticide residue detections.

Use of alternative supplies of water outside the aquifer is economically and technically infeasible due to the difficulties and costs of transporting water from either mainland Virginia or northerly portions of the Delmarva peninsula. In addition, excess alternative ground water supplies in nearby portions of mainland Virginia are unlikely to be available, as shown by current difficulties in obtaining additional water for Virginia Beach, VA.

Local government has acted to protect the water quality of ground water in Accomack and Northampton counties through formation of the Eastern Shore of Virginia Ground Water Steering Committee in 1990. State government has also acted to protect ground water on the Eastern Shore through designation of the Eastern Shore groundwater management area in 1976, among other actions. The petitioner believes that a Sole Source Aquifer Designation would augment ground water protection efforts by providing a forum for public education and by increasing awareness about the importance and vulnerability of the aquifer which underlies the two counties.

The designated project review area will consist of both Accomack and Northampton Counties, VA but does not include Tangier Island, VA (located in the Chesapeake Bay, off shore from the peninsula), and Chincoteague Island, VA (located in the Atlantic Ocean, just off shore from the peninsula). There are no streamflow source zones for this designation. Maps of the designated area are available from EPA Region III at the above address.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to the EPA Region III by the Bi-County Ad Hoc Citizens Committee on Oversight, letters received during the public comment period, and public comments received during the public hearing. In addition, much of the information has been derived from published literature on the hydrogeology and water resources of the region. This information is available to the public and may be inspected at the address listed above. A Support Document for this designation contains more detailed information on ground water usage, potential sources of drinking water and vulnerability of the aquifer to contamination and will be placed in the libraries of Accomack and Northampton counties. The Support Document is also available from EPA Region III.

V. Project Review

The EPA Region III Ground Water Protection Section is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding will be developed through which the EPA will be notified of proposed commitments by federal agencies to projects which could potentially impact the Columbia and Yorktown-Eastover Multiaquifer System. The EPA will evaluate such projects, and where necessary, conduct an in-depth review, including soliciting State and local government and public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into for that project. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted projects will be the coordination with state and local agencies and the project's developers. Their comments will be given full consideration and the EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, the EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in the Columbia and Yorktown-Eastover Multiaquifer System Project Review Area.

VI. Discussion of Public Comments

EPA issued a public notice (December 15, 1993) to request comments and announced the proposed designation and a comment period. A public hearing was held (January 25,1994) at Nandua High School in Onley, Virginia. The public comment period closed on February 22, 1994.

EPA received 29 written comments during the public comment period. Of these, 25 were in support of the designation and 4 were opposed. Fifteen people spoke at the public hearing held at Nandua High School in Onley, Virginia on January 25, 1994. Of the speakers, 11 supported the designation, two opposed it and two neither supported nor opposed the designation. The public's written and oral comments are fully addressed in EPA's Responsiveness Document and Support Document. Both of these documents will be placed on file at the main library and are also available upon request at the above address.

VII. Economic and Regulatory Impact

Pursuant to the provisions of the regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification, the ''small entity'' shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to projects with the potential to impact the Columbia and Yorktown-Eastover Multiaquifer System sole source aquifer as designated.

The only affected entities will be those businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact to today's action will not be significant. Most projects subject to this review will be preceded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act (NEPA) as amended 42 U.S.C. 4321, et seq.

Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12866, EPA must judge whether a regulation is ''major'' and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual affect of $100 million of more on the economy, will not cause any major increase in costs or prices and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Columbia and Yorktown-Eastover Multiaquifer System in the area of Northampton and Accomack County. It provides an additional review of ground water protection measures, incorporating state and local measures whenever possible, for only those projects which request Federal financial assistance.

VIII. Summary

This determination affects only the Columbia and Yorktown-Eastover Multiaquifer System located in Accomack and Northampton Counties, Virginia. As a result of this determination, all federal financially-assisted projects proposed in the designated area will be subject to EPA review to ensure that they do not create a significant hazard to public health.

Dated: March 26, 1997.

W. Michael McCabe,

Regional Administrator, U.S. Environmental Protection Agency—Region III.

[FR Doc. 97–8978 Filed 4–8–97; 3:03 pm]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1155–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: April 1, 1997

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 1, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9077 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1166–DR]

Federated States of Micronesia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Federated States of Micronesia, (FEMA–1166–DR), dated March 11, 1997, and related determinations.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Federated States of Micronesia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1997:

Ngulu Atoll in Yap State for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9073 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1165–DR]

Indiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana, (FEMA–1165–DR), dated March 6, 1997, and related determinations.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Indiana, is hereby amended to include Categories C through G under the Public Assistance program in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 6, 1997:

The counties of Clark, Crawford, Dearborn, Floyd, Harrison, Jefferson, Perry, Posey, Spencer, and Switzerland for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9070 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1165–DR]

Indiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana (FEMA–1165–DR), dated March 6, 1997, and related determinations.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 31, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9071 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1163–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kentucky (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 31, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9074 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1163–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

The counties of Ballard, Carlisle, Estill, Fulton, Grayson, Hart, Hickman, Marshall, Monroe, Pike, and Todd for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation and Categories A and B under the Public Assistance program).

The counties of Breathitt, Clark, Edmonson, Knott, Lee, Leslie, Logan, Magoffin, Muhlenberg, Perry, Taylor, and Trigg for Categories C through G under the Public Assistance program (already designated for Hazard Mitigation and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert J. Adamcik,

Infrastructure Division Director, Response and Recovery Directorate.

[FR Doc. 97–9075 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1163–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1163-DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

The counties of Calloway, Casey, Graves, Johnson, Letcher, and Simpson for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9076 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1167–DR]

Tennessee; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee (FEMA–1167–DR), dated March 7, 1997, and related determinations.

EFFECTIVE DATE: March 24, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 24, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–9072 Filed 4–8–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board

of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 23, 1997.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Frank L. Carson, III, Mulvane, Kansas; to acquire an additional 92.28 percent, for a total of 93.96 percent, of the voting shares of Mulvane Bankshares, Inc., Mulvane, Kansas, and thereby indirectly acquire Mulvane State Bank, Mulvane, Kansas.

Board of Governors of the Federal Reserve System, April 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–8991 Filed 4-8--97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1997.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Exchange Bankshares Corporation of Kansas, Atchison, Kansas; to acquire 68.03 percent of the voting shares of The Farmers and Merchants State Bank, Effingham, Kansas.

Board of Governors of the Federal Reserve System, April 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–8992 Filed 4-8-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 4-5, 1997.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 4-5, 1997.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that the economic expansion strengthened markedly in the fourth quarter. Private nonfarm payroll employment increased appreciably further in December after sizable gains over October and November. The civilian unemployment rate remained at 5.3 percent in December. Industrial production rose sharply in November and December. Consumer spending posted a large increase in the fourth quarter after a summer lull. Housing activity moderated somewhat over the closing months of the year. Growth in business fixed investment slowed substantially in the fourth quarter after a sharp rise in the third quarter. The nominal deficit on U.S. trade in goods and services narrowed considerably in October and November from its rate in the third quarter. Advances in labor compensation trended up in 1996, but price inflation generally diminished apart from enlarged increases in food and energy prices.

Most market interest rates have changed little or risen slightly since the Committee meeting on December 17, 1996. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies has increased substantially over the intermeeting period.

Growth of M2 and M3 strengthened considerably in the fourth quarter and appeared to have continued at a fairly brisk, though diminished, pace in January. From the fourth quarter of 1995 to the fourth quarter of 1996, M2 is estimated to have grown near the upper end of the Committee's annual range and M3 well above the top of its range. Total domestic nonfinancial debt has expanded moderately on balance over recent months and is estimated to have grown last year near the midpoint of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The monitoring range for growth of total domestic nonfinancial debt was set at 3 to 7 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, somewhat greater reserve restraint would or slightly lesser reserve restraint might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with some moderation in the expansion of M2 and M3 over coming months.

By order of the Federal Open Market Committee, April 2, 1997.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 97–8990 Filed 4–8–97; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of February 4-5, 1997, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of the following special emphasis panel scheduled to meet during the month of April 1997:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: April 28, 1997, 11 a.m.

Place; Agency for Health care Policy and Research, 2101 E. Jefferson Street, Suite 400, Rockville, MD 20852.

Open April 28, 1997, 11 a.m. to 11:10 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on April 28, from 11 a.m. to 11:10 a.m., will be devoted to a business meeting covering administrative matters. During the closed session, the panel will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that this letter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Carmen Johnson, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449 x1613.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: March 31, 1997.

Lisa A. Simpson,

Acting Administrator.

[FR Doc. 97–9051 Filed 4–8–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following committee meeting.

Name: Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry (BSC, ATSDR).

Times and Dates: 8:30 a.m.–5 p.m., April 28, 1997; 9 a.m.–3 p.m., April 29, 1997.

Place: The Chattanooga Choo-Choo Holiday Inn, 400 Market Street, Chattanooga, Tennessee 37402.

Status: Open to the public, limited by the available space.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary; the Assistant Secretary for Health; and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize. In addition, the Board recommends research programs and conference support for which the Agency seeks to make grants to universities, colleges, research institutions, hospitals, and other public and private organizations.

Matters to be Discussed: Agenda items will include a visit to a hazardous waste site; an update on the ATSDR Child Health Initiative Work Group recommendations; a discussion on the Brownfields Initiative; the ATSDR response to the Community/Tribal Forum recommendations; an overview on environmental medicine and health promotion, partners in 3 health promotion, and medical monitoring criteria for the Hanford Nuclear Reservation; and a discussion on placing a site on inactive status.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Charles Xintaras, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

Dated: April 3, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–9067 Filed 4–8–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period beginning February 3, 1997, through February 3, 1999.

For further information, contact Bryan D. Hardin, Ph.D., Executive Secretary, BSC, NIOSH, CDC, 200 Independence Avenue, SW., Washington, DC. 20201, telephone 202/401–0721 or fax 202/260–4464.

Dated: April 3, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–9043 Filed 4–8–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0115]

SEF, P.A.; Opportunity for Hearing on a Proposal to Revoke U.S. License No. 1166

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 1166) and the product licenses issued to SEF, P.A., doing business as National Health Guard, Inc., for the manufacture of Whole Blood and Red Blood Cells. The proposed revocation is based on the establishment's discontinuance of product manufacturing to the extent that a meaningful inspection cannot be made.

DATES: The firm may submit a written request for a hearing to the Dockets Management Branch by May 9, 1997

and any data and information justifying a hearing by June 9, 1997. Other interested persons may submit written comments on the proposed revocation by June 9, 1997.

ADDRESSES: Submit written requests for a hearing, and any data and information that would justify a hearing, including any comments on the proposed revocation to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Dano B. Murphy, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the establishment license (U.S. License No. 1166) and product licenses issued to SEF, P.A., doing business as National Health Guard, Inc., 1885 West Commercial Blvd., suite 140, Fort Lauderdale, FL 33309, for the manufacture of Whole Blood (CPDA–1) and Red Blood Cells (RBC) including frozen, deglycerolized, frozen rejuvenated, and rejuvenated deglycerolized RBC's. Proceedings to revoke the licenses are being initiated because an inspection of the facility by FDA revealed that the firm was no longer in operation.

On February 13, 1996, FDA attempted to inspect the SEF, P.A., facility located at 1820 North University Dr., Plantation, FL. The facility was found to be vacant. A visit that same day to the firm's previous business address, 1885 West Commercial Blvd., suite 140, Fort Lauderdale, FL, found that location to be vacant as well. Later that same day, February 13, 1996, FDA contacted by telephone the person on file with the agency as being the responsible head of SEF, P.A. The individual informed FDA that he had resigned from the firm on July 12, 1995, because he lacked sufficient authority to bring the firm into compliance with FDA regulations. The individual also informed FDA that the person succeeding him as the responsible head had resigned in December 1995, and that the firm had ceased operations in January or February of 1996.

In a telephone conversation between FDA and the owner of SEF, P.A., on February 28, 1996, the owner stated that all the firm's equipment was stored in a Miami, FL, warehouse. During this conversation the owner indicated that he would voluntarily surrender the firm's license since SEF, P.A., was no longer in operation and there were no plans to resume operations. After this telephone conversation, FDA made several attempts to obtain the voluntary revocation of the firm's license. This effort included telephone calls on March 21 and 27, 1996, and April 9, 1996. On each occasion, a secretary or receptionist took a message from FDA requesting the owner to return FDA's calls. On April 15, 1996, FDA was contacted by the owner who verified that the firm was out of business and that a letter from him requesting the voluntary revocation of U.S. License No. 1166 would be forthcoming. On June 17, 1996, FDA successfully contacted the owner who indicated that he no longer desired to relinquish the license. Further attempts to contact the owner on July 2 and 29, 1996, were unsuccessful. On both occasions, messages were left with the answering party that were never replied to by the owner. On August 1, 1996, the last two known locations of the SEF, P.A., were visited again by FDA investigators who determined that both locations were vacant and displayed no evidence of recent business activity. On October 10, 1996, FDA contacted the State of Florida, Agency for Health Care Administration, which reported that Florida License No. 800001631 held by SEF, P.A., had been terminated on July 2, 1996.

FDA sent a certified, return-receipt letter dated November 1, 1996, to the firm's owner. The letter stated that under 21 CFR 601.5(b) a license may be revoked when the Commissioner of Food and Drugs (the Commissioner) finds that: (1) Authorized FDA employees after reasonable efforts have been unable to gain access to an establishment or a location for the purposes of carrying out an inspection, or (2) manufacturing of products or of a product has been discontinued to an extent that a meaningful inspection or evaluation cannot be made. The letter provided the firm's owner notice of FDA's intent to revoke U.S. License No. 1166 and announced FDA's intent to offer an opportunity for a hearing.

Because SEF, P.A., is no longer in operation and is not manufacturing any products, a meaningful inspection required under 21 CFR 600.21 cannot be conducted. Furthermore, FDA made reasonable efforts to obtain the voluntary revocation of the firm's licenses. Therefore, FDA is proceeding under to 21 CFR 12.21(b) and publishing this notice of opportunity for a hearing on a proposal to revoke the licenses of the above establishment.

FDA has placed copies of the documents relevant to the proposed revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include the following: (1) Intention to revoke license letter dated November 1, 1996; (2) memorandum of investigation inspection March 5, 1996. These documents are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

SEF, P.A., may submit a written request for a hearing to the Dockets Management Branch by May 9, 1997 and any data and information justifying a hearing must be submitted by June 9, 1997. Other interested persons may submit written comments on the proposed revocation by June 9, 1997. The failure of the licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, and submission of data and information to justify a hearing on a proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made within the requested time, or in the required format or is not accompanied by the required analyses, the Commissioner will deny the hearing request, making available the findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. The public availability of information in submissions is governed by 21 CFR 10.20(j)(2)(i). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 351 of the Public Health Service Act (42 U.S.C. 262) and sections 201, 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, and 371), and under the

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of CBER (21 CFR 5.67).

Dated: March 27, 1997.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 97–8987 Filed 4–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

Part D, Chapter DB (Office of Operations) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 60 FR 56605, November 9, 1995, and in pertinent part at 56 FR 50126, October 3, 1991) is amended to reflect the reorganization of the Center for Veterinary Medicine (CVM), Office of Operations, in the Food and Drug Administration (FDA).

The Center for Veterinary Medicine will continue to develop and recommend the veterinary medical policy of the Agency with respect to the safety and effectiveness of animal drugs, feeds, feed additives, veterinary medical devices (medical devices for animal use), and other veterinary medical products. The restructuring of the Center is proposed to strengthen the delivery of services to our constituents and customer groups by streamlining the organization through delayering lines of authority and responsibility, and improving channels of communications at all levels within the Center.

1. Delete *Office of the Center Director (HFV1)*, Center for Veterinary Medicine (HFV), in its entirety and replace with the following:

Office of the Center Director (DBVA). Directs overall Center activities and coordinates and establishes Center policy in the areas of research, management, scientific evaluation, compliance and surveillance.

Approves new animal drug applications and issues notices of withdrawal of new animal drug approvals when the opportunity for a hearing has been waived.

Authorizes for use as edible products animals treated with investigational drugs and terminates exemptions for investigational trials. In conjunction with appropriate agency officials in the foods area, provides FDA policy development and direction on environmental impact matters.

Serves as focal point for operational review and compliance activity policy and legislative matters; serves as focal point for international harmonization and trade issues related to animal drugs and feeds; leads and provides oversight of research animal issues for FDA.

Plans, develops and implements the Center's Equal Employment Opportunity and Affirmative Action Program.

Develops, reviews, and coordinates all **Federal Register** publications pertaining to Center functions and coordinates requests and activities pertaining to the Regulatory Flexibility Act, Executive Orders on Regulations, Paperwork Reduction Act, and regulations planning and implementation.

2. Delete the *Office of Management (HFV1A)*, Center for Veterinary Medicine (HFV), in its entirety and replace with the following:

Office of Management and Communications (DBVB). Provides guidance and leadership in the analysis, planning, coordination and evaluation of administrative management activities including: personnel; employee orientation and development; procurement; travel; facilities; property; security; records management; performance management; awards; budget formulation and execution; information resources management; program analysis; and management analysis. Provides administrative assistance and support to the Veterinary Medicine Advisory Committee (VMAC) Executive Secretary.

Plans, develops, and implements Center management policies. Provides leadership and direction for the management and administrative interface with the Agency, the Department and other Federal agencies.

Serves as Center interface with the Agency and Department on budget issue resolutions.

Performs analysis, program assessments, or special studies of key issues relative to policy review and oversight. Directs a variety of short-range and long-range special projects or assignments of substantial significant to the Center.

Implements Internal Control Reviews in accordance with the Office of Management and Budget, Department and Agency guidelines. Provides direction in the preparation of responses to the Office of Inspector General and the General Accounting Office regarding audits and investigation.

Directs the Center's outreach efforts to consumers, professionals and the industry in communicating the program goals and priorities of the Center. Maintains the CVM Home Page on the World Wide Web. Provides automated scientific literature searches and retrieval support. Supports public and consumer affairs, including freedom of information.

Directs the Center's Strategic Plan and the efforts of Strategic Implementation Groups (SIG) to effectively accomplish Center goals and objectives. Facilitates implementation of SIG recommendations.

3. Insert *Administrative Staff (DBVB–1)*, under the Office of Management and Communications (DBVB), reading as follows:

Administrative Staff (DBVB–1). Serves as the focal point in the Center for administrative management activities. Coordinates the administrative management activities in the Offices with designated Administrative Officers, i.e., personnel management, property acquisition and surplus, inventory, procurement, travel services, security procedures, records management, performance management, conflict of interest, special government employees, and telecommunications. Safeguards the administrative management services against waste, fraud and abuse.

Manages the Center's award systems through the Strategic Plan Awards Committee and the CVM Incentive Awards Committee. Manages CVM's participation in the Agency's Honor Award process, including the first and second tier ceremonies.

Provides budget execution and fiscal accounting services for the Center. Monitors and provides officials with continual awareness of obligated commitments and status of funds.

Directs, develops and implements the Center's overall professional, scientific, technical, clerical, and management training programs; formal career development programs and New Employee Orientation Program. Coordinates all Special training programs from the Agency and Department.

4. Insert *Communications Staff (DBVB–2)*, under the Office of Management and Communications (DBVB), reading as follows:

Communications Staff (DBVB–2). Plans, produces, and publishes a bimonthly subscription newsletter entitled the *FDA VETERINARIAN* and other publications such as CVM UPDATES and consumer fliers.

Supports FDA public affairs/consumer affairs initiatives, including

supporting the efforts of CVM's Press Officer and FDA Public Affairs Specialists in headquarters and the field.

Develops, prepares, and coordinates the Center's responses to requests for information through the Freedom of Information Act (FOIA).

Provides automated, scientific literature search capabilities and retrieval support to CVM. Keeps the Center current on improvements to these systems.

Delivers the Center's message to our customers, both inside and outside government, through the most effective and up-to-date medial technologies available, including the World Wide Web, the Internet, etc.

Establishes and coordinates industry/producer group outreach initiatives.

Responds to inquiries to the Center, including letters and telephone inquiries from consumers, industry representatives, government officials, health professionals and academics.

5. Insert *Program Planning and Evaluation Staff (DBVB–3)*, under the Office of Management and Communications (DBVB), reading as follows:

Program Planning and Evaluation Staff (DBVB–3). Prepares the Agency annual budget estimates. This includes all phases of budget analysis and formulation and presentation. Assists staff in justifying budgets for anticipated needs.

Conducts management and program analysis studies and participates in the program planning process to identify operational goals and evaluation methods. Designs and recommends systems and procedures and develops policy recommendations to implement study conclusions.

Provides management and consulting services, including policy development and analysis of proposed policy changes. Assists Center managers in assessing management problems and designs and recommends systems and procedures; develops and recommends policy to implement study conclusions.

Conducts Internal Control Reviews in accordance with instructions and guidelines provided by Agency and OMB. Conducts analysis and presents summary of findings to management officials. Assists in the coordination and preparation of responses to the Office of the Inspector General and the General Accounting Office regarding audits and investigations.

6. Insert *Information Resources Management Staff (DBVB–4)*, under the Office of Management and Communications (DBVB), reading as follows:

Information Resources Management Staff (DBVB–4). Implements information resources management functions for the Center including systems development, systems management, telecommunications plan and ADP security.

Provides systems analysis and programming support for the Center. Directs the utilization of the Center's central computer system and the internal network of personal computers and video display terminals.

Provides user support for all functions involving the CVM local area network and wide area network.

Provides support and training on ADP security including implementation of the FDA and DHHS security requirements.

7. Delete *Office of New Animal Drug Evaluation (HFVT)*, Center for Veterinary Medicine (HFV), in its entirety and replace with the following:

Office of New Animal Drug Evaluation (DBVC). Evaluates for animal safety and effectiveness new animal drugs in pharmaceutical dosage forms or for use in animal feed, and the safety aspects of drug and food additive residues remaining in food produced for human consumption from animals, intentionally or otherwise, administered drugs or food additives.

Reviews and determines the adequacy of information submitted in support of proposed use of investigational new animal drugs, and recommends to the Center Director appropriate action on new animal drug applications and acts on investigational new animal drug (INAD) notices of exemption and authorization requests.

Evaluates manufacturing methods and procedures for new animal drug products.

Coordinates the development and implementation of regulations and policies pertaining to new drugs intended for animal use.

Evaluates office activities to ensure compliance with the National Environmental Policy Act (NEPA).

Provides technical support and expert testimony in legal proceedings relative to the approval of new animal drugs.

Participates in international activities designed to harmonize the drug approval process.

8. Delete the *Office of Surveillance and Compliance (HFVU)*, Center for Veterinary Medicine (HFV), in its entirety and replace with the following:

Office of Surveillance and Compliance (DBVD). Advises the Center Director on surveillance and compliance policy concerning FDA regulatory responsibility with respect to animal drugs, feeds, feed additives, veterinary medical devices, and other veterinary medical products.

Develops and evaluates surveillance and monitoring programs to ensure the safety and effectiveness of animal drugs and to detect emerging resistance to antimicrobials among zoonotic enteric pathogens.

Plans, develops, monitors, and evaluates Center surveillance and compliance programs and coordinates their field implementation to ensure the safety and effectiveness of marketed animal drugs, feeds, feed additives, veterinary medical devices, and other veterinary medical products.

Directs and coordinates the development of scientific evidence supporting Formal Evidentiary Hearings requested by the Center.

Recommends to the Center Director the amendment or withdrawal of approved new animal drugs applications.

Develops, coordinates, and directs the Center's Bioresearch Monitoring Program to ensure reliability of information on which to base new animal drug and food additive approvals.

Provides epidemiology expertise to the Center as needed.

9. Delete the *Office of Science (HFVV1)*, Center for Veterinary Medicine (HFV), in its entirety and replace with the following:

Office of Research (DBVE). Advises and assists the Center Director and other officials on research matters which affect Center policy direction and long-range goals.

Provides focal point for all research activities in the Center, serves as the liaison for intramural and extramural research.

Provides scientific review, guidance, and support for research activities (extramural research, training, and fellowship activities); serves as the Center focal point for pre-award coordination.

Evaluates and reviews the adequacy of research resources; appraises the technical aspects and contributions of Center science programs.

Initiates, manages, and reviews Center contracts, grants, cooperative agreements, and interagency agreements with regard to enhancing the Center research and science program activities.

Evaluates and interprets results of scientific research; initiates and recommends action as appropriate to implement policy changes.

10. Delete *Administrative Staff (HFVV2)*, under the Office of Science (HFVV1), in its entirety and replace with the following:

Administrative Staff (DBVE–1). Manages budget, property, space, and acquisition of equipment and services for intramural research programs.

Responsible for the maintenance, repair, and construction of grounds, buildings, and equipment, as applicable, in support of intramural research programs.

Develops and manages health, safety, and chemical disposal required for intramural research programs.

Produces, reviews, and tracks correspondence, reports, and manuscripts for the intramural research program.

11. **Prior Delegations of Authority**. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: January 23, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–9053 Filed 4–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–207]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of Five State Health Care Reform Demonstrations and the Evaluation of the Medicaid State Health Reform Demonstrations; *Form No.:* HCFA–R–207; *Use:* These evaluations will investigate health care reform in ten states that will implement or have implemented demonstration programs using Medicaid Section 1115 waivers. The surveys will gather information to answer questions regarding access to health care, quality of care delivered, satisfaction with health services, and the use and cost of health services. The surveys will be administered to Medicaid eligible and newly covered enrollees and eligible and near-eligible non-enrollees. A subsample of survey respondents will be SSI recipients and other disabled people who have participated in demonstrations for at least a year. Quality of care surveys will be administered to Medicaid enrollees who have diabetes and to parents of children in the Medicaid program who have pediatric asthma. *Frequency:* (Other) one time for most respondents; *Affected Public:* Individuals or Households; *Number of Respondents:* 60,483; *Total Annual Responses:* 60,691; *Total Annual Hours:* 18,267.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 1, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources.

[FR Doc. 97–9082 Filed 4–8–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Drug Rebate Program—Manufacturers; *Form No.:* HCFA–367, 367 a, b, and c; *Use:* Section 1927 requires drug manufacturers to enter into and have in effect a rebate agreement with the Federal Government for States to receive funding for drugs dispensed to Medicaid recipients; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 520; *Total Annual Responses:* 2,080; *Total Annual Hours:* 49,480.

2. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* State Drug Rebate (Medicaid); *Form No.:* HCFA–368 and HCFA-R–144; *Use:* Section 1927 requires State Medicaid agencies to report to drug manufacturers and HCFA on the drug utilization for their State and the amount of rebate to be paid by the manufacturers; *Frequency:* Quarterly; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 51; *Total Annual Responses:* 204; *Total Annual Hours:* 6,125.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410)

786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 2, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–9083 Filed 4–8–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 35, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Application and Annual Report, Maternal and Child Health Block Grant Program (OMB No. 0915–0172)—Extension and Revision—The Health Resources and Services Administration (HRSA) proposes to revise and reformat the Maternal and Child Health Block Grant Guidance. This guidance is used annually by the 50 States and 9 jurisdictions in making application for Block Grants under Title V of the Social Security Act, and in preparing the required annual report. The revisions are designed to simplify and clarify the guidance and required forms and to reduce duplication, while still allowing for clear, concise, useful, and accurate communication about the States' programs. More specifically, the revisions should: (1) Make the program descriptions more readable; (2) alleviate the disconnect between the application for the next fiscal year and the annual report for the previous fiscal year that makes programmatic and data reviews difficult; (3) clarify budget and expense tables, through better design of forms and by carrying totals from form to form; (4) report objectives in a standard format, including the relationship to Healthy People 2000 goals, to facilitate year to year comparisons and multi-State tabulations; and, (5) incorporate uniform performance measures across all States and jurisdictions as well as State/jurisdiction-specific performance measures.

The HRSA revision would also combine the current three guidance documents into one document, by eliminating the separate annual application and annual report in favor of a combined document, and every fifth year explicitly including the results of the needs assessment, which would be incorporated only by reference in the intervening years. The HRSA revision efforts are intended not only to simplify and expedite the rational submission of necessary data and reports, but also to reduce the burden on States and jurisdictions by eliminating duplicative requirements and streamlining the presentation of information. It is expected that a 10% reduction in burden can be achieved. Estimates of burden to complete the application and annual report are as follows:

Type of form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Application and Annual Report (without needs assessment)*				
States	50	1	495	24,750
Jurisdictions	9	1	200	1,800
Five-Year Application and Annual Report (with needs assessment)*				
States	50	1	675	33,750
Jurisdictions	9	1	360	3,240

*The Annual Application and Annual Report, without needs assessment, will be submitted in FY 1998 and FY 1999. The five-year Annual Application and Annual Report will be submitted in FY 2000. The average annual response burden for the next three years is 30,030 hours.

The HRSA revision plan calls for copies of the draft version of the new guidance package to be mailed to the Maternal and Child Health Directors in all States and jurisdictions on or about April 15th, 1997. Copies will also be available to all other interested parties who request one from: Peter C. van Dyck, M.D., M.P.H., Director, Office of State and Community Health, Maternal and Child Health Bureau, Room 18–31, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. His phone number is (301) 443–2204.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this Notice.

Dated: April 2, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–9024 Filed 4–8–97; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Center for Substance Abuse Prevention (CSAP) National Advisory Council and Special Emphasis Panel I (SEP I) in May.

The SEP I meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301)443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Dates: May 19–21, 1997.
Place: Residence Inn-Bethesda, Calvert Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Closed: May 19–20, 1997—8:30 a.m.-5 p.m. May 21, 1997—8:30 a.m.—Adjournment.
Panel: Center for Mental Health Services State Reform Grants.
Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–9919 and FAX: (301) 443–3437.

The CSAT National Advisory Council meeting will include presentations of CSAP and Department of Justice and Transportation collaborations, report on CSAP International Activities, discussions of administrative matters and announcements, and reports by workgroups of the SAMHSA National Advisory Council and the CSAP National Advisory Council.

A summary of this meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, CSAP National Advisory Council, Rockwall II Building Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455.

Substantive program information may be obtained from the Contact listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.
Meeting Date: May 22, 1997.
Place: Marriott Residence Inn, Bethesda, MD 20814.
Open: May 22, 1997, 8:30 a.m. to 5 p.m.
Contact: Yuth Nimit, Ph.D. Rockwall II Building, Suite 901 Telephone: (301) 443–8455.

Dated: April 2, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–9052 Filed 4–8–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–826398

Applicant: Cincinnati Zoo, Cincinnati, Ohio

The applicant request a permit to re-export and re-import one wild Komodo island monitor (*Varanus komodoensis*) to and from Metro Toronto Zoo, Ontario, Canada, for the purpose of enhancement of the species through conservation education.

PRT–800411

Applicant: USFWS-Ecological Services, Pierre, SD

The applicant requests an amendment to and renewal of their permit which authorizes the import and export of live captive-born black-footed ferrets (*Mustela nigripes*) for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed in Service recovery documents. The applicant requests that the permit be amended to authorize the import and export of black-footed ferret tissue and blood samples and carcasses for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed in Service recovery documents.

PRT–827106

Applicant: Susan King, Richmond, VA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–827065

Applicant: National Aviary in Pittsburgh, Pittsburgh, PA

The applicant requests a permit to import one captive-bred Mauritius pink pigeon (Columbia mayeri) from the Jersey Wildlife Preservation Trust, Channel Islands, for the purpose of enhancement of the survival of the species through captive-breeding.

PRT–827066

Applicant: Detroit Zoological Garden, Royal Oak, MI

The applicant requests a permit to import one captive-bred Jamaican boa (*Epicrates subflavus*) from the Jersey Wildlife Preservation Trust, Channel Islands, for the purpose of enhancement of the survival of the species through captive-breeding.

PRT–826300

Applicant: Brian McMillan, Canyon Country, CA

The applicant requests a permit to sell in foreign commerce five captive-bred leopards (*Panthera pardus*), and one captive-bred tiger (*Panthera tigris*) to The Animals Actors Agency, London, England, for the purposes of enhancing the survival of the species through conservation education.

PRT–826467

Applicant: Robert Gartell, Yuba City, CA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–826490

Applicant: Thomas Torgerson, Tucson, AZ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–826298

Applicant: Department of Veterinary Services, University of Wyoming

The applicant requests a permit to export and re-import tissue samples collected from wild, and captive-held black-footed ferrets (*Mustela nigripes*) to and from the Canadian Cooperative Wildlife Health Center, Ontario Veterinary College, University of Guelph, Guelph, Ontario, Canada, for the purposes of scientific research.

PRT–827199

Applicant: Wildlife On Easy Street, Tampa, FL.

The applicant requests a permit to import two Jaguars (*Pantera onca onca*) and three Ocelots (*Leopardus pardalis*) born in captivity from Bolivian Zoo, Bolivia for the purposes of enhancing the survival of the species through propagation.

PRT–826238

Applicant: St. Louis Zoological Park, St. Louis, MO.

The applicant requests a permit to import two captive born Pudus (*Pudu pudu*) from Zoologischer Garten der Stadt-Wuppertal, Wuppertal, Germany for the purpose of enhancing the survival of the species through propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

The following applicants have each requested a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northwest Territories, Canada for personal use.

Applicant/address	Population	PRT–
Bruno Scherrer, Los Angeles, CA.	Northern Beaufort.	826942
David Anaman, Hemlock, MI.	.....do	826910
Derek A. Burdeny, Omaha, NE.	.....do	827122
Harry Brickley, Indianapolis, IN.	.....do	827123
Bruce Levein, Mercer Is., WA.	Southern Beaufort.	826941
William Katen, Patchogue, NY.	.....do	826911
Mark David Samsill, Ft. Worth, TX.	.....do	827037

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: April 3, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–9029 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–827308

Applicant: Bradley Zercher and Daniel Osterman, Urbana, Illinois.

The applicants request a permit to take (capture and release) Indiana bats (*Myotis sodalis*) and gray bats (*Myotis grisescens*) at the Camp Atterbury Military Base, Edinburg, Indiana. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

PRT–827309

Applicant: Robert Mies and Kimberly Williams, The Organization for Bat Conservation, Williamston, Michigan.

The applicants request a permit to take (capture and release) Indiana bats (*Myotis sodalis*) in Kalamazoo, Ingham, and Eaton Counties, Michigan. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

PRT–827310

Applicant: Warren W. Pryor, Fort Wayne Children's Zoo, Fort Wayne, Indiana.

The applicant requests a permit to take (capture and release; collect empty shells) specimens of the following unionid species: White cat's paw pearly mussel (*Epioblasma obliquata perobliqua*), Rabbitsfoot (*Quadrula c. cylindrica*) (not federally listed; former candidate), Clubshell (*Pleurobema clava*) (capture and release only). Activities are proposed for Allen County, Indiana, for the survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: April 2, 1997

Matthias A. Kerschbaum,

Acting Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 97–9057 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–930–1111–00–24 1A]

Notice of Intent To Prepare an Integrated Activity Plan (IAP)/ Environmental Impact Statement (EIS) on Management of the Northeastern Portion of the National Petroleum Reserve-Alaska (NPR–A); Request for Information, and Call for Nominations and Comments: Reopening of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Request for information; extension of comment period.

SUMMARY: A notice of intent to prepare the IAP/EIS, requesting information and public comments, was published in the **Federal Register** on February 13, 1997 (62 FR 6797), with a comment period expiring March 31, 1997. The comment period was extended until April 4, 1997, to accommodate a scoping meeting that had to be rescheduled because of the death of an elder. The comment period is now being reopened to accommodate a scoping meeting that had to be rescheduled because weather conditions prevented travel to the scheduled meeting.

DATES: Information and comments must be postmarked or submitted via the internet by April 18, 1997.

ADDRESSES: Comments should be sent to: State Director, Alaska (930), Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599; or submitted by electronic mail to ''ducker@ak.blm.gov.''

FOR FURTHER INFORMATION CONTACT: Jim Ducker at (907) 271–3369.

Sylvia V. Baca,

Acting Director, Bureau of Land Management.

[FR Doc. 97–9165 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–00–4041; ES–48656 Group 100, Arkansas]

Notice of Filing of Plat of Survey, Arkansas

The plat of the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of certain sections, Township 16 North, Range 19 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on May 12, 1997.

The survey was requested by the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., May 12, 1997.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: March 27, 1997.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 97–9080 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., April 1, 1997.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 26, T. 4S., R. 4E., Boise Meridian, Idaho, Group 979, was accepted, April 1, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

Dated: April 1, 1997.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 97–9079 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 29, 1997. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, PO Box 37127, Washington, DC 20013–7127. Written comments should be submitted by April 24, 1997.

Patrick Andrus,

Acting Keeper of the National Register.

Arizona

Apache County

Alpine Elementary School, 11 and 12 Co. Rd. 2052, near jct. with US 180, Alpine, 97000369

Navajo County

Ellsworth, Abner, House, 260 N. 8th St., Show Low, 97000368

Georgia

Floyd County

Jackson Hill Historic District, Jackson Hill, between GA 53 and the Oostanaula River, Rome, 97000370

New Hampshire

Grafton County

Great Hollow Road Stone Arch Bridge, Great Hollow Rd., over Mink Brook, approximately 100 ft. N of jct. with Smith Ln., Hanover, 97000372

Hanover Town Library, 130 Etna Rd., Hanover, 97000371

Ohio

Defiance County

Speaker, Charles, House, 912 Holgate Ave., Defiance, 97000374

Fairfield County

Gill, John, Farmstead, 12310 Lancaster—Newark Rd., Millersport vicinity, 97000373

Virginia

Page County

Skyline Drive Historic District (Historic Park Landscapes in National and State Parks) Shenandoah National Park, from the N entrance station at Front Royal to the S entrance station at Rockfish Gap, Luray vicinity, 97000375

[FR Doc. 97–9040 Filed 4–8–97; 8:45 am]

BILLING CODE 4310–70–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Title II Fiscal Year 1998 Development Program Proposal Final Draft Guidelines

Pursuant to the Agricultural Market and Transition Act of 1996, notice is hereby given that the Title II Fiscal Year 1998 Development Program Proposal Final Draft Guidelines are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of the draft guidelines should contact: Office of Food for Peace, Room 323, SA–8, Agency for International Development, Washington, DC. 20523–0809. Contact person: Gwen Johnson, (703) 351–0110. Individuals who have questions or comments on the draft guidelines, should contact David Nelson at (703) 351–0168.

The thirty day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: March 21, 1997.

Jeanne Markunas,

Acting Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 97–9081 Filed 4–8–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Civil Rights Division

Agnecy Information Collection Activities: Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Has Expired; Comment Requested

ACTION: Notice of Information Collection Under Review; Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 9, 1997.

We request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact David H. Hunter, (202) 307–2898, Attorney, Voting Section, Civil Rights Division, U.S. Department of Justice, PO Box 66128, Washington, DC 20035. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, may also be directed to Mr. Hunter.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 CFR Part 51.

(3) *Agency form number, if any, and applicable component of the Department sponsoring the collection:* No form; Voting Section, Civil Rights Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State or Local Government. Other: None. Jurisdictions specifically covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that voting changes are not racially discriminatory. The Procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,727 responses per year (10,103 respondents making an average of 0.47 responses per year), with the average response requiring 10.02 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 47,365 burden hours.

If additional information is required contact: Mr. Robert B. Griggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: April 4, 1997.

Robert B. Briggs,

Department Clearance Officer, Untied States Department of Justice.

[FR Doc. 97–8985 Filed 4–8–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Coordination and Review Section; Agency Information Collection Activities, Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Complaint Form, Coordination and Review Section, Civil Rights Division, Department of Justice.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 9, 1997. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instruction, or additional information, please contact Merrily A. Friedlander, 202–307–2222, U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, P.O. Box 66560, Washington, DC 20035–6560.

Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Merrily A. Friedlander, 202–307–2222, U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, P.O. Box 66560, Washington, DC 20035–6560.

Overview of this information collection:

(1) Type of Information Collection: Existing collection in use without an OMB control number.

(2) Title of the Form/Collection: Complaint Form, Coordination and Review Section, Civil Rights Division, Department of Justice.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the

collection: No form number. Coordination and Review Section, Civil Rights Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. The information collected is used to find jurisdiction to investigate the alleged discrimination, to seek whether a referral is necessary, and to provide information needed to initiate investigation of the complaint. Respondents are individuals alleging discrimination.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 100 responses; ½ hour per response. The information will be submitted by the respondent only once. Thus, there will be approximately 100 total yearly responses at ½ hour per response.

(6) An estimate of the total burden (in hours) associated with the collection: 50 annual burden hours.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC, 20530.

Dated: April 3, 1997.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 97–9041 Filed 4–8–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Advisory Policy Board Meeting

The Criminal Justice Information Services (CJIS) Advisory Policy Board (the Board) will meet on June 4–5, 1997, from 9 a.m. until 5 p.m., at the St. Petersburg Bayfront Hilton, 333 1st Street South, St. Petersburg, Florida, telephone (813) 894–5000, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI) on the security, policy, and operation of the National Crime Information Center (NCIC), NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), and the Uniform Crime Reporting and National Incident-Based Reporting System programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, the development of the National Instant Criminal Background Check System (NICS) and other topics related to the operation of the FBI's criminal justice information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimile, or a hand-delivered note. It should contain the requestor's name, corporate designation, consumer affiliation, or Government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. A nonmember requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquiries may be addressed to the Designated Federal Employee, Mr. Demery R. Bishop, Section Chief, Programs Development Section, CJIS Division, FBI, 935 Pennsylvania Avenue, Northwest, Washington, DC 20537–9700, telephone (202) 324–5084, facsimile (202) 324–8906.

Dated: March 31, 1997.

Demery R. Bishop,

Section Chief, Programs Development Section, Criminal Justice Information Services Division.

[FR Doc. 97–9078 Filed 4–8–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Revision of Existing Collection; Comment Request

ACTION: Notice of information collection under review; Refugee/Asylee Relative Petition.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 3, 1996, at 61 FR 19958, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments until May 9, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The proposed collection is listed below:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection.* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–730. Office of Examinations, Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The data collected on this form is used by the Service to determine eligibility for the requested benefit.

(5) *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: 86,400 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,371 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: April 3, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–8986 Filed 4–8–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 3, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1 p.m. and 4 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Revision Housing Survey.

OMB Number: 1220–0xxx (new).

Frequency: Semi-annually.

Affected Public: Individuals or households; Business or other for-profit.

Number of Respondents: 136,612.

Estimated Time Per Respondent: 7 minutes.

Total Burden Hours: 16,694.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: For the Consumer Price Index housing survey, the revision means implementing a new sample in new existing Primary Sampling Units. The methodology for index calculation includes both a Geometric Mean Test Index and a Laspeyres Index. Survey sample selection utilized an expenditure weight algorithm which can handily be used to calculate both indexes. Field representations will use hand-held pen computers and transmit data collected back to Washington, DC electronically.

Agency: Mine Safety and Health Administration.

Title: Roof Control Plain.

OMB Number: 1219–0004 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1,117.

Estimated Time Per Respondent: 5.4 hours.

Total Burden Hours: 20,701.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $9,000.

Description: This information collection requires that a roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine be approved by the Mine Safety and Health Administration before implementation by the mine operator. This standard also requires the mine operator to plot on amine map each unplanned roof or rib fall and coal or rock burst that occurs in the active workings when certain criteria are met.

Agency: Occupational Safety and Health Administration.

Title: Report of Injuries to Employees Operating Mechanical Power Presses (1910.217(g)).

OMB Number: 1218–0070 (extension).

Frequency: As needed.

Affected Public: Business or other for-profit.

Number of Respondents: 191.

Estimated Time Per Respondent: 2 minutes.

Total Burden Hours: 57.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: In the event an employee is injured while operating a mechanical power press, the employer is required to provide information to the Occupational Safety and Health Administration regarding the accident. This information includes the employer's and employee's name, the type of clutch, the type of safeguard(s), the cause of the accident, the means to actuate the press, and the number of operators involved.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–8975 Filed 4–8–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

Work-Flex Partnership Demonstration Program; Availability

AGENCY: Employment and Training Administration, DOL.

ACTION: Request for Applications for Work-Flex Designation.

SUMMARY: Applications are invited from States under the Workforce Flexibility Partnership Demonstration Program (Work-Flex) which is authorized under the Department of Labor Appropriations Act of 1997 (Pub. L. 104–208). The Secretary may authorize Work-Flex waivers in not more than six States, of which at least three must have populations not in excess of 3,500,000, with preference given to those States designated as Ed-Flex Partnership States under Goals 2000: Educate America Act (Pub. L. 103–227). Work-Flex designation will be made pursuant to an application and plan submitted by the State for the provision of workforce employment and training activities which is approved by the Secretary.

DATES: The deadline for submittal of applications will be May 30, 1997, close of business. After that date, applications will be accepted only if: (1) Fewer than 6 States apply: (2) fewer than 3 States

with a population under 3,500,000 apply; or (3) fewer than 6 proposals received by that date are approved by the Secretary.

ADDRESSES: Applications must be submitted to the U.S. Department of Labor, Employment and Training Administration, Office of Job Training Programs, 200 Constitution Avenue, N.W., Room N4459, Attention: Work-Flex Application, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James M. Aaron, Director, Office of Employment and Training Programs, 200 Constitution Avenue N.W., Washington, DC 20210, (202) 219–5580 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The specific provision authorizing the Work-Flex program is as follows:

''* * * the Secretary of Labor shall establish a workforce flexibility (Work-Flex) partnership demonstration program under which the Secretary shall authorize not more than six States, of which at least three States shall each have populations not in excess of 3,500,000, with a preference given to those States that have been designated Ed-Flex Partnership States under section 311(e) of Public Law 103–227, to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I–III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, grievance procedures and judicial review, non-discrimination, allotment of funds, and eligibility), and any of the statutory or regulatory requirements of sections 8–10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), and for a duration not to exceed the waiver period authorized under section 311(e) of Public Law 103–227, pursuant to a plan submitted by such States and approved by the Secretary for the provision of workforce employment and training activities in the States, which includes a description of the process by which service delivery areas and substate areas may apply for and have waivers approved by the State, the requirements of the Wagner-Peyser Act to be waived, the outcomes to be achieved and other measures to be taken to ensure appropriate accountability for federal funds.''

The Work-Flex program is a demonstration program under which the Secretary may grant six States the authority to waive certain statutory or regulatory requirements applicable to service delivery areas or substate areas within the State under titles I–III of the Job Training Partnership Act (JTPA) or sections 8–10 of the Wagner-Peyser Act (W–P Act). The legislation also contains certain provisions that may not be waived under the JTPA and the W–P Act. The types of these non-waivable provisions and the specific provisions are discussed below.

The granting of authority to issue waivers is intended to provide *flexibility to States to enhance the development of a comprehensive workforce development system and to improve the quality and quantity of outcomes for persons served.* The legislation provides that at least three of the six States shall have a population not in excess of 3,500,000 and that preference be given to States designated under Ed-Flex. The States proposal for workforce development system improvement must provide a description of the process by which service delivery areas and substate areas may apply for and have waivers approved: examples of the requirements of JTPA and the requirements of the W–P Act to be waived; the outcomes to be achieved; and the measures to be taken to ensure appropriate accountability for Federal funds.

The Department is very interested in working with States within the statutory authority to make improvements in the workforce delivery system. To this end, the Department wants the States to know it will actively consider applications which will assist the State and its local service delivery structure in implementing workforce delivery system improvements. The Department of Labor's guiding principles for reform of the job training systems include:

- *Individual Opportunity and Customer Choice.* Empowering participants who need employment and training services with the resources and information needed to make good choices.
- *Leaner Government.* Replacing separate programs with streamlined systems for youth and adults, organized around the principles espoused by the School-to-Work and One-Stop concepts.
- *Greater Accountability.* Ensuring a clear focus on results, not process, through mutually agreed upon improved performance outcomes.
- *State and Local Flexibility.* Provides States, local communities and training systems with the freedom to tailor programs to meet real, locally determined needs.
- *Strong Private Sector Roles.* Ensuring that business, labor and community organizations are full partners in systems design and quality assurance.

Finally, the Department wishes to remind the States of the importance of maintaining programs for the disadvantaged and dislocated workers, maintaining adequate and comparable reporting and, within the School-to—Work framework, providing work opportunities, especially during the summer months, to disadvantaged youth.

Application Requirements and Criteria

1. *Who may apply and when may applications be submitted?* Any State may apply for designation as a Work-Flex State. As required under the legislation and as discussed below, preference will be given to States designated by the Secretary of Education as Ed-Flex States. Initially, applications will be received until May 30, 1997. Since the Secretary may delegate waiver authority to only six States, applications will be accepted after the date only if: (1) fewer than six States apply; or (2) fewer than three States apply with a population under 3,500,000 or (3) fewer than six applications received by May 30 are approved by the Secretary. Please note that not more than a total of six States will be designated under Work-Flex. If six applications are approved in FY 1997, no additional designations will be made. If six States are not designated in FY 1997, and proposed language in the 1998 budget is approved, additional States up to a total of six may be designated.

Single SDA States with one State-wide SDA/SSA may apply for Work-Flex designation. In such States, the application must specify the entity which may request such waivers (typically the SJTCC or portion thereof which serves as the Private Industry Council). The Department recommends that States which have a single SDA identify a different body with responsibility for mailing decisions on requested waivers.

2. *What information should be included in a State's Work-Flex proposal?* To be considered for designation as a Work-Flex State, the Governor must submit an application to the Secretary. This application must include the following:

a. *Plan.* A plan for the provision of workforce employment and training activities for the State. This may be a summary of the State plan for employment and training activities, but should be in sufficient detail to describe how the State envisions using the Work-Flex authority to enhance the development of a comprehensive employment and training system.

b. *JTPA Requirements.* A description of the process by which service delivery areas and substate areas may apply for and have waivers approved; and

c. *W-P Act Requirements.* A description of the specific requirements in Section 8, 9 and 10 of the W-P Act and applicable regulations to be waived.

d. *Specific Elements to be Addressed.* To be responsive to the above, the application must contain a specific description of the process and requirements for JTPA and W-P Act waivers (as appropriate), including:

(1) Identification of the State official designated by the Governor who would have authority to grant requested waivers, including documentation that the Governor has granted the official such authority;

(2) Requirements for application for a waiver by service delivery areas and substate areas;

(3) Identification of the JTPA requirement(s) for which the waiver(s) will likely be requested (either specific, if known, or examples);

(4) Description of the criteria for approval of waivers, including a description of the process for assuring that waivers proposed for approval are not prohibited by the provisions of legislation (including requirements of legislation other than JTPA), or provisions under which the Work-Flex authority is granted;

(5) Process for providing an opportunity for public review and comment;

(6) Requirement(s) for identification of improvement in outcomes to be expected as the result of granting a waiver, including how the baseline will be established and what data sources will be used;

(7) Measures to be taken to ensure the appropriate accountability for federal funds and reporting;

(8) Procedures that the State will use to monitor and evaluate the implementation of waivers by local areas, including the outcomes to be achieved;

(9) A statement of State legislative, regulatory or other impediments to administration of the waiver authority sought and planned State action to resolve such matters; and

(10) Assurance that the State has the capacity to administer the waiver system.

As provided in the legislation, certain provisions are not subject to waiver under Work-Flex. For the JTPA, these include requirements relating to wage and labor standards, grievance procedures, judicial review, nondiscrimination, allotment of funds and eligibility. Also, waiver authority must be requested by and granted to service delivery areas or substate areas. State responsibilities or programs operated under statewide authority are not subject to waiver under this program. For example, this includes designation of service delivery areas or substate areas, the State planning process, the State Education and Coordination grants under section 123, the Services to Older Individuals under section 204(d), the Title III funds reserved for State activities (Governors' Reserve) under section 302(c) and grants awarded to States with Title III National Reserve Account (NRA) funds.

Note: Some provisions (such as certain State responsibilities) not subject to waiver under the Work-Flex authority may be eligible for waiver under the other new statutory or regulatory waiver authority included in the Appropriations Act. For example, a State may apply for waivers for State-based programs. Such general waiver requests may be submitted as part of the Work-Flex proposal or may be submitted separately. General waiver requests will be reviewed in the context of the requested Work-Flex authority, but will be subject to the one-year limit applicable to such general waivers.

For the W–P Act, only the requirements of section 8–10, which relate to the development, review and approval of State plans, recordkeeping and reporting may be waived. The law also specifically excludes from waivers any requirements relating to provision of services to unemployment insurance claimants and veterans and to universal access to basic labor exchange services without cost to job seekers.

(e) *Public Consultation and Comment Process.* The Department expects the State to involve the local elected officials, the private industry councils, and community-based organizations and other stakeholders in the process when developing the Work-Flex application. Consistent with the general waiver request, the State must provide interested parties an opportunity to review and comment on the proposed application. At a minimum, the following groups must be afforded the opportunity to review and comment on the proposed application: (1) The State Job Training Coordinating Council; (2) each house of the State legislature; (3) local elected officials and Private Industry Councils; (4) appropriate local education and other public and non-profit agencies in the service delivery areas; and (5) labor organizations in the area which represent employees having the skills in which training is proposed and public sector unions, where they may be affected. Also, the proposed application must be made reasonably available to the general public through such means as public hearings and local news facilities.

The Work-Flex authority is intended to provide States with the ability to enhance the development of a comprehensive workforce development system, including implementation of the One-Stop Career Center system and the School-to-Work system. Another area of importance is the area of improving both the quality and quantity of outcomes of individuals served. Both of these will be of substantial importance in reviewing of proposals requesting the granting of the Secretary's authority for issuing waivers under Work-Flex.

Criteria for Evaluation of Work-flex Applications

Criteria for evaluation of Work-Flex proposals include:

1. *Plan and Outcomes.* The extent to which the authority sought will result in:

a. Improving the outcomes to persons served, and

b. Enhancing implementation of a comprehensive workforce development system in one or more areas.

The extent to which the authority sought will enhance the implementation of the One-Stop Career Center system and/or the School-to-Work system will be major factors in the evaluation of proposals.

2. *Responsiveness.* The extent to which the application meets the requirements of the legislation and this Notice for submission of an application. This includes the quality of the process for reviewing and approving local applications for waivers and for documenting and monitoring the results of waivers.

3. *Accountability of Funds.* Measures to be taken to ensure the accountability of federal funds, including monitoring, evaluation and reports.

4. *Preference for Ed-Flex States—Tie-Breaking Procedures.* Proposals will be evaluated based on the quality and specificity of the proposal. In the event that proposals submitted are judged to be substantially equal, preference will be given to States designated as Ed-Flex States on or before May 30, 1997.

5. *Public Comments.* All comments received on the application should be forwarded with the application to the Department of Labor together with the State's disposition of such comments.

Conditions

1. *Federal Review of Work-Flex Waivers Granted.* In applying for waivers, States must recognize that the impact of the use of Work-Flex authority to achieve goals and outcomes specified in the State proposal will be reviewed annually against stated goals. The Department reserves the right to

withdraw the authority to issue waivers if: goals specified are not met for two consecutive years; or the State grants waivers for non-waivable provisions or for provisions of other legislation not subject to waiver.

2. *Duration and Coverage.* Work-Flex authority may be granted for up to five years. States granted such authority may approve waivers requested from all service delivery areas or substate areas or from selected areas.

3. *Notification of the Granting of Waivers.* States will be required to submit reports on a semi-annual basis concerning the administration of the waiver authority and on the accomplishments under this authority. After one year, annual reporting will be required. States shall notify the appropriate ETA Regional Administrator of the granting of a waiver(s) semi-annually. This notification shall include the area for which the waiver is granted, the provision of legislation and/or regulation waived and the duration of the waiver.

4. *Federal Assistance.* States are encouraged to regularly consult with the ETA Regional Office regarding any matters in which the discussion and assistance in the Work-Flex administration would be useful. Because Work-Flex is an important demonstration program with implications for future job training and employment service delivery, it is important that Work-Flex be tested to ensure that appropriate accountability can be maintained. ETA Regional staff will be responsible for providing information on Work-Flex administration and implementation. States granted Work-Flex authority are strongly urged to work closely—on an ongoing basis—with Regional Office staff so that both the federal and State partners are fully informed on the status and issues under Work-Flex. States may be asked to participate with ETA staff in designing and conducting the planned evaluation of the effectiveness of Work-Flex.

Dated: April 2, 1997.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

[FR Doc. 97–8976 Filed 4–8–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–20; Exemption Application No. D–10227 thru D–10232, et al.]

Grant of Individual Exemptions; Real Estate Equity Trust No. 1 (the Trust), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Real Estate Equity Trust No. 1 (the Trust), et al. Located in Cincinnati, OH

[Prohibited Transaction Exemption 97–20; Exemption Application Nos. D–10227—D–10232]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase of units in the Trust by certain multiemployer pension plans (the Plans) that will enable State Street Global Advisors, Inc. (SSGA), the independent fiduciary for the Plans investing in the Trust, to make initial and subsequent equity investments on behalf of the Trust, in the Cincinnati Development Group Limited Partnership (the Partnership), which may result in a benefit inuring to Fifth Third Bank (Fifth Third), the trustee of the Trust and a party in interest with respect to the Plans.

This exemption is subject to the following conditions:

(a) Each Plan investing in the Trust has total assets that are in excess of $50 million.

(b) No Plan that purchases units in the Trust that will permit the Partnership investment has, immediately following the acquisition of such units, more than 5 percent of its assets invested therein.

(c) The decision to purchase units in the Trust that will allow SSGA to make the initial and any subsequent equity contributions to the Partnership is made by a Plan fiduciary (the Second Fiduciary) which is independent of Fifth Third and its affiliates and which is not SSGA.

(d) As independent fiduciary for the Trust, SSGA determines whether—

(1) It is in the best interests of the Trust and the Plans participating therein to make the initial and subsequent investments in the Partnership;

(2) It is appropriate for the Trust to assign, transfer, pledge or otherwise encumber its interest in the Partnership provided the Trust obtains written consent from Cincinnati Development Group, LLC (CDG);

(3) It is appropriate for the Trust to withdraw as a limited partner from the Partnership or to withdraw its capital from such Partnership provided the Trust obtains the written consent of CDG;

(4) It is appropriate for the Trust to consent to the sale by CDG of substantially all of the assets of the Partnership or the transfer by CDG of its interest in the Partnership to a third party;

(5) It is appropriate for the Trust to contribute to the Partnership the amount necessary to complete construction of the Fountain Square West Project and to require that CDG release control of the Partnership to an entity designated by the Trust, if CDG fails to provide for construction cost overruns;

(6) It is appropriate for the Trust to elect to continue the Partnership by appointing a successor general partner.

(7) An entity designated by the Trust to serve as general partner is appropriate upon the occurrence of (d)(5) or (d)(6).

(e) At the time the Partnership investment is made, the terms of the transaction are at least as favorable to each Plan participating in the Trust as those obtainable in an arm's length transaction with an unrelated party.

(f) Prior to investing in the Partnership, Fifth Third provides SSGA and the Second Fiduciary of each Plan participating in the Trust with offering materials disclosing all material facts concerning the purpose, structure and operation of the Partnership.

(g) Subsequent to investing in the Partnership, the Trust and SSGA receive the following ongoing information from CDG:

(1) Within 120 days after the end of the Partnership's fiscal year, an unaudited annual report containing—

(A) A balance sheet and statements of income, Partners' equity, changes in financial position and cash flow for the year then ended;

(B) A report of the activities of the Partnership during the period covered by the report; and

(C) An itemization of any fees or payments made to CDG or any related party or affiliate.

(2) Within 60 days of the end of each year, an appraisal report, prepared by a qualified, independent appraiser, of each property held in the Partnership.

(3) Periodically (but not less frequently than quarterly), operating and development budgets of the Partnership as well as unaudited operations and financial reports. (Information with respect to the Partnership is disseminated by Fifth Third to the Second Fiduciaries of Plans investing in the Trust through annual audited financial statements of the Trust, prepared by independent, certified public accountants and in quarterly communications setting forth Partnership financial data. SSGA will also be given copies of this information.)

(h) As to each Plan participating in the Trust, the total fees paid to Fifth Third will constitute no more than ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(i) Fifth Third maintains, for a period of six years, the records necessary to enable the persons described in paragraph (j) to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Fifth Third and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than Fifth Third shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (j).

(j)(1) Except as provided in section (i)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (i) are unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(j)(2) None of the persons described above in paragraphs (j)(1)(B)–(j)(1)(D) of this paragraph (j) are authorized to examine the trade secrets of Fifth Third or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 17, 1996 at 61 FR 66314.

Written Comments

The Department received one written comment with respect to the proposed exemption and no requests for a public hearing. The written comment was submitted by the applicant, Fifth Third, and is intended to clarify the notice of proposed exemption in the following areas:

(1) Role of the Independent Fiduciary. Fifth Third notes that SSGA serves as the independent fiduciary with respect to investments by the Trust in the Partnership. Because the Trust is a limited partner in the Partnership and many actions that may be undertaken by the Trust would require the consent of CDG, the general partner of the Partnership, Fifth Third represents that the opportunity for the Trust to act unilaterally would be extremely rare. In this regard, Fifth Third explains that the operative and conditional language of the proposal state that SSGA will make the initial and any subsequent investments in the Trust as well as monitor the Trust on behalf of the investing Plans. Although Fifth Third represents that this language is not inconsistent with the provisions of the proposal, it asserts that it will remain the Trustee of the Trust and that it will not be replaced by SSGA.

In response, the Department notes that SSGA has been appointed to serve as the independent fiduciary for the Trust with respect to the initial, and possibly, future equity investments made by the Trust to the Partnership. In undertaking these duties, we further note that SSGA is responsible for monitoring and protecting the rights of the Trust and the Plans investing therein to the extent that any actions by Fifth Third may impact adversely on the Partnership. Because actions that may be taken by Fifth Third could result in a conflict of interest by reason of the Trust's investment, through the Partnership, in the Fountain Square West Project, we would expect that SSGA will have a continuing role in enforcing the rights of the Plans investing in the Trust.

(2) *Assets Required for Investment.* Footnote 5 of the proposed exemption states, in relevant part, that if ''less than'' $6.5 million in units are subscribed for by the investing Plans, the Trust will combine those proceeds with its existing liquid assets to make the $7 million investment in the Partnership. Fifth Third wishes to modify the language in the footnote by clarifying that if ''at least'' $6.5 million in units are subscribed for by the Plans, the Trust will combine those proceeds with existing assets to make the investment in the Partnership.

(3) *Rents under the Lease with the City of Cincinnati (the City Lease).* Fifth Third notes that a portion of Footnote 7 of the proposal indicates that no gross rents in excess of $3 million for any year are projected during the initial 10 years

of the Fountain Square West Project. Fifth Third wishes to emphasize that no gross rents in excess of $3 million are actually projected for any year during the initial term of the Fountain Square West Project. Fifth Third also points out that the issue of gross rents in excess of $3 million is relevant because such rents would result in additional payments being made to the City of Cincinnati under the City Lease.

Thus, after giving full consideration to the entire record, including the written comment, the Department has made the aforementioned changes to the proposed exemption. In addition, the Department has decided to grant the exemption subject to the clarifications described above. The comment letter has been included as part of the public record of the exemption application. The complete application file, as well as all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Orders Distributing Co., Inc. Profit Sharing Plan and 401(k) Retirement Savings Plan (the Plan) Located in Greenville, South Carolina

[Prohibited Transaction Exemption 97–21; Exemption Application No. D–10341]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale by the Plan of certain units of limited partnership interests (the Units) to Orders Distributing Co., Inc. (the Employer), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (1) The terms of the sale were at least as favorable to the Plan as those the Plan could have obtained in a comparable arm's length transaction with an unrelated party; (2) the sale was a one-time transaction for cash; (3) the Plan paid no commissions nor other expenses relating to the sale; (4) the Plan received an amount no less than the fair market value of the Units as of the date of the sale, as determined by an independent appraisal; and (5) within 30 days of publication in the **Federal Register** of the notice of the grant of this exemption, the Employer makes an additional cash contribution to the Plan to make up for opportunity costs attributable to the Units.

EFFECTIVE DATE: The exemption is effective as of January 1, 1995.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 31, 1997 at 62 FR 4802.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 3rd day of April, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor

[FR Doc. 97–8972 Filed 4–8–97; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10345, et al.]

Proposed Exemptions; Washington National Retirement Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) number of the person making the comment or request, and (3) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of

Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Washington National Retirement Plan (the Plan), Located in Lincolnshire, IL

[Application No. D–10345]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of five venture capital limited partnership interests (the Venture Capital Funds) and a private placement bond issue (the Private Placement Bond Issue)[1] to Washington National Insurance Company (the Employer), a party in interest with respect to the Plan.

This proposed exemption is subject to the following conditions:

(a) All terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(b) The sale is a one-time transaction for cash.

(c) The fair market value of the Interests is determined by a qualified, independent appraiser.

(d) The Plan does not pay any commissions, costs or other expenses in connection with the sale.

(e) With respect to each Venture Capital Fund Interest, the Plan receives as consideration an amount that is no less than the greater of (1) its investment basis in such Interest or (2) the fair market value of the Interest on the date of the sale.

(f) With respect to the Private Placement Bond Issue, the Plan receives as consideration an amount that is no less than the greater of (1) the remaining principal balance of such Interest or (2) the fair market value of the Interest on the date of the sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan having total assets with an aggregate fair market value of $22,925,300 as of June 30, 1996. As of September 11, 1996, the Plan had 964 participants. The trustees of the Plan (the Trustees) are Robert W. Patin, Thomas C. Scott and Thomas Pontarelli. The Trustees are charged with overseeing the investments and investment philosophy of the Plan. The Employer, an insurance company, maintains its principal place of business in Lincolnshire, Illinois.

2. Included among the assets of the Plan are Interests in five Venture Capital Funds and one Private Placement Bond Issue. The Interests, which represent approximately 6.2 percent of the Plan's total assets, were all purchased on behalf of the Plan by the then-existing Trustees during the 1970's and 1980's. In this regard, the Interests in the Venture Capital Funds were acquired by the Plan at the inception of the respective limited partnerships whereas the Interest in the Private Placement Bond Issue was acquired by the Plan directly from Merrill Lynch, Hubbard Inc., as underwriter. With the exception of the Employer (see Representation 4 below), it is represented that none of the general partners, limited partners or holders, in the case of the Private Placement Bond Issue, is a party in interest with respect to the Plan.

The Interests are further described as follows:

(a) *The Narragansett First Fund (NFF),* a Venture Capital Fund, is a Rhode Island limited partnership that was formed on December 17, 1982 primarily for the purpose of making investments in leveraged buyout transactions with the objective of capital appreciation. NFF has one general partner, Narraganset Management Partners (NMP), also a Rhode Island limited partnership and 35 limited partners consisting of corporations, partnerships and trusts. The total funding commitment for NFF was $75.2 million. Of this amount, $66.7 million was actually funded. Although NFF was scheduled to terminate on December 17, 1995, NMP temporarily deferred the liquidation of the assets of NFF. The partnership is now fully invested and is presently in a liquidation mode.

On December 15, 1982, the Plan entered into a subscription agreement to invest $500,000 in NFF. As of March 31, 1996, the Plan had funded $446,885 of the capital commitment representing a 0.67 percent interest in NFF. Since the inception of its investment in NFF, the Plan has received cash disbursements totaling $1,369,523 leaving an investment basis of $0.

(b) *TCW Special Placements Fund I (TCW I),* a Venture Capital Fund, is a California limited partnership that was formed on March 12, 1985 for the purpose of allowing investors to pool their assets in order to provide financing to highly-leveraged companies for expansions, acquisitions, management buyouts and capital restructurings. TCW Capital, a California partnership serves as the general partner of TCW I. As general partner, TCW Capital makes all investment decisions and has exclusive responsibility for the management of TCW I. TCW I is fully invested and is expected to terminate in 1997.

On February 28, 1985, the Plan entered into a subscription agreement to fund $500,000 to TCW I. As of March 31, 1996, the Plan had funded $500,000 of this commitment. The total funding commitment for TCW I was $105.6 million of which the full amount was funded. Therefore, the Plan's interest in TCW I is 0.47 percent. Since its investment in TCW I, the Plan has received cash disbursements totaling $414,870 leaving an investment basis of $85,130.

(c) *Narragansett Capital Partners—B (NCP–B),* a Venture Capital Fund, was formed as a limited partnership in Providence, Rhode Island on January 14, 1987 for the purpose of investing in

[1] The interests in the Venture Capital Funds and the Private Placement Bond Issue are collectively referred to herein as the Interests.

equity and equity-related securities in leveraged buyout transactions. The general partner of NCP–B is Narraganset Capital Associates, L.P. (NCA), a Rhode Island limited partnership. The total funding commitment for NCP–B was $63.6 million of which $50.5 million was actually funded. NCP–B is fully invested and is currently in an investment liquidation mode.

On December 16, 1986, the Plan entered into a subscription agreement to fund $500,000 of NCP–B. As of March 31, 1996 the Plan had funded $397,306 of this commitment. Therefore, the Plan's interest in NCP–B is 0.01 percent. Since its investment in NCP–B, the Plan has paid management fees totaling $58,057 and has received cash disbursements totaling $161,065. Therefore, the Plan's investment basis in NCP–B is $294,298.

(d) *TCW Special Placement Fund II (TCW II)*, a Venture Capital Fund, is a California limited partnership that was formed on February 12, 1987 for the purpose of allowing investors to pool their assets in order to provide financing to highly-leveraged companies. TCW Capital serves as the general partner of TCW II. The total funding commitment for TCW II was $335.3 million of which all such amount was actually funded. TCW II is fully invested and is expected to terminate in 1999.

On February 10, 1986, the Plan entered into a subscription agreement to fund $500,000 of TCW II. As of March 31, 1996 the Plan had funded $500,000 of this commitment. Therefore, the Plan's interest in TCW II is 0.15 percent. Since its investment in TCW II, the Plan has received disbursements totaling $446,864 leaving an investment basis of $53,136.

(e) *The Shansby Group (Shansby)*, a Venture Capital Fund, is a California limited partnership that was formed on November 3, 1987 for the purpose of making equity investments in established businesses in consumer industries. The general partner of Shansby is TSG Partners, a California limited partnership which has sole responsibility for the investment, management and custody of Shansby's assets. Shansby has a stated life of ten years and is currently in a liquidation mode. The total funding commitment for Shansby was $31.3 million of which all $31.3 million was actually funded. The partnership is fully funded and is presently in an investment liquidation mode.

On October 27, 1987, the Plan entered into a subscription agreement to fund $500,000 of Shansby. As of March 31, 1996, the Plan had funded $500,000 of this commitment. Therefore, the Plan's interest in Shansby is 0.16 percent. Since its investment in Shansby, the Plan has received disbursements totaling $476,643 leaving an investment basis of $23,357.

(f) *Pennsylvania Mart Properties Secured Notes* constitute the Private Placement Bond Issue in which the Plan has invested. The issuer, Pennsylvania Mart Properties Corp. (PMP) is a special purpose corporation. PMP was formed in the mid-1970's to finance up to 100 percent of the cost of acquiring and constructing a distribution center near Morrisville, Pennsylvania. It was intended that the facility would be leased to the S.S. Kresge Company (Kresge) or a subsidiary for a 30 year term.[2]

To obtain funds necessary to acquire the property from Kresge and to complete construction, PMP sold secured notes to institutional investors. The Private Placement Bond Issue was issued in the aggregate principal amount of $22 million and has a maturity date of 30 years or January 17, 2007. The Private Placement Bond Issue carries interest at the rate of 10.25 percent per annum and is secured by a first mortgage on the property and by an assignment of the lease.

The Plan initially purchased its Interest in the Private Placement Bond Issue for $500,000 on December 2, 1976 from Merrill Lynch. At the time of the investment, the cost to complete the warehouse facility securing the Issue was $18,900,000 or 21.25 percent less than the original cost estimate of $24 million. Because the indenture for the Private Placement Bond Issue did not permit outstanding debt to exceed the final cost of the facility, PMP refunded 21.25 percent of the Issue, *pro rata*, to each investor on January 17, 1977. A total of $106,250 in principal was returned to the Plan. On that same date, a revised secured note, having a face value of $393,750, was given to the Plan. The applicant assumes that the Plan also received an accrued interest payment on January 17, 1977 in the amount of $6,406. This accrued interest would represent 45 days of interest on the initial $500,000 investment from December 2, 1976 to January 1, 1977.

Since the time of its original investment, the Plan has received interest income totaling $723,831. As of January 17, 1997, the outstanding principal balance of the Plan's Interest in the Private Placement Bond Issue was $267,035. Thus, the Plan's investment basis in the Private Placement Bond Issue is $0.

3. With the exception of NCP–B (as noted in Representation 2), the Plan has not been required to pay any management fees in connection with its ownership of the other Venture Capital Fund Interests. In this regard, all management fees paid by the Plan have been derived from capital contributions or have been withheld from distributions. The Plan has not paid any fees with respect to its Interest in the Private Placement Bond Issue. Other than management fees, the Plan has not been required to pay any servicing fees to any outside party to monitor or administer the Interests.

4. The Employer has also invested in four of the Venture Capital Funds. It is represented that the Employer acquired its Interests in these Funds contemporaneously with the Plan. In this regard, the Employer invested $1,494,255 in NFF in return for a 0.02 percent interest, $2 million in TCW I in return for a 0.02 percent interest, $2 million in TCW II for a 0.01 percent interest and $3 million in Shansby for a 0.10 percent interest. It is represented that the Employer has never invested in the Private Placement Bond Issue. In addition, the Employer also has invested $1,587,397 in Narragansett Capital Partners—A, a parallel Fund of NCP–B.[3]

5. Each of the Venture Capital Funds is valued quarterly by an advisory committee which is comprised of representative limited partners from the respective Funds. It is represented that such committee members do not include the Employer or its principals. The Plan receives a quarterly statement from each committee summarizing the value of the Venture Capital Fund and the value of the Plan's Interest in a Venture Capital Fund. In this regard, as of March 31, 1996, the fair market values of the Plan's Interests in the Venture Capital Funds were reported as follows: $49,094 in NFF; $267,000 in TCW I; $416,665 in NCP–B; $123,000 in TCW II; and $272,653 in Shansby. By letter dated January 27, 1997, Mr. Gregory Barber, who undertakes the specific duties of the general partner for NFF and NCP–B, stated that the quarterly valuations for these Venture Capital Funds represent the best estimate of the fair market value of the portfolio companies. Mr. Barber also noted that there were no sales or transfers of Interests in the Venture

[2] It is represented that K-Mart Corporation, an affiliate of Kresge is the actual lessee of the distribution center.

[3] In this proposed exemption, the Department expresses no opinion on whether the acquisition and holding by the Plan and the Employer of their respective Interests in the Venture Capital Funds violated any provision of Part 4 of Title I of the Act.

Capital Funds resulting from arm's length transactions between unrelated parties during 1995 or 1996.

By letter dated February 7, 1997, Mr. Raymond Henze, Group Managing Director of TCW Capital, the general partner of TCW I and TCW II, outlined the principals and methods of valuation utilized by TCW Capital in valuing the net assets of these Venture Capital Funds. In this regard, Mr. Henze stated that—

(a) Non-publicly traded securities are initially valued at cost unless a change in the financial condition or operating results of the issuer or guarantor of such securities indicates that there has been a permanent impairment in the value of the investment. Such investments will not be valued in excess of cost. No change in valuation of debt securities is made for fluctuations in market interest rates.

(b) Marketable securities listed on a national securities exchange or marketable securities traded in the over-the-counter market for which there is a last sales price available are valued at the last sales price on the date of valuation. Other marketable securities traded in the over-the-counter market are valued at the closing bid price as reported by the National Quotations Bureau, Inc. or at a discount from the bid price if marketability is limited by the size of the holdings relative to trading volume. Securities not marketable due to investment letter restrictions but constituting part of the class of publicly-traded securities are valued at an appropriate discount from the public market price.

(c) The carrying value of investments in non-publicly traded securities and restricted marketable securities is based upon the written valuation by a nationally-recognized independent appraiser or investment banker. Historically, this has been Deloitte & Touche LLP.

In addition, Mr. Henze stated that during calendar year 1996, there were no transfers in TCW I.

Finally, in a letter dated January 28, 1997, Mr. Charles Esserman, General Partner of the Shansby Group stated that the value of the assets of the Shansby Group as shown in the quarterly financial statement is, in the opinion of the general partners a fair representation of the fair market value of such assets as of such dates. In addition, Mr. Esserman stated that there have been no sales of Interests in the Shansby Group during the last two years.

6. The Employer proposes to terminate the Plan and wishes to ensure that all of the Plan's assets can be efficiently liquidated at their fair market value. Because there is no ready market for any the of Venture Capital Funds, it is represented that the general partners of each Fund are under no obligation to assist in the sale or repurchase of the Interests. Since each of the Venture Capital Funds is in a liquidation mode, it is represented that even if a purchaser could be found, it is unlikely that the purchaser would be willing to pay fair market value for the Plan's Venture Capital Fund Interests.

7. Therefore, the Employer requests an administrative exemption from the Department in order to purchase the Plan's Interests in the Venture Capital Funds for the greater of: (a) the funded amount of the Plan's Interest in the Venture Capital Fund (i.e., the Plan's investment basis); or (b) the fair market value of the Venture Capital Fund Interests, on the quarterly statement for the most current statement available at the time of purchase. In each instance, the value attributed to the Venture Capital Interests will be reduced by any distributions received prior to such purchase. No fees or commissions will be paid by the Plan in connection with its sale of the Interests in the Venture Capital Funds. Any costs associated with determining the fair market value for these investments will be borne by the Employer.

8. In addition to acquiring the Interests in the Venture Capital Funds, the Employer requests administrative exemptive relief in order to purchase the Plan's Interest in the Private Placement Bond Issue. The proposed sales price for the Interest will be the greater of: (a) the independently-appraised fair market value; or (b) the remaining principal balance of such Interest. No fees or commissions will be paid by the Plan in connection with the sale. Any cost associated with determining the fair market value of the Interest in the Private Placement Bond Issue will be borne by the Employer.

9. Because the Private Placement Bond Issue is not valued on a continuing basis, the Employer has retained the Allison-Williams Company of Minneapolis, Minnesota (Allison-Williams), an independent investment banking firm, to value this investment. Specifically, Mr. Michael A. Lingvall, Vice President of Allison-Williams, has determined the fair market value of the investment. Mr. Lingvall represents that he is completely unrelated to the Employer and its principals. He also states that he has three years experience in effecting private placement sales, valuation and trading and has over eight years experience in finance.

In an appraisal report dated August 20, 1996 and an addendum dated November 8, 1996, Mr. Lingvall has placed the market position for the Plan's Interest in the Private Placement Bond Issue at 92.06 (or $249,203 based upon a principal balance of $267,035). He indicates that this represents a spread of approximately 600 points over comparable Treasury bonds which he believes is an appropriate benchmark for pricing corporate private placements similar to the Interest. In determining the fair market value of the Interest, Mr. Lingvall represents that he considered such factors as the current Treasury bond yield environment, yield spread premiums on similar-term bond issues, current credit ratings, security, the size of the Plan's Interest and economic factors. In addition, Mr. Lingvall will update his appraisal of the Interest prior to the proposed sale.

10. Thus, based upon the appraisals, the Plan will sell the Interests in the Venture Capital Funds for their fair market values because, as the following table shows, these amounts exceed the Plan's investment basis for each Fund.

VC Fund	Cost	Distrib.	Adjusted basis	FMV
NFF	$500,000	$1,369,523	$0	$49,094
TCW I	500,000	414,870	85,130	267,000
NCP–B	*455,363	161,065	294,298	416,665
TCW II	500,000	446,864	53,136	123,000
Shansby	500,000	476,643	23,357	272,653
Totals	$2,455,363	$2,868,965	$455,921	$1,128,412

*Includes management fees totaling $58,057.

Accordingly, the total sales price for the Interests in the Venture Capital Funds will be $1,128,412.

With respect to the Private Placement Bond Issue, the Plan will sell its interest to the Employer for $267,035. As noted in Representation 9, this amount denotes the outstanding principal balance of such Interest and it exceeds

the Interest's fair market value of $249,203.

Therefore, the aggregate sales price for the Venture Capital Fund Interests and the Interest in the Private Placement Bond Issue will be $1,395,447 ($1,128,412 + $267,035).

11. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) All terms and conditions of the sale will be at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (b) the sale will be a one-time transaction for cash; (c) the fair market value of the Interests has been determined by qualified, independent appraisers; (d) the Plan will not pay any commissions, costs or other expenses in connection with the sale; (e) with respect to each Venture Capital Fund Interest, the Plan will receive as consideration an amount that is no less than the greater of (1) its investment basis in such Interest or (2) the fair market value of the Interest on the date of the sale; and (f) with respect to the Private Placement Bond Issue, the Plan will receive as consideration an amount that is no less than the greater of (1) the remaining principal balance of such Interest or (2) the fair market value of the Interest on the date of the sale.

Notice to Interested Persons

Notice of the proposed exemption will be provided to interested persons within 10 days as of the date of publication of the notice of pendency in the **Federal Register**. Such notice will be provided to interested persons by first class or interoffice mail. The notice will include a copy of the notice of proposed exemption, as published in the **Federal Register**, as well as a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or to request a hearing. Comments and hearing requests with respect to the proposed exemption are due 40 days after the date of publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Kenzer Corporation Thrift Savings Plan and Trust (the Plan), Located in New York, New York

[Application No. D–10391]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed ''restoration payment'' (the Restoration Payment) to the Plan by The Kenzer Corporation (the Employer), in respect of certain defaulted notes (the Notes), and (2) the potential future receipt by the Employer of ''recapture payments'' (the Recapture Payments) from the Plan.

This proposed exemption is subject to the following conditions:

(1) The Restoration Payment covers the face amount of the Notes and accrued interest as of the date of default, plus lost opportunity costs attributable to the Notes since the date of default;

(2) Any Recapture Payments are restricted solely to the amounts, if any, recovered by the Plan with respect to the Notes in litigation or otherwise; and

(3) The Employer receives a favorable ruling from the Internal Revenue Service that the Restoration Payment does not constitute a ''contribution'' or other payment that will disqualify the Plan.

Summary of Facts and Representations

1. The Plan is a 401(k) plan sponsored by the Employer. The Employer, a New York corporation, provides executive search services to client businesses seeking to fill executive or management level positions and is headquartered in New York City. As of June 30, 1996, the Plan had total assets of approximately $851,472.[4] As of December 3, 1996, the Plan had approximately 50 participants and beneficiaries. The trustees of the Plan (the Trustees) are Robert Kenzer, Chairman of the Employer, and Eric Segal, President of the Employer.

2. Among the assets of the Plan are the Notes, which are promissory notes issued by Bennett Funding, Inc. or an affiliate thereof (collectively, Bennett). The Plan acquired the Notes beginning in approximately 1991. The Notes consist of four separately issued notes in the amounts of $100,000, $100,000, $245,000, and $200,000, respectively, for an aggregate face amount of $645,000.

The applicant represents that the Trustees believed the Notes to be secure, safe investments. Documentation issued to the Plan indicated that each Note was secured by (a) equipment owned by Bennett which Bennett was leasing to unrelated third parties; (b) an assignment of the income stream generated by such leases; and (c) a master insurance policy issued by one of two insurance companies, which guaranteed the income stream from the leases.

In view of the relatively high interest rates being offered on investments which the Trustees considered to be low-risk, the Notes, when due, would generally be ''rolled over,'' with both the principal and accrued interest being reinvested in new Notes. As represented by Bennett, interest paid on each Note was deposited in a so-called ''Insured Prime Conversion Account'' (IPCA) until the maturity date, at which time the interest was added to the principal amount of the Note and reinvested in a new Note.

3. In February, 1996, Bennett announced that it was deferring interest payments then coming due on the Notes, which was in fact an act of default on the Notes. On April 2, 1996, Bennett filed a petition in the United States Bankruptcy Court for the Northern District of New York (Cases Nos. 96–61376 et seq), seeking reorganization under Chapter 11 of the Federal Bankruptcy Code.[5] Richard M. Breeden, formerly Chairman of the Securities and Exchange Commission (S.E.C.), was appointed as bankruptcy trustee. Contemporaneously, the S.E.C. filed a suit against Bennett in the United States District Court for the Southern District of New York, charging numerous acts of fraud and violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

It appears, among other things, that Bennett had begun, at one point, to ''secure'' the Notes with bogus leases of non-existent equipment on a wholesale basis. In other cases, Bennett pledged actual equipment as security for loans from institutional lenders and thereafter pledged the same equipment lease as further security both to the lenders and to public purchasers of the Notes. The money being raised with the newly issued Bennett Notes was apparently being used to pay off the interest due on older Bennett Notes, or being siphoned off into unrelated business ventures owned by members of the Bennett management. In addition, it was revealed that the Notes were not in any manner insured and that the IPCA

[4] This figure reflects the fair market value of the Plan's assets, valuing the Notes (plus accrued interest) at zero.

[5] The Department expresses no opinion herein as to whether the acquisition and holding of the Notes by the Plan violated any of the provisions of Part 4 of Title I in the Act.

appears to have been a commingled account whose assets were used by Bennett in an, as yet, unascertained fashion.

The result of these alleged fraudulent activities, finally, was a build-up of cash obligations which Bennett could no longer pay through the sale of new Notes. Bennett's liabilities exceed a billion dollars, and amounts due to unsecured creditors, among which Note holders are currently included, exceed $800 million. The Employer has filed claims with the insurers whose certificates of insurance were issued to investors in the Notes. However, these insurers have taken the position that such certificates were bogus and that no insurance existed. The bankruptcy trustee has sued the insurers, alleging, among other things, complicity in Bennett's fraudulent scheme.

4. Whatever amount, if any, that the Plan is able to recover with respect to the Notes in litigation or otherwise, it is likely to suffer enormous losses. The Employer proposes, therefore, to make the Plan whole with a Restoration Payment covering the face amount of the Notes and accrued interest as of February 29, 1996, the end of the last month for which interest was credited in respect of the Notes ($771,715), plus an amount for lost opportunity costs attributable to the Notes (approximately $21,473, as of September 30, 1996) for the period from February 29, 1996 to the date immediately prior to the date that the Restoration Payment is deposited in the Plan.[6] The Plan will refund the Restoration Payment to the Employer only to the extent of any amount that the Plan is able to recover from Bennett. The Employer is bearing all expenses of prosecuting the Plan's claims in respect of the Notes, including those relating to Bennett's bankruptcy proceedings, as well as the costs of this exemption application.

Effective as of January 1, 1997, the Plan was converted to a self-directed, individual account plan, administered by The Chase Manhattan Bank. Therefore, the Restoration Payment will be allocated to each participant account in proportion to its allocated share of the net asset value of the entire Plan portfolio. The Employer has requested a ruling from the Internal Revenue Service that the Restoration Payment does not constitute a ''contribution'' or other payment that will disqualify the Plan.

5. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act for the following reasons:

(1) The Restoration Payment will enable the Plan to immediately recover the face amount of the Notes and accrued interest as of the date of default, plus lost opportunity costs attributable to the Notes since that date; (2) any Recapture Payments will be restricted solely to the amounts, if any, recovered by the Plan with respect to the Notes in litigation or otherwise; and (3) the Employer must receive a favorable ruling from the Internal Revenue Service that the Restoration Payment does not constitute a ''contribution'' or other payment that will disqualify the Plan.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by personal delivery or by first-class mail within 15 days of the date of publication of this notice of pendency in the **Federal Register**. Such notice shall include a copy of this notice of pendency as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 45 days of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 3rd day of April, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–8973 Filed 4–8–97; 8:45 am]

BILLING CODE 4510–29–P

[6] The Department notes the applicant's representation that the Plan's lost opportunity costs with respect to the $771,715 will be calculated based upon an assumed rate of return equal to the interest rate paid on the Plan's money market investments for the period from February 29, 1996 to December 31, 1996, and thereafter, the interest rate paid on money market funds offered by the Plan to participants. (Effective as of January 1, 1997, the Plan permitted participants to direct the investment of their respective individual accounts).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

April 3, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Thursday, March 20, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission postponed until April 23, 1997, oral argument on the following:

1. *Secretary of Labor v.* Amax Coal Co., Docket No. LAKE 94–74.

PREVIOUSLY ANNOUNCED TIME AND DATE: 11:15 a.m., Thursday, March 20, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

CHANGES IN THE MEETING: The Commission postponed until April 23, 1997, oral argument on the following:

1. *Secretary of Labor v. Amax Coal Co.,* Docket No. LAKE 94–74.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2:00 p.m., Thursday, March 20, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission postponed until April 23, 1997, oral argument on the following:

1. *Secretary of Labor v. Amax Coal Co.,* Docket No. LAKE 95–267.

PREVIOUSLY ANNOUNCED TIME AND DATE: 3:15 p.m., Thursday, March 20, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

CHANGES IN THE MEETING: The Commission postponed until April 23, 1997, oral argument on the following:

1. *Secretary of Labor v. Amax Coal Co.,* Docket No. LAKE 94–267.

TIME AND DATE: 10:00 a.m., Thursday, April 10, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor v. Alpha Mining Co. et al,* Docket Nos. KENT 94–1194, etc. (Issues include whether the judge properly vacated citations against individual respondents because the Secretary failed to allege that their possession of smoking items was circumstantial evidence of smoking and whether the judge erred in concluding that an empty cigarette package and a cigarette butt are not ''smoking materials'' within the meaning of 30 U.S.C. § 877(c).).

TIME AND DATE: 2:00 p.m., Thursday, April 10, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners that the Commission consider and act upon the following in closed session:

1. *Contractors Sand & Gravel Supply, Inc. v. Secretary of Labor,* Docket No. EAJ 96–3 (Issues include whether the Commission has jurisdiction to review the decision of the administrative law judge issued pursuant to the Equal Access to Justice Act and whether the position of the Secretary was substantially justified in the underlying proceeding.).

TIME AND DATE: 10:00 a.m., Thursday, April 17, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor v. Bluestone Coal Corp.,* Docket Nos. WEVA 93–165–R and 94–117 (Issues include whether the judge correctly determined that the operator did not violate 30 C.F.R. § 77.1600(b) by failing to standardize and post traffic signs warning of a steep downgrade in its haulage road, that the operator violated 30 C.F.R. § 77.1607(c) by failing to ensure that a coal haulage truck was operated at a speed that is prudent and consistent with the conditions of the haulage road and equipment, and that the violation was significant and substantial.).

TIME AND DATE: 2:00 p.m., Thursday, April 17, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor v. Harold Moody, employed by Grand River Quarry, Inc.,* Docket No. CENT 95–214–M (Issues include whether substantial evidence supports the judge's determination that the individual respondent was not liable for his employer's violation of 30 C.F.R. § 56.9300(b).)

TIME AND DATE: 10:00 a.m., Wednesday, April 23, 1997 (Previously scheduled for March 20, 1997).

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Secretary of Labor* v. *Amax Coal Co.,* Docket No. LAKE 94–74 (Issues include whether the judge's conclusion that the operator's violation of 30 C.F.R. § 75.400's prohibition against accumulations of combustible materials was significant and substantial is legally correct and supported by substantial evidence and whether the judge's conclusion that the violation was due to the operator's unwarrantable failure is supported by substantial evidence).

TIME AND DATE: 11:15 a.m., Wednesday, April 23, 1997 (Previously scheduled for March 20, 1997).

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor* v. *Amax Coal Co.,* Docket No. LAKE 94–74 (*See* oral argument listing, *supra,* for issues).

TIME AND DATE: 2:00 p.m., Wednesday, April 23, 1997 (Previously scheduled for March 20, 1997).

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Secretary of Labor* v. *Amax Coal Co.,* Docket No. LAKE 95–267 (Issues include whether the judge was correct in determining that the operator's failure to extend a line curtain within 40 feet of a working face, as required by its ventilation plan, was the result of the operator's unwarrantable failure).

TIME AND DATE: 3:15 p.m., Wednesday, April 23, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor* v. *Amax Coal Co.,* Docket No. LAKE 95–267 (*See* oral argument listing, *supra,* for issues).

Any person attending oral argument or an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97–9223 Filed 4–7–97; 12:52 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–040]

National Environmental Policy Act; Cassini Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of draft supplemental environmental impact statement (DSEIS) for the Cassini mission to Saturn and its moons.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216, Subpart 1216.3), NASA has prepared and issued a DSEIS for the Cassini mission. The DSEIS focuses on updated information pertinent to the consequence and risk analyses of potential accidents during the launch and cruise phases of the mission. Such accidents could result in the release of plutonium dioxide from one or more of the three Radioisotope Thermoelectric Generators (RTG's) and the approximately 130 Radioisotope Heater Units (RHU's) onboard the Cassini spacecraft. The currently planned mission involves the launch of the Cassini spacecraft from Cape Canaveral Air Station (CCAS), Florida, during the primary launch opportunity that begins in early October 1997.

DATES: Comments on the DSEIS must be submitted in writing and received by NASA no later than May 27, 1997, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the Cassini mission DSEIS, whichever is later.

ADDRESSES: Written comments should be addressed to Mr. Mark R. Dahl, NASA Headquarters, Code SD, Washington, DC 20546–0001. The DSEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW., Washington, DC 20546.

(b) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler beforehand at 407–867–2497 so that arrangements can be made.

(c) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

In addition, the DSEIS may be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(d) NASA, Ames Research Center, Moffett Field, CA 94035 (415–604–4190).

(e) NASA, Dryden Flight Research Center, Edwards, CA 93523 (805–258–3448).

(f) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–0730).

(g) NASA, Johnson Space Center, Houston, TX 77058 (713–483–8612).

(h) NASA, Langley Research Center, Hampton, VA 23665 (757–864–2497).

(i) NASA, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2222).

(j) NASA, Marshall Space Flight Center, AL 35812 (205–544–0031).

(k) NASA, Stennis Space Center, MS 39529 (601–688–2164).

Limited copies of the DSEIS are available, on a first request basis, by contacting Mark Dahl at the address or telephone number indicated herein.

FOR FURTHER INFORMATION CONTACT: Mark Dahl, 202–358–1544.

SUPPLEMENTARY INFORMATION: The planned Cassini mission is an international cooperative effort of NASA, the European Space Agency, and the Italian Space Agency, to explore the planet Saturn and its environment. Saturn is the second-largest and second-most massive plant in the solar system and has the largest, most visible dynamic ring structure of all the planets. The planned mission is an important part of NASA's program for exploration of the solar system, the goal of which is to understand the system's birth and evolution. The Cassini mission would involve a 4-year scientific exploration of Saturn, it's atmosphere, moons, rings, and magnetosphere. The Cassini spacecraft consists of the Cassini Orbiter and the detachable Huygens Probe. The Huygens Probe would be released for a parachute descent into the atmosphere of Titan, Saturn's largest moon. The scientific information gathered by the Cassini mission could help provide clues to the evolution of the solar system and the origin of life on Earth.

NASA issued the *Final Environmental Impact Statement for the Cassini Mission* in July 1995 (hereinafter the ''EIS'') followed by the associated Record of Decision (ROD) to complete preparation of the Cassini mission for launch in the October 1997 opportunity, or either the secondary or backup opportunities, and to implement the mission.

The Cassini spacecraft would carry three RTG's that use the heat of decay of plutonium dioxide to generate electric power for the spacecraft and its instruments. The spacecraft would also use approximately 130 RHU's, each containing a small amount of plutonium dioxide, to generate heat for controlling the thermal environment of the spacecraft and several of its instruments.

The action selected and documented in the ROD consists of completing preparations for and implementing the Cassini mission to Saturn and its moons, with a launch of the Cassini spacecraft onboard a Titan IV (SRMU)/Centaur. The launch would take place at CCAS during the primary launch opportunity that begins in early October 1997 and continues into mid-November 1997. A secondary launch opportunity extends from the end of November 1997 to early January 1998, with a backup opportunity from mid-March to early April 1999, both using the Titan IV (SRMU)/Centaur. The primary launch opportunity would employ a Venus-Venus-Earth-Jupiter-Gravity-Assist trajectory to Saturn; the secondary and backup opportunities would both employ a Venus-Earth-Earth-Gravity-Assist (VEEGA) trajectory. The above primary launch opportunity remains NASA's preferred alternative and Proposed Action and would allow the Cassini spacecraft to gather the full science return desired to accomplish mission objectives.

Along with the No-Action alternative (ceasing preparations and not implementing the Cassini mission), the EIS evaluated in detail two other mission alternatives. The March 1999 alternative would have used two Shuttle flights with on-orbit integration of the spacecraft and upper stage, followed by injection of the spacecraft into a VEEGA trajectory to Saturn. Due to the long lead-time in developing and certifying the new upper stage that would be needed to implement it, this alternative is no longer considered reasonable. The other mission alternative considered in the EIS was the 2001 alternative which would use a Titan IV (SRMU)/Centaur to launch the spacecraft from CCAS in March 2001 on a Venus-Venus-Venus-Gravity-Assist trajectory. A backup opportunity in May 2002 would use a VEEGA trajectory. The 2001 alternative would require completing development and testing of a new high-performance rhenium engine for the spacecraft, as well as adding about 20 percent more propellant to the spacecraft. Science returns from this alternative would meet the minimum acceptable level for the mission.

The EIS analyses demonstrated that completing preparations for and

implementing a normal Cassini mission would not significantly impact the human environment. The principal concern associated with all mission alternatives (except No-Action) was with accidents during launch and operation of the mission that have the potential to result in a release of plutonium dioxide from the RTG's and/or RHU's onboard the spacecraft. In response, NASA and the U.S. Department of Energy (DOE), using the best information available at that time, developed an array of representative accident scenarios that could potentially result in a release of plutonium dioxide from the RTG's. NASA and DOE analyzed the representative accident scenarios with respect to the consequences and risks. The results of those analyses were presented in the Cassini EIS.

Updated results from the continuing tests and analyses have recently become available for NASA review. This updated data indicates that there is new information relevant to the environmental impacts of the Proposed Action.

The DSEIS compares the updated data from the ongoing analyses with those in the EIS and focuses on the areas where the largest differences are estimated. The DSEIS addresses the Proposed Action, the No-Action alternative, and the 2001 mission alternative that is still available to NASA.

Jeffrey E. Sutton,

Acting Associate Administrator for Management Systems and Facilities.

[FR Doc. 97–9104 Filed 4–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–041]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Grand Illusion/Living Window, Inc., of Dover, New Hampshire 03820, has applied for a partially exclusive license to practice the invention described and claimed in U.S. Patent No. 5,559,923, entitled ''VAPOR GENERATOR WAND,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by June 9, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, Patent Attorney, NASA Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001, telephone (757) 864–3227; fax (757) 864–9190.

Dated: April 2, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–9103 Filed 4–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–042]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that HITCO Technologies, Inc. of Gardena, California 90249–2506; Materials and Electromechanical Research Corporation (MER), of Tucson, Arizona 85706; P & P Machine Tool, Inc., of Cleveland, Ohio 44146, and Zollner Piston of Fort Wayne, Indiana 46803, have each applied for a partially exclusive license to practice the inventions described and claimed in NASA Case No. LAR–15274–1, entitled ''Carbon Fiber Reinforced Carbon Composite Valve for an Internal Combustion Engine,'' and NASA Case No. LAR–15653–1, entitled ''Method of Manufacturing Carbon Fiber Reinforced Carbon Composite Valves for an Internal Combustion Engine,'' both for which United States Patent Applications were filed on March 12, 1997, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by June 9, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001, telephone (757) 864–3227; fax (757) 864–9190.

Dated: April 2, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–9102 Filed 4–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of National Archives and Records Administration, Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Requests for copies must be received in writing on or before May 27, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are

updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Administrative Office of the United States Courts (N1–116–96–5). Firearms Instructors Certification database and Home Confinement Participant tracking system.

2. Department of the Air Force (N1–AFU–97–7). Medical provider activity files documenting medical record reviews and patient complaints.

3. Department of the Air Force (N1-AFU–97–10). Authorization for early disposal of short-term temporary records due to closure of 928 Mission Support Squadron (O'Hare International Airport) and other bases.

4. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–96–2). Ships' Logs, Monthly Activity Reports, and Cruise Report/Season Reports created by NOAA Corps Operations.

5. Department of Justice, United States Marshals Service (N1–527–97–2). Duplicative and fragmentary materials from the Service Historian's collection (substantive records will be preserved).

6. Department of Labor (N1–174–96–5). Chronological reading files of the Office of the Solicitor.

7. Department of State, Office of Medical Services (N1–59-97–19). Reduction in retention period for x-ray films.

8. Peace Corps (N1–490–97–2). Monthly field health reports (annual report is designated for permanent retention).

9. U.S. Office of Government Ethics (N1–522–97–2). Program review audit report work papers. The audit reports have sufficient value to warrant permanent retention by NARA.

Dated: April 3, 1997.

Michael J. Kurtz,

Assistant Archivist, for Record Services—Washington, DC.

[FR Doc. 97–9058 Filed 4–8–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL INSTITUTE FOR LITERACY

Agency Information Collection Activities Under OMB Review

AGENCY: National Institute for Literacy (NIFL).

ACTION: Submission for OMB review; comment request.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), this notice announces an Information Collection Request (ICR) by the NIFL. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted by May 9, 1997.

ADDRESSES: Written comments concerning the proposed regulations should be addressed to the Office of Information and Regulatory Affairs, Attn: Wendy Taylor, National Institute for Literacy, Office of Management and Budget, 725 17th Street, NW., Rm. 10235, New Executive Office Building, Washington, DC 20503. A copy of those comments may also be sent to the NIFL contact person. Requests for copies of the proposed information collection requests should be addressed to Meg Young, National Institute for Literacy, 800 Connecticut Avenue, NW., Ste. 200, Washington, DC 20006 or by calling (202) 632–1515.

FOR FURTHER INFORMATION CONTACT: Meg Young at (202) 632–1515 or e-mail: MYoung@nifl.gov

SUPPLEMENTARY INFORMATION:

Title: Application for Literacy Leader Fellowship Program

Abstract: The National Literacy Act of 1991 established the National Institute for Literacy and authorized the NIFL to award fellowships to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. Individuals are required to submit an application of not more than 10 pages, and an accompanying form that summarizes application information. Evaluations to determine successful applicants will be made by a panel of literacy experts using the published criteria. The Institute will use this information to make a minimum of one cooperative agreement award for a period of up to one year.

Burden Statement: The burden for this collection of information is estimated at 30 hours per response. This estimate includes the time needed to review instructions, and complete the form.

Respondents: Individuals.

Estimated Number of Respondents: 100.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3000.

Frequency of Collection: One time.

Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden to the address specified above.

Request for Comments

NIFL solicits comments to:

(1) Evaluate whether the proposed collection(s) of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection(s) of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

(5) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

Carolyn Staley,

Deputy Director, NIFL.

[FR Doc. 97–9049 Filed 4–8–97; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (1203)

Date and Time: April 25, 1997; 8 am–5 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1060, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Liselotte J. Schioler, Program Director, Ceramics Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1836.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advise and recommendations as part of the selection process for proposals submitted to the Ceramics Program.

Reason for Closing: The activity being evaluated may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) 4 and 6 of the Government in the Sunshine Act.

Dated: April 4, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–9088 Filed 4–8–97; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Special Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Special Meeting.

SUMMARY: The Compact Commission will hold a Special Meeting to consider whether to adopt a compact over-order price regulation for the six-state New England region. The terms and conditions of any such regulation will be discussed at the meeting. The Compact Commission will also consider certain matters relating to administration, the bylaws and referendum, and the ongoing administrative assessment.

DATES: The meeting is scheduled for April 16, 1997 commencing at 9:00 a.m. to adjournment.

ADDRESSES: The meeting will be held at the New Hampshire College, North Campus, Conference Center, Route 3, North (Daniel Webster Highway), in Hooksett, NH.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT, 05601–1058, 802–229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold a Special Meeting, pursuant to Article V(C)(3) of the Northeast Interstate Dairy Compact, to debate the adoption of a compact over-order price regulation. The Compact Commission has conducted two days of public hearings and afforded two separate opportunities for interested persons to submit written comments after notice. The Commission will now consider the merits of whether a compact over-order price regulation should be adopted in light of the comments and the evidence in the public record.

The Compact Commission will also consider certain matters relating to its administrative operation, a technical correction of the bylaws and the addition of an escrowing provision to the administrative assessment, and the referendum procedure.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147 of the Federal Agricultural Improvement and Reform Act (FAIR ACT), P.L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

Daniel Smith,

Executive Director.

[FR Doc. 97–9042 Filed 4–8–97; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456 and STN 50–457]

Commonwealth Edison Company; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 86 to Facility Operating License No. NPF–37, Amendment No. 86 to Facility Operating License No. NPF–66, Amendment No. 78 to Facility Operating License No. NPF–72 and Amendment No. 78 to Facility Operating License No. NPF–77, issued to Commonwealth Edison Company (ComEd, the licensee), which revised the Technical Specifications (TS) for operation of the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois and Braidwood Station, Unit Nos. 1 and 2, located in Will County, Illinois. The amendments are effective as of the date of issuance and shall be implemented within 45 days.

The amendments modified the TSs to allow the licensee to take credit, on a temporary basis, for soluble boron in the spent fuel storage pool water in maintaining an acceptable margin of subcriticality.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on February 10, 1997 (62 FR 6016). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendments will not have a significant effect on the quality of the human environment (62 FR 13403).

For further details with respect to the action see (1) the application for amendments dated November 5, 1996, as supplemented February 27 and March 30, 1997, (2) Amendment No. 86 to Facility Operating License No. NPF–37, Amendment No. 86 to Facility Operating License No. NPF–66, Amendment No. 78 to Facility Operating License No. NPF–72 and Amendment No. 78 to Facility Operating License No. NPF–77, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document rooms located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 2nd day of April 1997.

For the Nuclear Regulatory Commission.

Ramin R. Assa,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9061 Filed 4–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Company; Notice of Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

[Docket Nos. STN 50–454, STN 50–455, STN 50–456 AND STN 50–457]

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Commonwealth Edison Company (ComEd, the licensee) for amendments to Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77, issued to the licensee for operation of the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois and Braidwood Station, Unit Nos. 1 and 2, located in Will County, Illinois. Notice of Consideration of Issuance of the amendments was published in the **Federal Register** on February 10, 1997 (62 FR 6016).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to allow the licensee to take credit, on a temporary basis, for soluble boron in the spent fuel storage pool water in maintaining an acceptable margin of subcriticality. However, reference to the Westinghouse document CAC–96–248, ''Byron and Braidwood Spent Fuel Rack Criticality Analysis with Credit for Soluble Boron'' was included in the request. This document is not based on the NRC-approved Westinghouse methodology for soluble boron credit, as given in WCAP–14416–NP–A dated November 1996. The proposal to reference the use of an unapproved methodology is not acceptable and is, therefore, denied.

The NRC staff has concluded that part of the licensee's request can not be granted. The licensee was notified of the Commission's partial denial of the proposed change by a letter dated April 2, 1997.

By May 9, 1997 the licensee may demand a hearing with respect to the partial denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene. A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated November 5, 1996, as supplemented February 27 and March 30, 1997, and (2) the Commission's letter to the licensee dated April 2, 1997.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 2nd day of April 1997.

For the Nuclear Regulatory Commission.

Ramin R. Assa,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9062 Filed 4–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Illinois Power Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to Illinois Power Company (the licensee), for operation of the Clinton Power Station, Unit 1 (CPS), located in DeWitt County, Illinois.

As described in CPS Licensee Event Report 94–005, the degraded voltage relays at CPS and their setpoints are not sufficient to ensure proper operation of all Class 1E equipment, contrary to the current licensing basis for CPS. As interim corrective action, the licensee installed an undervoltage alarm for the Division 1, 2, and 3, 4.16-kV buses and established contingent operator actions in order to minimize the potential that the Class 1E loads would receive inadequate voltage for proper operation. Subsequent licensee review of these interim administrative controls has concluded that, although the use of compensatory administrative controls reduces the risk associated with a degraded voltage condition, reliance on the interim administrative controls can potentially result in a malfunction of equipment important to safety of a different type than previously evaluated in the CPS Updated Safety Analysis Report and therefore, constitutes an unreviewed safety question. In addition, the licensee has concluded that the interim administrative controls can result in a small reduction in the margin of safety as defined in the CPS technical specifications.

The proposed amendment, requested by the licensee in their letter dated April 1, 1997, would modify Technical Specification Table 3.3.8.1–1, ''Loss of Power Instrumentation.'' The proposed change requires the interim administrative controls to be maintained to minimize the potential that the Class 1E loads would receive inadequate voltage in the event of a degraded voltage condition. These controls are to be maintained until the licensee completes planned modifications for upgrading the degraded voltage protection instrumentation and distribution system for all three divisions of safety-related AC power. The new interim administrative controls primarily consist of system planning controls on the voltage of the 345-kV offsite grid, notification of plant operators under offsite grid conditions that may result in a degraded voltage condition if CPS tripped off-line, and utilizing an installed degraded voltage alarm that will prompt operators to take action to transfer the 4.16-kV buses to their associated diesel generators in the event voltage is not adequate to ensure proper operation of the Class 1E loads.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 9, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request

for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail Marcus, Director, Project Directorate III–3: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Leah Manning Stetzner, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated April 1, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, MD, this 3rd day of April 1997.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Acting Director, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9060 Filed 4–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, 50–287, 50–369, 50–370, 50–413 and 50–414]

Environmental Assessment and Finding of no Significant Impact; Oconee Nuclear Station, Units 1, 2, and 3; Catawba Nuclear Station, Units 1 and 2; McGuire Nuclear Station, Units 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations in Facility Operating Licenses issued to Duke Power Company, et al. (the licensee). License Nos. DPR–38, DPR–47, and DPR–55 are for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina. License Nos. NPF–35 and NPF–52 are for operation of the Catawba Nuclear Station located in York County, South Carolina. License Nos. NPF–9 and NPF–17 are for operation of the McGuire Nuclear Station located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated August 23, 1996, for exemption from certain requirements of 10 CFR 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage.'' The exemption would allow implementation of a hand geometry biometrics system to control site access at the Oconee, Catawba, and McGuire nuclear stations so that photo identification badges may be kept and taken offsite by individuals not employed by the licensee who have been granted unescorted access into protected and vital areas.

The Need for the Proposed Action

Pursuant to 10 CFR 73.55, paragraph (a), Duke Power Company shall establish and maintain an onsite physical protection system and security organization. Regulation 10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), specifies that the ''licensee shall control all points of personnel and vehicle access into a protected area.'' Regulation 10 CFR 73.55(d)(5) specifies that, ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.''

Regulation 10 CFR 73.55(d)(5) also states that an individual not employed by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area. * * * '' Currently, unescorted access into protected areas at the Oconee, Catawba, and McGuire nuclear stations is controlled through the use of a photograph on a badge/keycard (hereafter referred to as a ''badge''), which is stored at the access point when not in use. The security officers at each entrance station use the photograph on the badge to visually identify the individual requesting access. The badges for licensee employees and contractor personnel who have been granted unescorted access are given to the individuals at the entrance location upon entry and are returned upon exit.

In accordance with 10 CFR 73.55(d)(5), contractor badges are not allowed to be taken offsite.

The licensee proposes to implement an alternate unescorted access control system that would eliminate the need to issue and retrieve badges at the entry point and would allow all individuals with unescorted access to keep their badges when departing the site.

An exemption from 10 CFR 73.55(d)(5) is required to permit contractors to take their badges offsite instead of returning them when exiting the site.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the licensee's application. Under the proposed system, each individual who is authorized unescorted access would have the physical characteristics of his/her hand (i.e., hand geometry) registered with his/her badge number in the access control system. When an individual enters the badge into the card reader and places his/her hand on the measuring surface, the system would record the individual's hand image. The unique characteristics of the hand image would be compared with the previously stored template to verify authorization for entry. Individuals, including licensee employees and contractors, would be allowed to keep their badges when departing the site.

A Sandia report, ''A Performance Evaluation of Biometric Identification Devices,'' SAND91–0276–UC–906, Unlimited Release, June 1991, concluded that hand geometry equipment possesses strong performance and high detection characteristics. Also, based on its own experience with the current photo-identification system, the licensee determined that the proposed hand geometry system would provide the same level of assurance as the current system that access is only granted to authorized individuals. Since both the badge and hand geometry would be necessary for access into the protected areas, the proposed system would provide a positive verification process. Potential loss of a badge by an individual, as a result of taking the badge offsite, would not enable unauthorized entry into protected areas. The licensee has determined that the proposed hand geometry access control process for identifying personnel will provide the same high assurance objective regarding onsite physical protection as provided by the photo-identification process now in use. The access process will continue to be under the observation of security personnel. A numbered picture badge identification system will continue to be used for all individuals who are authorized access to protected areas without escorts. Badges will continue to be displayed by all individuals while inside the protected areas.

The licensee has stated it will implement a process for periodically testing the proposed system to ensure continued overall level of performance equivalent to that specified in the regulation. The Physical Security Plan will be revised to include implementation and testing of the hand geometry access control system and to allow licensee employees and contractors to take their badges offsite.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impacts. With regard to potential nonradiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of the Oconee, Catawba, and McGuire nuclear stations.

Agencies and Persons Consulted

In accordance with its stated policy, on April 1 and April 4, 1997, the staff consulted with the South Carolina and North Carolina State officials, respectively, regarding the environmental impact of the proposed action. The State officials had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated August 23, 1996, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW, Washington, DC and at the local public document rooms located at the Oconee County Library, 501 West South

Broad Street, Walhalla, South Carolina for the Oconee Nuclear Station; the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730 for the Catawba Nuclear Station; and the J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, North Carolina 28223 for the McGuire Nuclear Station.

Dated at Rockville, Maryland, this 3rd day of April 1997.

For The Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9059 Filed 4–8–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving no Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 17, 1997 through March 28, 1997. The last biweekly notice was published on March 26, 1997 (62 FR 14457).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 9, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert

opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: March 5, 1997.

Description of amendments request: The proposed amendments would incorporate a new Technical Specification (TS) for instrumentation associated with automatic isolation of a pathway for release of non-condensible gases from the main condenser. At power levels of 5 percent or less, mechanical vacuum pumps are used to remove non-condensible gases from the condenser using a pathway to the release stack that bypasses the normal holdup and filter train. The proposed TS will require that four channels of the main steam line radiation—high isolation function be capable of tripping the mechanical vacuum pumps and closing an isolation valve in the release pathway. Surveillance requirements are included in the TS to ensure the isolation instrumentation will perform its intended function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change incorporates a new Technical Specification 3/4.3.8, ''Condenser Vacuum Pump Isolation Instrumentation.'' This specification will require that the main steam line radiation—high isolation function be capable of tripping the condenser vacuum pump(s) and isolate the associated common isolation valve. Four instrumentation channels of this function are required to be operable when the unit is in OPERATIONAL CONDITION 1 or 2 with a condenser vacuum pump in operation. Adding the requirement to trip the condenser vacuum pumps does not affect the probability of an accident previously evaluated. The probability of component failure of the proposed design for condenser vacuum pump isolation devices is the same as that of the original licensing basis. As a result, the capability to isolate the condenser vacuum pump will not be significantly impacted.

CP&L contracted Scientech-NUS to recalculate the main control room doses resulting from a control rod drop accident assuming main steam line radiation monitors isolate the condenser vacuum pump(s) and determined the dose to be 23.2 rem thyroid and 0.05 rem whole body, which is less than the General Design Criterion (GDC) 19/Standard Review Plan (SRP) Section 6.4 limits of 30 rem thyroid and 5 rem whole body. The offsite doses at the exclusion area boundary after 2 hours are 0.16 rem thyroid and 0.015 rem whole body, which is less than the SRP Section 15.4.9 limits. The low population zone (LPZ) dose is estimated to be about 1 rem thyroid, which is also well below regulatory limits. Therefore, the proposed [amendments do] not increase the consequences of an accident previously evaluated.

2. The proposed amendment[s] would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed [amendments add] new requirements to ensure the capability to trip the condenser vacuum pump(s). The proposed [changes do] not affect the operability of equipment designed to mitigate the consequences of an accident nor [do they] create a potential to initiate a new type of accident. Therefore, the proposed [changes do] not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license [amendments do] not involve a significant reduction in a margin of safety.

The safety-related main steam line radiation monitors provide a highly reliable means to detect radioactivity resulting from a control rod drop accident and will provide automatic trip of the condenser vacuum pumps and isolation of the associated isolation valve. Use of the main steam line radiation monitors for this application is consistent with the original Brunswick Steam Electric Plant design for condenser pump and associated valve isolation. CP&L contracted Scientech-NUS to recalculate the main control room doses resulting from a control rod drop accident assuming main steam line radiation monitors isolate the condenser

vacuum pump(s) and determined it to be 23.2 rem thyroid and 0.05 rem whole body, which is less than the GDC 19/SRP Section 6.4 limits of 30 rem thyroid and 5 rem whole body. The offsite doses at the exclusion area boundary after 2 hours are 0.16 rem thyroid and 0.015 rem whole body, which is less than the SRP Section 15.4.9 limits. LPZ dose is estimated to be about 1 rem thyroid, which is also well below regulatory limits. Therefore, the proposed [changes do] not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 18, 1997.

Description of amendment request: The proposed change revises the Plant System Turbine Cycle Technical Specification (TS) 3/4.7.1 by revising the power range high neutron flux setpoint values in TS Table 3.7–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The high flux setpoints are being revised to provide additional margin against secondary side overpressurization for LOL/TT [loss-of-load/turbine trip] events. The proposed revision will not create any loss or reduction in redundancy or diversity in the reactor protection systems that would increase the probability of a previously evaluated accident. The high flux setpoints are being revised to ensure that the consequences of a previously evaluated accident do not increase.

Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or previously unanticipated failure mechanisms are introduced by the proposed change. No new failure modes have been created by the proposed change. No new credible event or initiating factor is introduced. Reactor power is limited to ensure that the secondary system is not overpressurized.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The margin of safety as defined in the basis of the Technical Specification does not decrease. This change is proposed to ensure that the secondary system pressure will be limited to within 110% of its design pressure during the most severe anticipated operational transient. The revised high flux setpoints are intended to bound the allowable operating configurations of TS Table 3.7–1.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 21, 1997.

Description of amendment request: The proposed change adds a definitive time limit to Technical Specification 3.3.2 in Action 16 of Table 3.3–3 to place an inoperable channel into bypass.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not affect the operation or design of the plant in any way. The requirement to place the channel into bypass already exists and this change simply provides a specific time limit. This logic circuit is not an initiator of any event and with no change in logic or operation there is no change in consequences.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed specific time limit does not involve any physical alterations or additions to plant equipment or alter the manner in which any safety-related system performs its function. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change replaces an indeterminate time period with a specific limit of six hours. Six hours is a reasonable period in which to complete this requirement and is identical to the time allowed for these functions in NUREG–1431 [Standard Specifications Westinghouse Plants]. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 27, 1997.

Description of amendment request: The proposed change adds sleeve installation as an alternative to tube plugging for repairing degraded steam generator tubes to Technical Specification 3/4.4.5, Steam Generators.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The only equipment affected by sleeving is the steam generator tubes. The most severe malfunction of a steam generator tube is a tube rupture. The consequences of a ruptured sleeve are no greater than the consequences of a ruptured tube. Sleeving does not increase the probability of a steam generator tube failure because the sleeved tube has been shown to have a significant safety factor for burst and collapse pressures as well as demonstrated acceptable resistance to corrosion and fatigue loading. Thus, a steam generator with sleeved tubes would perform in the same manner as one without sleeved tubes.

A sleeved tube is functionally equivalent to an unsleeved tube except for less effective heat transfer due to the air gap and a slightly higher pressure drop due to the primary flow restriction. These differences are bounded by the current tube plugging limits.

Analysis and testing have demonstrated that the sleeves are structurally adequate to withstand the load existing within the steam generator tubes whether the original tube is still intact or is breeched.

There is no increase in the possibility for increased fatigue loadings. There is no possibility for the sleeve to become dislodged from its plugging location and enter the RCS [Reactor Coolant System] flow path.

The plant safety analysis for tube plugging bounds tube sleeving.

The proposed change has no significant effect on the configuration of the plant. The proposed change does not affect the way in which the plant is operated. Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

A sleeved tube is functionally equivalent to an unsleeved tube except for less effective heat transfer due to the air gap and a slightly higher pressure drop due to the primary flow restriction. These differences are bounded by the current tube plugging limits.

The sleeved tube has been shown to have a significant safety factor for burst and collapse pressures as well as demonstrated acceptable resistance to corrosion and fatigue loading. Thus, a steam generator with sleeved tubes would perform in the same manner as one without sleeved tubes.

The proposed change has no significant effect on the configuration of the plant. The proposed change does not affect the way in which the plant is operated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed revision to permit the installation of tube sleeves does not reduce the margin of safety as presently defined in Technical Specification BASES section 3/4.4.5. This margin of safety includes primary to secondary leakage limits and tube plugging limits which are not changed by the proposed amendment. The analyses and testing of the proposed sleeve design demonstrates that the structural integrity of the RCS is maintained. Design of the tube sleeve considers mechanical/structural aspects, water chemistry and metallurgical aspects as well as thermal/hydraulic considerations.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 10, 1997.

Description of amendment request: The proposed changes to Technical Specification 3.5.1 provide an optional method of meeting surveillance requirements by allowing the use of instrument readings to meet surveillance 4.5.1.1.a.1, and adds a new Action c to cover a condition in which one accumulator has a boron concentration not within limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accumulators are not initiators of any event and so the probability of occurrence of an event is unaffected by either of the proposed changes. The use of actual instrumentation readings to comply with the surveillance does not change the function or performance of the accumulators and thus does not affect any accident consequences. The increase in the allowed time to restore the boron concentration to within limits is consistent with allowed out of service times for other Emergency Safeguards equipment.

It will not have a significant impact on subcriticality during reflood. Therefore, there will be no increase in the consequences of an accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the accumulator specification do not involve any physical alterations or additions to plant equipment or alter the manner in which any safety-related system performs its function. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change to the surveillance requirement provides an equivalent means of meeting the requirement. Since there is no change in either the accumulator limits or the surveillance frequency, there is no reduction in safety margin. The new Action c to address returning the boron concentration of a single accumulator to within limits allows an out of service time commensurate with the times allowed for other Engineered Safeguards Features. The boron concentration of one accumulator does not have a significant impact on subcriticality during reflood and thus does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 14, 1997.

Description of amendment request: The amendment will revise the Final Safety Analysis Report to include the

evaluation of a spent fuel cask drop analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes described do not impact the probability of occurrence of accidents previously analyzed. Removal of the valve box covers and all but four of the cask closure head sleeve nuts has no impact on accident initiators. Dose assessments using maximum potential releases assuming failure of the spent fuel and radionuclide release through the gap between the cask closure head and the cask or damage to the valves show that no significant increase in consequences of an accident previously evaluated would occur. [Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.]

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Compromising the integrity of the cask by removing the valve box covers and closure head sleeve nuts in preparation for unloading the spent fuel from the cask does not create the possibility of a new type of accident or equipment malfunction. No safety-related equipment, safety function, or operations of plant equipment will be altered as a result of this change. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The NRC basis for acceptance of a spent fuel cask drop is documented in Section 15.7.5 of the Safety Evaluation Report, NUREG–1038, dated November 1983. It states, ''* * * no loss of cask integrity is postulated to occur in the event of a drop, and the staff concludes there will be no significant radiation released to the environment. The radiological consequences will be less than a small fraction of the 10 CFR 100 exposure guideline values.''

As described in the proposed change, even though complete cask integrity may not be preserved in the event of a loaded cask drop with the valve box covers removed or with only four, rather than 32, closure head sleeve nuts installed, the radiological consequences calculated using conservative assumptions were determined to be a small fraction of the 10 CFR 100 values. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Mark Reinhart, Acting.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: June 20, 1996, as supplemented by letters dated December 30, 1996, and March 5, 1997.

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) by incorporating NRC approved thermal limit licensing methodology in the list of approved methodologies used in establishing the fuel cycle specific thermal limits. In addition, the proposed amendment would correct mirror editorial items in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits will be established consistent with NRC approved methods to ensure that fuel performance during normal, transient and accident conditions is acceptable. The proposed Technical Specifications amendment reflects NRC approved SPC methodology used to analyze normal operations, including anticipated operational occurrences (AOOs), and to determine the potential consequences of accidents.

Licensing Methods and Models

The proposed amendment is to support operation with NRC approved fuel and licensing methods supplied from Siemens Power Corporation [SPC]. In accordance with [Updated Final Safety Analysis Report] UFSAR Chapter 15, the same accidents and transients will be analyzed with the new fuel and methods. The latest NRC approved revision to the Siemens [loss-of-coolant accident] LOCA analysis methodology (Reference: ANF–91–048(P)(A), Advanced Nuclear Fuels Corporation Methodology for Boiling Water Reactors EXEM BWR Evaluation Model) will be used to evaluate the ATRIUM–9B and other co-resident fuel types. The other licensing analysis methods and models are also NRC approved. The approved methods and models are used to determine the fuel thermal limits (e.g., average planar linear heat generation rate, transient linear heat generation rate, minimum critical power ratio and linear heat generation rate). The SPC core monitoring code enables the site to monitor k_{eff} as well as control rod density to perform the reactivity anomaly surveillance. Therefore, the change in licensing analysis methods and models does not significantly increase the probability of an accident or the consequences of an accident previously identified. The support systems for minimizing the consequences of transients and accidents are not affected by the proposed amendment.

New Fuel Design

The use of reload quantities of ATRIUM–9B fuel at Dresden does not involve a significant increase in the probability or consequences of any accident previously evaluated in the [Final Safety Analysis Report] FSAR. The ATRIUM–9B fuel is generically approved for use as a reload BWR fuel type (Reference: ANF–89–014(P)(A) Revision 1 Supplement 1, Generic Mechanical Design for Advanced Nuclear Fuels 9X9–IX and 9X9–9X BWR Reload Fuel). Limiting postulated occurrences and normal operation have been analyzed using NRC-approved methods for the ATRIUM–9B fuel design to ensure that safety limits are protected and that acceptable transient and accident performance is maintained.

The reload fuel has no adverse impact on the performance of in-core neutron flux instrumentation or CRD response. The ATRIUM–9B fuel design will not adversely affect performance of neutron instrumentation nor will it adversely affect the movement of control blades relative to the current Dresden fuel type, the Siemens manufactured 9x9–2. The exterior dimensions of the ATRIUM–9B fuel have been evaluated by ComEd; the ATRIUM–9B fuel design provides adequate clearances relative to the co-resident 9x9–2 fuel. Thus, no increased interactions with the adjacent control blade or nuclear instrumentation are created. Additionally, given the above mentioned overall envelope similarities, no problems are anticipated with other station equipment such as the fuel storage racks, the new fuel inspection stand and the spent fuel storage pool fuel preparation machine. Therefore, the probability of adverse interactions between the ATRIUM–9B fuel and components in the core and fuel handling equipment is not significantly increased.

The ATRIUM–9B design is neutronically compatible with the existing fuel types and core components in the Dresden core. SPC tests have demonstrated that the ATRIUM–9B fuel design is hydraulically compatible with the co-resident 9x9–2 fuel. The bundle pressure drop characteristics of the ATRIUM

9B bundle are similar to those of the 9x9–2 fuel design, hence core thermal-hydraulic stability characteristics are not adversely affected by the ATRIUM–9B design. Cycle stability calculations are performed by SPC. Therefore, the probability of thermal hydraulic instability is not significantly increased.

Evaluations of the Dresden Emergency Procedures and UFSAR Chapter 15 AOOs are being performed to ensure that the use of the ATRIUM–9B fuel at Dresden does not alter any assumptions previously made in evaluating the radiological consequences of an accident at Dresden Units 2 and 3. Therefore, the radiological consequences of accidents are not significantly increased.

Methods approved by the NRC are being used in the evaluation of fuel performance during normal and abnormal operating conditions. The ComEd and SPC methods to be used for the cycle specific transient analyses have been previously NRC approved. The proposed methodologies are administrative in nature and do not significantly affect any accident precursors or accident results; as such, the proposed change to the listing of the SPC methodologies for Dresden does not significantly increase the probability or consequences of any previously evaluated accidents.

The description of the fuel is modified to include the water box design of the NRC approved ATRIUM–9B fuel type.

Review of the above concludes that the probability of occurrence and the consequences of an accident previously evaluated in the safety analysis report have not been significantly increased.

* * * * *

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation.

Licensing Methods and Models

The proposed Technical Specification amendment reflects previously approved SPC methodology used to analyze normal operations, including AOOs, and to determine the potential consequences of accidents. In accordance with FSAR Chapter 15, the same accidents and transients will be analyzed with the new fuel and method as have been previously performed. As stated above, the proposed changes do not permit modes of reactor operation which differ from those currently permitted; therefore, the possibility of a new or different kind of accident is not created. Plant support equipment is not affected by the proposed changes; therefore, no new failure modes are created.

New Fuel Design

The basic design concept of a 9x9 fuel pin array with an internal water box has been used in various lead assembly programs and in reload quantities in Europe since 1986. WNP–2 has loaded reload quantities since 1991. Eight lead ATRIUM–9B assemblies were loaded into Dresden 2 during Cycle 15. Approximately 650 water box assemblies have been irradiated in the United States through 1995, with a substantially higher number being irradiated overseas. The NRC has reviewed and approved the ATRIUM–9B fuel design (Reference: ANF–89–014(P)(A) Revision 1 Supplement 1, Generic Mechanical Design for Advanced Nuclear Fuels 9X9–IX and 9X9–9X BWR Reload Fuel). The similarities in fuel design and operation between the ATRIUM–9B and the 9x9–2, and the previous Boiling Water Reactor experience with Siemens fuel, indicate there would be no new or different types of accidents for Dresden than have been considered for the existing fuel. Therefore, the use of ATRIUM–9B fuel at Dresden does not create the possibility of a new or different kind of accident from any accident previously evaluated.

* * * * *

3. Involve a significant reduction in the margin of safety for the following reasons:

The existing margin to safety is provided by the existing acceptance criteria (e.g., 10 CFR 50.46 limits). The proposed Technical Specification amendment reflects previously approved SPC methodology used to demonstrate that the existing acceptance criteria are satisfied. The revised LOCA methodology has been previously reviewed and approved by the USNRC for application to reload cores of BWRs. References for the Licensing Topical Reports which document this methodology, and include the Safety Evaluation Reports prepared by the USNRC, are added to the Reference section of the Technical Specifications as part of this amendment.

Licensing Methods and Models

The proposed amendment does not involve changes to the existing operability criteria. NRC approved methods and established limits (implemented in the COLR) ensure acceptable margin is maintained. The ComEd and SPC reload methodologies for the ATRIUM–9B reload design are consistent with the Technical Specification Bases. The Limiting Conditions for Operation are taken into consideration while performing the cycle specific and generic reload safety analyses. USNRC approved methods are listed in Specification 6.9.A of the Technical Specifications.

Analyses performed with USNRC-approved methodology have demonstrated that fuel design and licensing criteria will be met during normal and abnormal operating conditions. The same margins of safety will continue to be utilized by SPC (e.g., limits on peak cladding temperature, cladding oxidation, plastic strain). Therefore, there is not a significant reduction in the margin of safety.

New Fuel Design

The exterior dimensions of the ATRIUM–9B fuel assembly result in equivalent clearances relative to the co-resident 9x9–2 fuel. Thus, no increased interactions with the adjacent control blade and nuclear instrumentation are created. The change does not adversely impact equipment important to safety; therefore the margin of safety is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: March 18, 1997.

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) by increasing the High Pressure Coolant Injection (HPCI) isolation setpoint from greater than/equal to 80 psig to greater than/equal to 100 psig. The licensee has requested the change to ensure consistency between the Updated Final Safety Analysis Report (UFSAR), design basis documents and the TS. The function of the setpoint is to assure the HPCI turbine steam supply is isolated in the event that the reactor scram supply pressure falls below the stall pressure of the HPCI turbine and the system seals are no longer effective in controlling the release of potentially contaminated steam.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

The Low Reactor Pressure isolation of the HPCI steam supply lines is provided to prevent damage to the HPCI turbine when the reactor steam pressure has decreased below that required to provide adequate motive force to operate the system. The steam supply isolation low reactor pressure setpoint is not an assumed initiator or contributor to any previously evaluated accident and therefore this change does not involve an increase in the probability of an accident previously evaluated at Dresden Station.

The Lower Reactor Pressure isolation of the HPCI steam supply lines is described in the

plant safety analysis as a backup protection to other system and facility design features which provide assurance that accident transients will not result in failures of the system which contribute significantly to the consequences of the initiating accident. The low reactor pressure isolation signal provides backup to other isolation signals to ensure isolation will occur, minimizing the radiation dose as a result of steam leakage past the turbine seals in the event of a locked rotor due to damage from liquid carryover due to postulated swell in the reactor vessel.

These analyses assume the isolation function occurs at 100 psig, and the proposed setpoint of greater than or equal to 100 psig is consistent and conservative with respect to these assumptions. Because the isolation function is not an accident initiator and the revised setpoint ensures that the isolation function continues to minimize radiological consequences, the consequences of any accident previously evaluated is not increased by the proposed changes.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed change administratively increases the Low Reactor Vessel Pressure trip setpoint which initiates HPCI isolation. This change does not result in any new or different modes of operation. The proposed change increases the setpoint at which the HPCI turbine steam supply will be isolated as the reactor vessel pressure decreases following a postulated accident. The proposed new setpoint is conservative with respect to the existing TS limit, i.e. the new limit of greater than or equal to 100 psig is consistent and permitted by the existing limit of greater than or equal to 80 psig. The change assures that the Trip Setpoint in the TS accurately reflects the design basis and UFSAR described limits.

Because the proposed change does not result in any new modes of plant operation and administratively increases the system isolation setpoint in a conservative manner, the proposed change does not create the possibility of a new or different kind of accident from those previously evaluated.

3. Involve a significant reduction in the margin of safety because:

The Trip Setpoint provides assurance that the HPCI turbine cannot be operated with a steam supply pressure too low to drive the turbine and pump. The isolation assures that the turbine does not stall and minimizes the potential for the release of radioactivity which results from steam leakage past the turbine seals. The proposed change increases the setpoint, ensuring that the required isolation occurs at a higher pressure which is more conservative, i.e. it assures the turbine is isolated before the inlet steam pressure falls to the stall pressure of the HPCI turbine and leakage occurs. The greater than or equal to 100 psig limit is well below the range of reactor vessel pressure for which HPCI is required to perform its safety function. Therefore, the margin of safety provided by the function of the HPCI isolation on low reactor vessel pressure is increased by the proposed TS change, and this change will not involve a reduction in the margin of safety.

As described, the proposed amendment for Dresden will not reduce the availability of systems required to mitigate accident conditions. Neither are new or significantly different modes of operation proposed. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Guidance has been provided in ''Final Procedures and Standards on No Significant Hazards Considerations,'' Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations.

This proposed amendment does not involve any irreversible changes, a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings or a significant relaxation of the bases for the limiting conditions for operations. Therefore, based on the guidance provided in the **Federal Register** and the criteria established in 10 CFR 50.92(c), the proposed change does not constitute a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: December 27, 1995, as supplemented September 4, October 18, and November 26, 1996.

Description of amendment request: The proposed amendment would revise technical specifications (TS) related to electrical power systems. The proposed changes include revisions to limiting conditions for operation (LCO), LCO applicability and action statements, allowed outage times (AOT), surveillance requirements (SR), and administrative controls. The changes add new requirements, revise or delete existing requirements, relocate certain existing requirements to other licensee controlled documents, and editorially restructure the proposed requirements to closely emulate the electrical power system requirements of NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants,'' (STS). The proposed requirements differ from the requirements of the STS where necessary to reflect features unique to the Palisades design. Each proposed change has been classified by the licensee as Administrative, Relocated, More Restrictive, or Less Restrictive.

Basis for proposed no significant hazards consideration determination: A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Evaluation of ADMINISTRATIVE, RELOCATED, and MORE RESTRICTIVE changes:

ADMINISTRATIVE changes and RELOCATED changes move requirements, either within the TS or to documents controlled under 10 CFR 50.59, or [clarify] existing TS requirements, without affecting their technical content. Since ADMINISTRATIVE and RELOCATED changes do not alter the technical content of any requirements, they cannot involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any previously evaluated, or involve a significant reduction in a margin of safety.

MORE RESTRICTIVE changes only add new requirements, or revise existing requirements to result in additional operational restrictions. Since the TS, with all MORE RESTRICTIVE changes incorporated, will still contain all of the requirements which existed prior to the changes; MORE RESTRICTIVE changes cannot involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any previously evaluated, or involve a significant reduction in a margin of safety.

Evaluation of LESS RESTRICTIVE changes:

1. Do these LESS RESTRICTIVE changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Change 3 revised the requirement for operable AC sources, using more general wording than the existing TS. The existing LCO requires that two explicitly specified transformers be operable; the proposed LCO requires that two qualified offsite circuits be operable. The proposed LCO will allow

substitution of Safeguards Transformer 1–1 for Station Power Transformer 1–2 as a required AC source, but the quantity and quality of required offsite AC sources is unaffected. Since the capability and qualification of Safeguards Transformer 1–1 are equivalent to those of the Station Power transformer, neither the probability or consequences of an accident previously evaluated will be increased.

Change 10 is less restrictive only in its allowance of a 72 hour AOT for an inoperable offsite source instead of the 24 hour AOT currently required. The change also makes a considerably more restrictive change by eliminating the allowance, based on submittal of a report, for continuous operation with Startup Transformer 1–2 inoperable. Changing an AOT, alone, cannot increase the probability or consequences of an accident previously evaluated.

Change 14 allows, for an inoperable DG [diesel generator], verification that no common cause failure is involved in lieu of test starting the other DG. The intent of the test starting requirement is to verify that there is no common cause failure which also makes the other DG inoperable. The proposed action statement thereby accomplishes the same objective as that it replaces. Since the proposed action statement accomplishes the same objective as the one it replaces, operation in accordance with the proposed change will not increase the probability or consequences of an accident previously evaluated.

Change 21 revises the SR for the DG starting test. [The ''Less Restrictive'' elements of the change eliminate the requirement to vary use of the A and B starting circuits for each monthly test, because the DG is not assumed to be single failure proof; and eliminate requirements that the DGs be manually started and that they be synchronized from the control room, because no practical alternatives exist for accomplishing these actions]. The proposed change does not alter any plant operating conditions, operating practices, equipment settings, or equipment capabilities. Therefore, operation of the facility in accordance with the proposed change will not involve an increase in the probability of an accident. Change 21 requires more rigorous testing of the DGs than required by the existing Technical Specifications. The more rigorous testing is intended to provide additional assurance that the DGs are capable of performing their design function and should, therefore, involve a reduction, rather than an increase, in the consequences of those accidents previously evaluated.

Change 25 revises the SR for testing the fuel transfer system. The proposed change does not alter any plant operating conditions, operating practices, equipment settings, or equipment capabilities. Therefore, operation of the facility in accordance with the proposed change will not involve an increase in the probability of an accident. The only ''Less Restrictive'' feature of proposed SR is test interval extension from ''each month'' to ''each 92 days.'' Changing a surveillance frequency, alone, cannot increase the probability or consequences of an accident previously evaluated.

Change 26 revises the station battery SRs. The proposed monthly and quarterly battery SRs contain all of the test requirements of the existing SRs with two exceptions: (1) The proposed interval for measuring each cell voltage is ''each 92 days'' instead of the existing ''every month'' and (2) the requirement to record the amount of water added has been deleted. Changing a surveillance frequency or deleting a maintenance record cannot increase the probability or consequences of an accident previously evaluated.

2. Do changes create the possibility of a new or different kind of accident from any previously evaluated?

Change 3 only involves the specified offsite power sources. Since the Loss of Offsite Power is already considered in the accident analyses, operating the facility in accordance with Change 3 will not create the possibility of a new or different kind of accident from any previously evaluated.

Change 10 revises an AOT; Change 14 revises a required action; Change 21 revises a testing requirement; Changes 25 and 26 revise a surveillance interval; and Change 26 deletes the requirement for a maintenance record. None of these proposed changes alter any plant operating conditions, operating practices, equipment settings, or equipment capabilities. Therefore, operation of the facility in accordance with the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do changes involve a significant reduction in a margin of safety?

Change 3 does not alter the quantity or quality of offsite sources required to be available. Therefore, operating the facility in accordance with the proposed change will not involve a reduction in a margin of safety.

Change 10 revises an AOT; Change 14 revises a required action, Change 21 revises a testing requirement; Changes 25 and 26 revise a surveillance interval; and Change 26 deletes the requirement for a maintenance record. These proposed changes do not alter any plant operating conditions, operating practices, equipment settings, or equipment capabilities. Therefore, operating the facility in accordance with the proposed change will not involve a reduction in a margin of safety.

The licensee's September 4, 1996, supplement stated that three of the proposed changes contained in the supplement were not addressed in the December 27, 1995, no significant hazards analysis. The changes involved TS requirements that would be deleted. Equivalent requirements would be incorporated in the FSAR or other documents subject to the controls of 10 CFR 50.59. The licensee's analysis of the issue of no significant hazards consideration for these changes is presented below:

1. Do changes which relocate a requirement from the TS to documents which are controlled under 10 CFR 50.59 involve a significant increase in the probability or consequences of an accident previously evaluated?

10 CFR 50.59 specifically prohibits [without obtaining prior NRC review and approval] changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report ''if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, relocation of a requirement from the TS to the FSAR [Final Safety Analysis Report] or to documents which are referenced by the FSAR cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do changes which relocate a requirement from the TS to documents which are controlled under 10 CFR 50.59 create the possibility of a new or different kind of accident from any previously evaluated?

10 CFR 50.59 specifically prohibits [without obtaining prior NRC review and approval] changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report ''if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, relocation of a requirement from the TS to the FSAR or to documents which are referenced by the FSAR cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. Do these changes which relocate a requirement from the TS to documents which are controlled under 10 CFR 50.59 involve a significant reduction in a margin of safety?

10 CFR 50.59 specifically prohibits [without obtaining prior NRC review and approval] changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report ''if the margin of safety as defined in the basis for any technical specification is reduced''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, relocation of a requirement from the TS to the FSAR or to documents which are referenced by the FSAR cannot involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analyses and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John N. Hannon.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: March 10, 1997.

Description of amendment request: The proposed amendment would modify Unit 1 Technical Specification (TS) 5.2.1 to add ZIRLO as fuel assembly material and add reference to Nuclear Regulatory Commission approved Topical Report, WCAP–12610, ''Vantage+ Fuel Assembly Reference Core Report'', to TS 6.9.1.12 for both units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The methodologies used in the accident analyses have been modified to reflect the requirements provided in WCAP–12610, VANTAGE+ Fuel Assembly Reference Core Report. Reference to this NRC approved ZIRLO topical report has been added to Specification 6.9.1.12, for both units to ensure the analytical methods used to determine the core operating limits are consistent with those previously approved by the NRC. The proposed changes do not change or alter the design assumptions for the systems or components used to mitigate the consequences of an accident. Use of ZIRLO fuel rod material does not adversely affect fuel performance or impact nuclear design methodology. Therefore, accident analysis results are not impacted.

The operating limits will not be changed and the analysis methods to demonstrate operation within the limits will remain in accordance with NRC approved methodologies. Other than the changes to the fuel assemblies, there are no physical changes to the plant associated with this technical specification change. A safety analysis will continue to be performed for each cycle to demonstrate compliance with all fuel safety design bases.

VANTAGE 5H fuel assemblies with ZIRLO fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5H fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO fuel rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. Since the original design criteria are met, the ZIRLO fuel rods will not be an initiator for any new accident. The fuel rod material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the fuel rod integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO improves corrosion performance and dimensional stability. No concerns have been identified with respect to the use of an assembly containing a combination of Zircaloy-4 and ZIRLO fuel rods.

The dose predictions in the safety analyses are not sensitive to the fuel rod material used; therefore, the radiological consequences of accidents previously evaluated in the safety analysis remain valid. A reload analysis is completed for each cycle, in accordance with NRC approved methodologies. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

VANTAGE 5H fuel assemblies with ZIRLO fuel rods satisfy the same design bases as those used for other VANTAGE 5H fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. The ZIRLO fuel rod material offers improved corrosion resistance and structural integrity.

The proposed changes do not affect the design or operation of any system or component in the plant. The safety functions of the related structures, systems, or components are not changed in any manner, nor is the reliability of any structure, system, or component reduced. The changes do not affect the manner by which the facility is operated and do not change any facility design feature, structure, or system. No new or different type of equipment will be installed. Since there is no change to the facility or operating procedures, and the safety functions and reliability of structures, systems, or components are not affected, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The use of Zircaloy-4, ZIRLO, or stainless steel filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC approved methodology will be performed for each configuration to demonstrate continued operation within the limits that assure acceptable plant response to accidents and transients. These analyses will be performed using NRC approved methods that have been approved for application to the fuel configuration.

Use of ZIRLO as fuel rod material does not change the VANTAGE 5H reload design and safety analysis limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the technical specifications. For each reload core, the fuel assemblies will be evaluated using NRC approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects.

Based on the above, it is concluded that the proposed license amendment request does not result in a significant reduction in margin with respect to plant safety as defined in the UFSAR [Updated Final Safety Analysis Report] or any plant technical specification BASES.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 17, 1996.

Description of amendment request: The proposed amendment would reflect that the name of Louisiana Power & Light Company, which is licensed to own and possess Waterford 3, has been changed to Entergy Louisiana, Inc.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change documents changing the legal name of the company. The proposed change will not affect any other obligations. The company will still own all of the same assets, they still serve the same customers, and all existing obligations and commitments will continue to be honored. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The administrative changes in the Operating License requirements do not involve any change in the design of the plant. Therefore, the proposed change will not create the possibility of a new or different

kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change is administrative in nature and does not reduce the level of safety imposed by any current requirement. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 16, 1996.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) action requirements 3.2.1 and 3.2.4 and their associated surveillance requirements to extend the allowable time for the Core Operation Limit Supervisory System (COLSS) to be out of service by monitoring for adverse trends in the linear heat rate (LHR) and departure from nucleate boiling (DNBR) limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change does not modify the requirement to operate within the alternate LHR and DNBR limits nor does it modify the actual LHR or DNBR limits themselves. In the case of exceeding a COLSS calculated [power operating limit] POL, Entergy agrees that corrective action should be initiated promptly to bring the LHR and DNBR within their respective limits and, in this case, a 15 minute time limit is appropriate. However, in the case of exceeding a [core protection calculator] CPC calculated operating limit following the loss of COLSS, it is clear that simply because COLSS execution was lost does not mean that the plant is operating outside the range of conditions assumed in the Chapter 15 Safety Analysis and, in this case, a 15 minute time limit is not appropriate. An increase from 2 hours to 8 hours to regain the monitoring capabilities of COLSS would not significantly increase the probability of exceeding the actual LHR or DNBR power operating limits since the increase in COLSS out-of-service time will be compensated for by monitoring for adverse trends of the important CPC calculated parameters (DNBR Margin and LHR). Further, since the proposed change will result in maintaining steady-state conditions while monitoring for adverse trends, it will be easier for the operators to detect any abnormal occurrence that has the potential to degrade either the LHR or the DNBR.

The primary consideration in extending the COLSS out of service time limit is the remote possibility of a slow, undetectable transient that degrades the LHR and/or DNBR slowly over the 8 hour period and is then followed by an [anticipated operational occurrence] AOO or an accident. The parameters normally monitored by COLSS which have the potential for degrading the LHR and DNBR if no corrective action is taken are: Reactor Coolant System (RCS) flow rate, axial and radial power distributions, core inlet temperature, core power, RCS pressure and azimuthal tilt. Of these parameters, core inlet temperature, core power, and RCS pressure are easily monitored by the plant operators using various safety-grade, Redundant Control Room indications and, therefore, changes in these parameters are readily apparent. Further, operating experience at Waterford 3 and other [Combustion Engineering] CE nuclear steam supply systems using the same reactor coolant pumps (RCPs) as Waterford has shown that measurable changes in RCP Δ Ps (which COLSS uses to calculate RCS flow) are very rare and when they do occur, involve abrupt step changes in flow which are readily apparent; hence, the probability of a slow degradation in the RCS flow rate is exceedingly small. Thus, the parameters that comparatively (although still remote) pose the most potential for a degradation in the core thermal margin when COLSS is out of service relate to the axial and radial core power distributions and the azimuthal tilt. These parameters are discussed below.

Axial xenon oscillations are a normal consequence of the Waterford 3 core design, particularly near the end of core life. As a result, Waterford 3 operations personnel are instructed, per operating procedure OP–10–001, General Plant Operations, to maintain strict control over the axial power shape in the core. Although the primary reason for axial shape control is to maintain an even fuel burnup throughout the core, it also results in maintaining the axial power shapes well within the limits assumed in the safety analysis. Typically, axial shape control practiced at Waterford 3 maintains the axial shape index (ASI) within 0.05 ASI units of the equilibrium shape index (ESI), which is normally very near 0.0.

Hypothetically, the most severe situation which could be postulated to occur, although again remote, would be if COLSS execution was lost just when the plant operators were ready to take manual action to return the ASI value to within the ESI + 0.05 control band. Since a full xenon oscillation takes approximately 26 hours, there would be about 6 hours from the time that control action would normally be taken to the time that the ASI reached its peak value (i.e., it takes one quarter cycle for the ASI to travel from its ESI value to its peak value). Since abnormal operating procedure OP–901–501, PMC or Core Operating Limit Supervisory System Inoperable, will be revised to require the CPC calculated LHR and DNBR trends to be monitored every 15 minutes (see below), any significant change in the axial shape index will be apparent through a change in these CPC calculated values. Hence, due to the attention given the axial power distribution, both when COLSS is in service as well as when COLSS is out of service it is very improbable that a change in ASI during eight hours of steady-state operation with COLSS out of service could be either undetected or lead to a condition that placed the reactor outside the range of initial conditions that were assumed in the safety analysis.

With regards to azimuthal tilt, there is very rarely any significant change in this parameter as long as all [control element assembly] CEAs are properly aligned. The only real contributor to a rapid increase in azimuthal tilt would be an inadvertent CEA drop; however, since the probability of a CEA drop is very low, the likelihood of this event occurring within the eight hour time limit is even lower. In the unlikely event that a CEA drop did occur, the Control Element Assembly Calculators (CEACs) provide a safety-grade, redundant means of alerting the operators that corrective action is necessary. Thus, the potential for a degradation in azimuthal tilt during eight hours of steady-state operation following the loss of COLSS is both highly unlikely and relatively easy to detect using instrumentation already available in the Control Room.

As previously stated, upon approval of the proposed change plant personnel will revise abnormal operating OP–901–501, PMC or Core Operating Limit Supervisory System Inoperable, to monitor for adverse trends of the CPC calculated values of LHR and DNBR. Currently, this procedure requires that the monitoring frequency for LHR and DNBR be increased to once every 15 minutes on a loss of COLSS.

Extending the time to restore the CPC calculated LHR and DNBR to within the acceptable operating range from 2 hours to 8 hours is being proposed to assure that COLSS can be restored thus decreasing the probability of an avoidable challenge to the reactor protection system (RPS) during a power reduction. It is possible that the required power reductions may exceed 25% near the end of the fuel cycle. These large power reductions result in a rapid increase in xenon concentration, changes in ASI, and a subsequent decrease in cold leg temperature (T-cold) that may be difficult to control. Accordingly, given the potential for

power reductions of this magnitude, it is appropriate to extend the time allowed to restore COLSS so that a power reduction may be unnecessary.

Taken in total, the proposed changes will reduce the number of potentially unnecessary power reductions by allowing more time for COLSS to be restored along with the advantages of trend monitoring in detecting an adverse trend expeditiously. The proposed change will result in significant operational benefits while continuing to maintain a high degree of confidence that the core conditions remain well within the range of values assumed in the safety analysis.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The proposed change does not alter the current power operating limits nor does it involve any changes to COLSS or CPC software. There has been no physical change to plant systems, structures or components nor will the proposed change affect the ability of any of the safety-related equipment required to mitigate AOOs or accidents. The only significant change associated with the proposed amendment involves changes to the operating procedures used when COLSS is out-of-service. All revisions to operating procedures will be reviewed and approved by appropriate plant personnel as required by the Administrative Controls (Section 6) in the Waterford 3 Technical Specifications. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The intent of [limiting conditions for operation] LCOs 3.2.1 and 3.2.4 is to maintain the reactor within the range of initial conditions that was assumed in the Safety Analysis. Maintaining the LHR within the specified range ensures that in the event of a LOCA, the fuel cladding temperature will not exceed the 2200°F limit imposed by 10CFR46 [10 CFR Part 46]. Maintaining the DNBR within the specified range ensures that no AOO will result in a violation of the [Specified Acceptable Fuel Design Limits] SAFDLs and that no postulated accident will result in consequences more severe than those described in Chapter 15 of the [Final Safety Analysis Report] FSAR. Since there has been no change to the requirement to operate the reactor within the LHR and DNBR limits and no change to the actual LHR and DNBR limits themselves, the accident analyses described in Chapter 15 of the FSAR will not be affected and will therefore remain bounding.

The proposed change will reduce the number of potentially unnecessary power reductions along with the rate at which the power reductions are accomplished. Maintaining steady-state conditions for up to eight hours after the loss of COLSS while monitoring the CPC LHR/DNBR for trends, provides plant personnel with a reasonable period of time to return COLSS to service while continuing to maintain a high degree of confidence that the core conditions remain well within the range of values assumed in the safety analysis. In fact, monitoring for trends in LHR and DNBR Margin increases the margin of safety by allowing the anticipation of degradation in LHR or DNBR Margin. Moreover, by reducing the number of plant transients there will be an attendant reduction in probability of an AOO and subsequent RPS actuation. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 16, 1996.

Description of amendment request: The following changes to the Waterford Steam Electric Station, Unit 3, Technical Specifications are proposed: 1) Relocation of certain administrative controls to the Quality Assurance Program Manual (QAPM) as described in Nuclear Regulatory Commission Administrative Letter 95–06, ''Relocation of Technical Administrative Controls related to Quality Assurance''; 2) Change shift coverage from 8-hour day, 40-hour weeks to an option of 8 or 12 hour days and nominal 40-hour weeks; 3) Make certain editorial changes to the titles of certain organizational positions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The conditions as they exist in the present Technical Specifications do not have an affect on either the probability or consequences of a previously evaluated accident. These changes also will have no impact to increase either the probability or consequences of a previously evaluated accident.

The proposed changes will have no affect on design basis accidents nor will the change directly affect any material condition of the plant that could directly contribute to causing or mitigating the effects of an accident.

Therefore, the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The proposed changes will not alter the operation of the plant or the manner in which it is operated. The changes do not involve a design change and do not introduce any new failure modes.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in margin of safety?

Response: No

The proposed changes are administrative in nature and affect only Section 6.0 of the Technical Specifications. The Waterford 3 margins of safety are defined in Sections 2 through 5 and are unaffected by these changes. Moving the reviews from the TS to the QAPM will have no affect on the margin of safety because reviews will still be performed. The only difference is the reviews will be administratively controlled by the QAPM. The QAPM is controlled by 10CFR50.54 so no changes can be made which would lessen these commitments (i.e., remove or reduce the requirement for procedure reviews) without prior NRC approval.

Changing from an 8 hour to an 8 or 12 hour shift will not have an adverse impact on personnel performance. The NRC study documented in NUREG CR–4248 has identified that personnel errors have decreased and productivity has increased where this change has been implemented.

Therefore, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans

Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 27, 1997.

Description of amendment request: The proposed change modifies Technical Specification 3/4.5.2, ''ECCS Subsystems Modes 1, 2, and 3.'' The proposed change adds a surveillance requirement to verify the Emergency Core Cooling System (ECCS) piping is full of water at least once per 31 days. A change to the Technical Specification Basis 3/4.5.2 and 3/4.5.3 has been included to support this change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will not affect the assumptions, design parameters, or results of any accident previously evaluated. The proposed change does not add or modify any existing equipment. The proposed change adds a new surveillance requirement which will minimize the likelihood of a pressure transient occurring during system startup and provide increased assurance that the ECCS will perform its design basis function when needed. The new [low pressure safety injection] LPSI and [high pressure safety injection] HPSI vent valves which may be manipulated during this surveillance will be administratively controlled and will be locked close when not in use to prevent the possibility of a flow diversion. This surveillance requirement is consistent with NUREG 1432.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

While new vent lines are being installed under 10CFR50.59, this proposed change adds only a new surveillance requirement to Technical Specification 3/4.5.2 and therefore does not involve modifications to any existing equipment. The new vent valves, when required, will be operated and controlled in the same manner as existing LPSI and HPSI vent valves. The new LPSI and HPSI vent valves will be administratively controlled and will be locked close when not in use. This surveillance requirement is consistent with NUREG 1432.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The functionality of ECCS is maintained such that it is capable of performing its design function as assumed in the Updated Final Safety Analysis Report. Verifying the ECCS is full of water at least once per 31 days will minimize the likelihood of a pressure transient occurring during system startup and provide increased assurance that the ECCS will perform its design basis function when needed. This surveillance requirement is consistent with NUREG 1432.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 27, 1997.

Description of amendment request: The proposed change modifies Technical Specification (TS) surveillance requirements 4.5.2.d.3 and 4.5.2.d.4. The proposed change specifies granular trisodium phosphate dodecahydrate (TSP), increases the minimum required amount of TSP that is maintained in containment during power operation, and adjusts the TSP sampling requirement accordingly. A change to the TS Basis 3/4.5.2 has been included to support this change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Granular trisodium phosphate dodecahydrate is stored in the containment lower level to raise the pH of the sump and spray water following a LOCA. As the pH of the water increases, more radioactive iodine is kept in solution and the amount of airborne radioactive leakage is decreased. This also lessens the potential for boric acid solution reacting with galvanized metal in containment to release hydrogen. An additional advantage of a higher pH is the beneficial reduction in chloride stress corrosion cracking of metal components in the containment following an accident.

This chemical is an accident mitigator, not an accident initiator in that it is not used until after an accident has occurred. At the time it goes into solution, the accident has occurred, containment spray has been activated and water has collected in the sump. Therefore, increasing the Technical Specification minimum amount verified to be in containment or changing the sample solution and sample size will not involve a significant increase in the probability of an accident previously evaluated.

At the time TSP goes into solution, the accident has occurred, containment spray has been activated and water has collected in the containment sump. At Waterford 3, the iodine partition factor is a constant 50% and does not vary with pH as allowed in the Standard Review Plan (SRP) revision 1. The curve in SRP 6.5.2 revision 1 allows a partition factor of at least 50% for containment water at a pH of 6.5 or less. The partition factor increases as pH rises. But, the curve is based on sodium hydroxide which is much more reactive than TSP. Therefore, increasing the Technical Specification minimum amount verified to be in the containment, and corresponding sample size, will not involve any significant increase in the consequences probability of an accident because no credit is taken for reducing the amount of volatized iodine normally associated with a 7.0 pH solution.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The addition of more TSP does not represent a significant change in the configuration or operation of the plant. Trisodium phosphate dodecahydrate is currently present in the containment lower level. Design Change 3491 which increases the storage capacity of the TSP storage baskets was evaluated in accordance with 10 CFR 50.59 and found not to involve an unreviewed safety question.

Boric acid acts as a buffer to prevent the pH from rising above approximately 8.1 as TSP is dissolved. An internal study (EC–S96–013 revision 0) has shown that given the ''ratio of grams of TSP to liters of 3000 ppm boron solution'' stays less than 5.6, TSP cannot increase pH above 8.2. As pH increases, components composed of aluminum, zinc, or copper become vulnerable to corrosion. Branch Technical Position MTEB 6–1 implies that a solution pH greater than 7.5 enhances the chance for hydrogen generation as a result of aluminum corrosion. Waterford 3 administratively limits the amount of aluminum in containment to minimize the amount of hydrogen expected during a DBA. Zinc is a component of the paint applied to surfaces inside containment. The hydrogen recombiner design basis includes 464 square feet (1040 pounds) of aluminum and 419,300 square feet (17,252 pounds) of metallic zinc. Estimates of the amount of hydrogen produced by the aluminum assumes that the corrosive agent is sodium hydroxide—a much more active chemical than is TSP. Thus, the amount of hydrogen expected in the FSAR for the hydrogen recombiner bounds what would actually be produced by TSP even at a pH of approximately 8.1.

The 4.5.2.d.3 proposed TSP to boron ratio assures that pH cannot rise above 8.1 as long as post accident in-containment boric acid solution concentration is no greater than 3011 ppm boron and no less than 1504 ppm boron. The main variable in post accident concentration (the difference between 1504 and 3011) is the concentration in the RCS at the time of the accident.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

Trisodium phosphate dodecahydrate is stored in the containment lower level to raise the pH of the sump and spray water following a LOCA. As the pH of the water increases, more radioactive iodine is kept in solution and the amount of airborne radioactive leakage is decreased. A neutral pH also reduces the hydrogen generation from the corrosion of the galvanized materials in containment. An additional advantage of a higher pH is the beneficial reduction in chloride stress corrosion cracking of metal components in the containment following an accident.

Technical Specification 4.5.2.d.3 requires verification that a minimum volume of TSP is contained in the storage baskets in containment. Nine previous runs of surveillance requirement 4.5.2.d.4 (and similar tests) showed that the TSP actually used in the plant properly neutralized a sample of water borated within RWSP boron concentration limits. Boron concentrations of eight of the sample solutions used in these tests ranged from 1753 ppm to 2217 ppm and resulted in a pH of 7.02 or greater. (The boron concentration of one test performed in 1986 was unavailable.) The ratio 4 grams to 4 liters is the amount of TSP needed to bring the solution to a pH of at least 7.0 given that the solution is in the 1753 to 2217 ppm Boron range.

The amount of TSP in containment currently is adequate assuming that RCS boric acid concentration stays below 454 ppm. However, the fuel cycle is nearly over and a restart with a refreshed core would require substantially more boric acid. We expect that the containment water would reach approximately 2400 ppm under ideal circumstances during cycle 9. During cycle 10, boron concentration in containment could reach 3011 under those same ideal conditions. As the maximum boron concentration increases, there is a non-linear increase in the amount of TSP needed to raise solution pH to 7.0. Thus, we request that the minimum amount of TSP in containment required by 4.5.2.d.3 to be increased from 97.5 cubic feet to 380 cubic feet. This change also proposes to adjust the 4.5.2.d.4 specified increase that sample solution and the TSP sample size accordingly. This change will ensure the safety injection containment sump, when filled with water, will have an acceptable pH following a LOCA. The test will not only demonstrate that TSP is in the baskets but also shows that the amount of TSP in containment can neutralize the solution expected in containment during any DBA.

Therefore, the proposed change will not involve a significant reduction in a margin of safety. The amount of iodine kept in solution during a DBA is limited to 50%. Note, the pH scale is logarithmic so that the amount of TSP needed to raise pH to 7.0 is more than three times the amount needed to reach 6.5. Furthermore, the amount of hydrogen generated during a DBA is over estimated by the analysis when it used sodium hydroxide as the corrosive agent rather than TSP.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 17, 1996, as supplemented March 17, 1997.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) Section 3/4.4.5, Steam Generators, 3/4.4.6, Reactor Coolant System Leakage, and associated Bases to allow the installation of tube sleeves as an alternative to plugging to repair defective steam generator tubes. The proposed change would also specify the Westinghouse topical reports to be used for sleeve design and inspection, and identify the inspection sample size for repaired tubes. This application was previously published in the **Federal Register** on May 29, 1996, (61 FR 26938).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Listing the specific Westinghouse topical reports in the TS binds the South Texas Project (STP) to the sleeve design and inspection techniques identified in that revision of the topical report. Any changes to sleeve design or inspection technique would require a separate TS amendment.

New TS Table 4.4–3, Steam Generator Repaired Tube Inspection, identifies the inspection sample size for steam generator tubes that have already been repaired. This table simply identifies inspection criteria and associated actions for repaired tubes and does not increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Implementation of laser welded sleeving maintains overall tube bundle structural and leakage integrity conditions. Providing specific Westinghouse topical report references in the TS only serves to identify which sleeve design and inspection techniques are being employed at STP. Likewise, the addition of Table 4.4–3 clarifies the expected inspection samples for previously repaired tubes. The addition of Table 4.3–3 provides assurance that previously repaired tubes will be inspected at regular intervals and appropriate action taken if the tube is found defective. Neither of these additions to the TS will create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety. Both of these changes are being added to clarify the STP steam generator tube inspection program and provide more specific detail regarding steam generator tube inspection samples and inspection techniques. By requiring inspection of previously repaired tubes, the margin of safety is increased rather than decreased.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: William D. Beckner.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: January 28, 1997.

Description of amendment request: The proposed amendment would relocate the details of Technical Specification (TS) Section 6.2.3 on the Independent Safety Engineering Group (ISEG) from the Administration Controls section of the TSs and place these details in the Updated Final Safety Analysis Report (UFSAR) for South Texas Project, Units 1 and 2. This relocation is administrative only, and would not render any changes to the existing plant philosophy toward the ISEG or any safety analysis. Section 6.2.3 would be deleted from the TSs and removed from the table of contents for Administrative Controls. Currently UFSAR Section 13.4.2.2 describes the ISEG, but not in the detail as the current TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes move details from the Technical Specifications [TSs] to the Updated Final Safety Analysis Report (UFSAR). The changes do not result in any hardware or operating procedure changes. The details being removed from the Technical Specifications [TSs] are not assumed to be an initiator of any analyzed event. The UFSAR, which will contain the removed Technical Specification [TS] details, will be maintained using the provisions of 10 CFR 50.59 and is subject to the change control process in the Administrative Controls Section of the Technical Specifications [TSs]. [In addition] any changes to the UFSAR will be evaluated per 10 CFR 50.59, no increase in the probability or consequences of an accident previously evaluated will be allowed without prior NRC [Nuclear Regulatory Commission] approval. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes move details from the technical Specifications [TSs] to the Updated Final Safety Analysis Report (UFSAR). The changes will not alter the plant configuration (no new or different type of equipment will be installed) or make changes in methods governing plant operation. The changes will not impose different requirements, and adequate control of information will be maintained. The changes will not alter assumptions made in the safety analysis and licensing basis. Therefore, the changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes move detail from the Technical Specifications [TSs] to the Updated Final Safety Analysis Report (UFSAR). The changes do not reduce the margin of safety since the relocation of details [is an administrative action and] has no impact on any safety analysis assumptions. In addition, the detail transposed from the Technical Specifications [TSs] to the UFSAR are the same as the existing Technical Specification [TS] [6.2.3]. [In addition] any future changes to the FSAR will be evaluated per the requirements of 10 CFR 50.59, no reduction in a margin of safety will be allowed without prior NRC approval. [Therefore, the licensee concluded that the changes will not involve a significant reduction in a margin of safety.]

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges, Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: William D. Beckner.

Northeast Nuclear Energy Company, et al., Docket No. 50–245, Millstone Nuclear Power Station, Unit No. 1, New London, Connecticut

Date of amendment request: February 7, 1997.

Description of amendment request: The proposed Technical Specification changes would clarify and/or modify instrument calibration, functional, and response time requirements for resistance temperature detector and thermocouple testing. Also, certain definitions would be clarified and/or modified using applicable wording from NRC's NUREG–1433, ''Standard Technical Specifications,'' Revision 1, and industry recommendations. Additionally, the change would relocate the reactor protection system logic response time value utilizing the guidance provided by NRC's Generic Letter 93–08, ''Relocation of Technical Specification Tables of Instrument Response Time Limits,'' with the exception of relocating the value to the Technical Specifications Bases Section instead of the Updated Final Safety Analysis Report. The proposed amendment is intended to clarify instrumentation surveillance requirements, thereby helping to ensure proper testing of safety-related components.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, NNECO [Northeast Nuclear Energy Company] has reviewed the proposed changes and concludes that the changes do not involve a significant hazards consideration (SHC) since the proposed changes satisf[y] the criteria in 10 CFR 50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment continues to ensure the surveillance requirements satisfy the licensing basis. The current TS [technical specifications] definition for Instrument Functional Test requires injection of a simulated signal into the primary sensor to verify proper response. Current TS exempt the sensors of specific instrument channels where it is not practical to include them within the functional test boundaries. Some examples of these exemptions include neutron monitoring system, turbine control valve fast closure, and standby gas treatment initiation radiation monitors. In these cases, TS permit the performance of the functional test by injection of a simulated electrical signal into the measurement channel. The proposed definition, which is consistent with the STS [standard technical specifications]

definition, for CHANNEL FUNCTIONAL TEST requires injection of the simulated signal ''as close to the sensor as practicable.'' Therefore, the proposed definition is consistent with the current TS definition and its exemptions. The primary sensor is the transmitter or switch or radiation monitor. The definition does not include sensing elements such as radiation detectors, flow elements, acceleration relays or reference legs.

This change will allow the channel functional test to be performed by means of any series of sequential, overlapping, or total channel steps and aligns this methodology with industry practice. This change does not affect accident precursors and thus does not involve a significant increase in the probability of an accident previously evaluated. The proposed change will allow a simulated or actual signal to be used to perform an Instrument or Channel Functional Test. This change does not impose a requirement to create an actual signal, nor does it eliminate any restriction on producing an actual signal. While creating an ''actual'' signal could increase the probability of an event, existing procedures (and the 10 CFR 50.59 control of revisions to them) dictate the acceptability of generating this signal. The proposed change does not affect the procedures governing plant operations or the acceptability of creating these signals; it simply would allow such a signal to be utilized in evaluating the acceptance criteria for the Instrument or Channel Functional Test requirements. Therefore, the change does not involve a significant increase in the probability of an accident previously evaluated. Because the method of initiation will not affect the acceptance criteria of the Instrument or Channel Functional Test, the change does not involve a significant increase in the consequences of an accident previously evaluated.

Minor word differences from STS are required to provide consistency with current TS wording and support the current licensing basis. These minor word differences including Industry/TSTF [Technical Specification Task Force] Standard Technical Specification Change Traveler (TSTF–64) do not alter the meaning of instrument testing in the STS or change the current licensing basis.

Moving the RPS [Reactor Protection System] Logic Response Time LCO [Limiting Condition of Operation] description to the TS definition section is an administrative change and does not alter the original intent or licensing basis.

Relocation of the RPS Logic Response Time value from the TS to the Bases section involves the use of an alternate regulatory process for controlling the instrument response time limit. The change does not introduce any new modes of plant operation, make any physical changes, alter any operational setpoints, or change the surveillance requirements. Any change in the RPS logic response time value would be evaluated pursuant to the requirements of 10 CFR 50.59.

The surveillance section editorial change does not alter the meaning of surveillance applicability. Providing RPS Logic Response Time surveillance frequency and applicable trip functions ensures proper testing of RPS components and is consistent with industry practice. An evaluation completed by GE [General Electric] verified the applicable RPS trip functions that require a specific logic response time using the current accident analysis as the basis. For trip functions where no explicit credit is taken in the safety analysis, the measurement of logic response time is not important, and therefore, not warranted. In addition, we have concluded, that instrumentation response time requirements (specified limits) other than RPS logic are not important to test, especially considering the long delays already accounted for in the accident analyses associated with the start of emergency power sources, ECCS [Emergency Core Cooling System] components, and containment isolations, and that the non-RPS logic response times, including response times of other instrumentation such as radiation monitors, are not part of the Millstone Unit No. 1 licensing basis. The sensors associated with all TS instrumentation are functionally tested and calibrated to ensure proper operation.

No physical change is being made to instrument channels, or to any systems or component that interfaces with the instrumentation channels, therefore there is no change in the probability or consequences of any accident analyzed in the UFSAR [Updated Final Safety Analysis Report].

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not result in any design or physical configuration changes to the instrumentation channels. Operation incorporating the proposed change will not impair the instrumentation channels from performing as provided in the design basis.

Changing the TS to be consistent with current industry practice adopted in STS will help to prevent unnecessary removal and potential damage of the temperature detectors (for sensor calibration). Clarification of RPS Logic Response Time testing requirements consistent with the current licensing basis will ensure proper testing of safety-related components.

Wording changes to Instrument Calibration and Functional Test definitions do not involve a physical modification to the plant. The injection of an actual or simulated signal as close to the sensor as practical minimizes the likelihood of any transients.

Minor word differences from STS are required to provide consistency with current TS wording and support the current licensing basis. These minor word differences, including Industry/TSTF Standard Technical Specification Change Traveler (TSTF–64), do not alter the meaning of instrument testing in the STS or change the current licensing basis.

Moving the RPS Logic Response Time LCO description to the TS definition section is an administrative change and does not alter the current licensing basis.

Relocation of the RPS Logic Response Time value involves the use of an alternate process for controlling the instrument response time limits. Therefore, the above change does not introduce any accident initiators as it does not involve any new modes of plant operation, make any physical changes, alter any operational setpoints, or change the surveillance requirements.

The surveillance section editorial change does not alter the meaning of surveillance applicability. Providing RPS Logic Response Time surveillance frequency and applicable trip functions ensures proper testing of RPS components and is consistent with industry practice.

Since the proposed changes in the Technical Specifications do not adversely impact the reliability of the RPS and other automatic actuations, no new or different kind of accident is created.

3. Involve a significant reduction in a margin of safety.

Because the proposed change does not involve the addition or modification of plant equipment, is consistent with the existing Technical Specifications, current industry practices as outlined in NUREG 1433, ''Standard Technical Specifications GE Plants, BWR/4,'' Revision 1, and with the current design and licensing basis of the Protective Instrumentation systems including the accident analysis, no action will occur that will involve a significant reduction in a margin of safety.

The proposed change to allow the use of an actual signal in addition to the existing requirement, which limits use to a simulated signal, will not affect functional test acceptance criteria. Therefore, the proposed change does not adversely affect the reliability of the RPS or other automatic actuation and does not involve a significant reduction in a margin of safety.

Relocation of the RPS Logic Response Time value from the TS to the Bases section involves the use of an alternate regulatory process for controlling the instrument response time limit. Any change in the RPS logic response time value would be evaluated pursuant to the requirements of 10 CFR 50.59.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Deputy Director: Phillip F. McKee.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: November 25, 1996, as supplemented December 12, 1996.

Description of amendment request: The proposed amendment would make changes to Section 2.1.A for the Safety Limit Minimum Critical Power Ratio (SLMCPR) and to Section 3.11.C for the Operating Limit Minimum Critical Power Ratio (OLMCPR). The proposed change to Section 2.1.A revises the SLMCPR value from 1.07 to 1.08 for two recirculation pump operation and from 1.08 to 1.09 for single loop operation. The proposed change to Section 3.11.C deletes the sentence that specifies the OLMCPR limit penalty for single recirculation loop operation and adds a statement that references the Core Operating Limits Report (COLR) as the source for this information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The basis of the MCPR [minimum critical power ratio] Safety Limit calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling and fuel damage in the event of a postulated accident. The probability of fuel damage is not increased. The derivation of the revised SLMCPRs for Monticello for incorporation into the Technical Specification, and its [their] use to determine cycle-specific thermal limits, have been performed using NRC-approved methods as identified in Technical Specification 6.7.A.7.b. NSP [Northern States Power] methodology established OLMCPR such that integrity of the SLMCPR is maintained for the bounding analyzed transients. Additionally, GENE [General Electric Nuclear Energy] interim implementing procedures, which incorporate cycle-specific parameters, have been used. Based on the use of these calculations, the calculation of the revised SLMCPRs maintains the integrity of the safety limits and therefore cannot increase the probability or severity of an accident. The single loop OLMCPR evaluation was performed using NSP methodology approved by the NRC. Relocating the OLMCPR value to the COLR establishes appropriate control on a core operating limit which may vary from cycle to cycle because it is cycle dependent. Since OLMCPR is developed using procedures approved in the Technical Specifications, placing the OLMCPR in the COLR cannot result in a change not controlled by the Technical Specifications. The change does not affect failure modes of equipment, therefore, this amendment will not cause a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The MCPR Safety Limit is a Technical Specification numerical value, designed to ensure that fuel damage from transition boiling does not occur as a result of the limiting postulated accident. It cannot create the possibility of any new type of accident. The new SLMCPRs have been calculated using NRC-approved methods and the OLMCPR values are more conservative. Additionally, interim procedures, which incorporate cycle-specific parameters, have been used. Therefore, the proposed Technical Specification change does not create the possibility of a new or different kind of accident, from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The MCPR Safety Limit is a Technical Specification numerical value, designed to ensure that fuel damage from transition boiling does not occur as a result of the limiting postulated accident. Increasing the SLMCPR and OLMCPR values results in an increase in the margin of safety to fuel failure, and does not affect other plant systems. Therefore, the proposed Technical Specification change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 20, 1996, as supplemented by letter dated February 20, 1997.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to allow the Vice President to designate the Safety Audit and Review Committee (SARC) Chairperson, to change the work hours limitation in accordance with guidance in GL 82–12, ''Nuclear Power Plant Staff Working Hours;'' to change radioactive shipments record retention requirements to comply with recent 10 CFR Part 20 changes; to revise position titles to reflect organizational changes; and other editorial changes. The February 20, 1997, supplemental letter differs from the November 20, 1996, application which was noticed in the **Federal Register** on January 2, 1997 (62 FR 131), in that the previous application did not propose changes to TS 5.3, 5.5, 5.6, 5.7, and 5.11 reflecting recent organizational changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes requested are administrative in nature. Paragraph 3.D was placed in the License by Amendment No. 155 to authorize Omaha Public Power District (OPPD) to increase the storage capacity of the FCS spent fuel pool. Amendment No. 155 stated that the TS as issued would be effective when the last new rack was installed. Since the last new rack was installed on August 8, 1994, Paragraph 3.D is no longer necessary and should be deleted from the License.

Table of Contents, Section 6.0, ''Interim Special Technical Specifications,'' Subsections 6.1 through 6.4 are proposed for deletion because all of the Specifications referred to have been deleted by previous Amendments.

The revision proposed for TS 2.15 (Item 2C of Table 2–3 & Item 1C of Table 2–4) will insert the correct terminology (Pressurizer Low/Low Pressure) into the Functional Unit description.

The revision proposed for TS 5.2 will delete the specific working hours as stated and relocate these requirements to the Updated Safety Analysis Report (USAR). Overtime will remain controlled by plant administrative procedures with the USAR generally following the guidance of the NRC's Policy Statement on working hours contained in Generic Letter 82–12, ''Nuclear Power Plant Staff Working Hours.'' Specifying personnel working hours in TS does not meet any of the four criteria contained in 10 CFR 50.36 for inclusion in the TS. Revisions to plant procedures containing these requirements are required to be evaluated in accordance with 10 CFR 50.59. The proposed relocation is similar to recent Amendments issued to the Davis-Besse Nuclear Power Station and the San Onofre Nuclear Generating Station.

The revision proposed for TS 5.5.2.2 will replace the specific title of the Chairperson of the Safety Audit and Review Committee

and replace it with ''Member as appointed by the Vice President.'' This will allow the flexibility to change chairmanship of the committee amongst the members.

The revisions proposed to TS 5.3, 5.5, 5.6, 5.7, and 5.11 revise position titles and reporting responsibilities to reflect organizational changes. Qualifications for individuals in these positions meet or exceed the previous requirements.

The revision to TS 5.10 concerning retention of records of radioactive shipments will update the TS to current 10 CFR 20 requirements. Plant procedures already comply with current 10 CFR 20 record retention requirements. The addition of the Section 5.0 title corrects a minor format discrepancy.

These proposed revisions are administrative in nature. The proposed revisions have no effect on any initial assumptions or operating restrictions assumed in any accident, nor do these changes have any effect on equipment required to mitigate the consequences of an accident. Therefore the proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revisions correct minor errors, remove outdated information, are consistent with changes in organizational structure, 10 CFR Part 20, or the criteria contained in 10 CFR 50.36. These changes will not result in any physical alterations to the plant configuration, changes to setpoint values, or changes to the application of setpoints or limits. No new operating modes are proposed as a result of these changes. Therefore the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The revisions listed above correct minor errors, remove outdated information, or are consistent with changes in organizational structure, 10 CFR Part 20, or the criteria contained in 10 CFR 50.36. These changes will not result in any physical alterations to the plant configuration, changes to setpoint values, or changes to the application of setpoint or limits. Therefore the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William H. Bateman.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: February 26, 1997.

Description of amendment request: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to revise TS 3/4.4.5 and 3.4.6.2, including associated Bases 3/4.4.5 and 3/4.4.6.2, to allow the implementation of steam generator (SG) tube voltage based repair criteria for outside diameter stress corrosion cracking (ODSCC) indications at tube-to-tube support plate (TSP) intersections. The allowed primary-to-secondary operational leakage from any one SG would be reduced from 500 gpd to 150 gpd.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Structural Integrity Considerations

The structural criteria ensure that all indications subjected to voltage-based repair limits will be able to withstand pressure loading consistent with the criteria of NRC Regulatory Guide (RG) 1.121.

Tube burst criteria are inherently satisfied during normal operating conditions because of the proximity of the tube support plate (TSP). It is conservatively assumed that the entire crevice region is uncovered during the secondary side blowdown of a main steam line break (MSLB). Therefore, during a postulated MSLB accident, tube burst capability must exceed the RG 1.121 criterion requiring a margin of 1.43 times the steam line break pressure differential on tube burst.

Based on the latest industry database, the RG 1.121 criterion is satisfied by bobbin coil indications of outside diameter stress corrosion cracking (ODSCC) with signal amplitudes less than 8.7 volts. The latest NRC-approved database will be used for repair and analysis applications.

Industry testing of model boiler and operating plant tube specimens for free-span tubing (no tube support plate (TSP) restraint) at room temperature conditions show typical burst pressures in excess of 5,000 psi for ODSCC indications with voltage measurements at or below 8.7 volts. This tube burst capability exceeds the RG 1.121 criterion.

The lower voltage repair limit is conservatively defined to be 2.0 volts in accordance with NRC Generic Letter (GL) 95–05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking,'' August 3, 1995. This 2.0 volt repair limit is very conservative because it contains a large safety margin, based on a structural limit of 8.7 volts. A maximum allowable upper repair limit (URL) is also established using the guidance of GL 95–05. The URL is calculated before each inspection by subtracting the NDE uncertainty and growth rate allowances from the current structural limit. The URL for near term inspections at DCPP Units 1 and 2 is expected to be about 5.0 volts. Bobbin indications greater than 2.0 volts and less than or equal to 5.0 volts that are confirmed by RPC will be repaired. Bobbin indications greater than 5.0 volts will be repaired.

Following each inspection, burst probability analyses are performed for the end of cycle (EOC) distribution. In accordance with GL 95–05, the projected MSLB burst probability must be less than the threshold value of 1×10^{-2}. Based on the relatively small number and voltages of ODSCC indications identified to date at DCPP Units 1 and 2, it is expected that the near term EOC conditional burst probability for a faulted SG will be much less than this threshold value, providing further assurance of acceptable structural integrity.

Leakage Considerations

PG&E will implement reduced operational leakage limits as recommended in GL 95–05. PG&E will revise the TS to implement a maximum leakage rate of 150 gpd for any one SG to help preclude the potential for excessive leakage during power operation in Modes 1 and 2. The TS has also been changed to specify that the 150 gpd leak limit is not necessarily a limiting condition for operation in Modes 3 and 4. The 150 gpd leak rate per steam generator has been established for normal operation. This leakage rate provides added assurance against tube rupture at normal and faulted conditions. In Modes 3 and 4, there is less differential pressure across the tube and the potential source term from a tube failure is much less than in Modes 1 and 2. The operational leak rate monitoring program is a defense-in-depth measure that provides a means for identifying leaks during power operation to allow for repair before such leaks can result in tube failure. The leakage criteria ensure that for indications subjected to voltage-based repair criteria, induced leakage under worst-case MSLB conditions will not result in offsite and control room dose releases that exceed the applicable guideline values of 10 CFR 100 and GDC 19.

Relative to the expected leakage during accident condition loadings, a postulated MSLB outside of containment, but upstream of the main steam isolation valve (MSIV), represents the most limiting radiological condition for implementation of voltage-based repair criteria. The steam generator tubes are subjected to an increase in differential pressure following a MSLB, resulting in a postulated increase in leakage

and associated offsite doses. Leakage following a MSLB bypasses containment.

PG&E will calculate the primary-to-secondary leakage for degradation subjected to the voltage repair criteria under worst-case postulated MSLB conditions. The leak rate will be compared to the maximum allowable leak rate limit of 12.8 gpm to ensure that a postulated MSLB occurring at EOC would not result in radiological consequences that are in excess of the applicable offsite and control room dose guidelines of 10 CFR 100 and GDC 19. Based on the relatively small number of ODSCC indications identified to date at DCPP Units 1 and 2, it is expected that the near term EOC predicted leak rates for a faulted SG will be much less than the maximum allowable leak rate limit.

Therefore, based on the structural integrity and leakage considerations discussed above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed voltage-based repair criteria for ODSCC at TSP intersections does not introduce any significant change to the plant design basis. Use of the criteria does not create a mechanism which could result in an accident in the free span because the repair criteria do not apply to tubes containing ODSCC located outside the thickness of the TSPs. Based on the burst probability acceptance limit of 1×10^{-2}, it is expected that for all plant conditions, neither a single nor multiple tube rupture event would likely occur in a steam generator where voltage-based repair criteria have been applied.

Steam generator tube integrity is continually maintained through inservice inspection and primary-to-secondary leakage monitoring. Any tubes with ODSCC degradation in excess of the URL are repaired.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The use of the bobbin probe to disposition ODSCC degraded tubes within TSP intersections by voltage-based repair criteria is demonstrated to maintain SG tube integrity in accordance with the requirements of RG 1.121. RG 1.121 describes a method acceptable to the NRC Staff for meeting GDCs 14, 15, 31, and 32 by reducing the probability or the consequences of SG tube rupture. This is accomplished by determining the limiting conditions of degradation of SG tubing, as established by inservice inspection, for which tubes with unacceptable degradation are removed from service. Upon implementation of the voltage-based repair criteria, even under the worst case conditions, the occurrence of ODSCC at TSP intersections is not expected to lead to a SG tube rupture during normal or faulted plant conditions, nor is it expected to lead to unacceptable primary-to-secondary leakage.

In addressing the combined effects of a loss of coolant accident (LOCA) and safe shutdown earthquake (SSE) on the SGs, as required by GDC 2, it has been determined that tube collapse may occur based on analysis for a large break LOCA plus SSE. The analysis identifies a maximum of 7.5 percent of tubes per SG located adjacent to wedge regions that are subject to potential collapse during combined LOCA and SSE. Tubes located in the wedge region exclusion zone will be excluded from application of voltage-based repair criteria. Thus, existing tube integrity requirements apply to these tubes and the margin of safety is not reduced.

Implementation practices using voltage-based repair criteria bounds RG 1.83 considerations. Specifically, GL 95–05 requires the following: (1) enhanced eddy current inspection guidelines are implemented to provide consistency in voltage normalization; (2) 100 percent bobbin coil inspections are performed each cycle for all hot leg TSP intersections and all cold leg TSP intersections down to the lowest cold leg TSP with known ODSCC indications; and (3) rotating pancake coil (RPC) inspection of indications greater than 2 volts are performed to characterize the principal degradation as ODSCC. DCPP's proposed voltage-based repair criteria implementation practices meet the above requirements, and in some areas exceed them (for example, 100 percent bobbin coil inspections are routinely performed each cycle on every TSP intersection).

Implementation of voltage-based repair criteria at TSP intersections will decrease the number of tubes which must be repaired. Since the installation of tube plugs to remove ODSCC degraded tubes from service reduces RCS flow margin, voltage-based repair criteria implementation will help preserve the margin of RCS flow.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: February 27, 1997.

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 by revising Technical Specifications (TS) 3/4.8.1.1, ''A.C. Sources—Operating,'' to clarify that emergency diesel generator (EDG) testing is initiated from standby conditions rather than ''ambient'' conditions. The associated TS Bases will be revised to discuss the temperature range that satisfies EDG standby conditions. This amendment also proposes to revise TS 3/4.3.2, ''Instrumentation—Engineering Safety Features Actuation System Instrumentation.'' This revision clarifies that when one or both of the first level load shed relays, or one or both of the second level undervoltage relays are inoperable, the associated EDG for that bus shall be declared inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the technical specifications (TS) do not change the function or operation of any plant equipment or affect the response of that equipment if it is called upon to operate.

The proposed change to TS 4.8.1.1.2a.2 and the Bases will clarify the term ''ambient conditions'' as used in the emergency diesel generator (EDG) surveillance requirement. EDG testing will still be completed on a frequency commensurate with the current TS.

The proposed change to TS 3.3.2, Table 3.3–3, will permit time to restore the load shed first level undervoltage relays (FLURs) and second level undervoltage relays (SLURs) to operable status that is consistent with times allowed for outage of other safety-related equipment affecting one train of vital equipment. This proposed change maintains a high degree of equipment availability without requiring unnecessary initiation of a plant shutdown for partial equipment outages.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of

accident from any accident previously evaluated.

The proposed change to TS 4.8.1.1.2a.2 and the Bases will clarify the term ''ambient conditions'' as used in the EDG surveillance requirement. EDG testing will still be completed on a frequency commensurate with the current TS, and will be more representative of the conditions under which the EDGs would be required to start in an accident condition.

The proposed change to TS 3.3.2, Table 3.3–3, will provide time to restore the load shed FLURs and SLURs to operable status that is consistent with times allowed for outage of other safety-related equipment affecting one train of vital equipment. The load shed FLUR and SLUR sets for one 4 kV bus only affect one train of vital equipment. If an accident occurred while the relays were inoperable, the redundant trains (two remaining EDGs and vital buses) would complete the safety function. The proposed allowed outage time (AOT) for the load shed FLURs and SLURs is bounded by the time allowed for an EDG supporting the vital 4 kV bus and is consistent with AOTs for other safety-related components.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change to TS 4.8.1.1.2a.2 and its Bases, clarifies the term ''ambient conditions'' as used in the EDG surveillance requirement. EDG testing will still be completed on a frequency commensurate with the current TS. Use of temperatures in the standby range result in no significant variation in EDG start times as indicated by the diesel vendor and by PG&E test results. Standby conditions are representative of actual starting conditions that would be in effect if the EDGs started in an accident.

The proposed change to TS 3.3.2, Table 3.3–3, will provide time to restore the load shed FLURs and SLURs to operable status that is consistent with times allowed for outage of other safety-related equipment affecting one train of vital equipment. If an accident occurred while the relays were inoperable, the redundant trains (two remaining EDGs and vital buses) would complete the safety function. The proposed change eliminates an unneccessary plant shutdown and associated risk due to shutdown transient. It prevents a transient that could require the EDGs at a time when less than all three EDGs would be operable.

Therefore, neither of the proposed changes involves a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: January 28, 1997.

Description of amendment request: The proposed amendment by Portland General Electric (PGE or the licensee) clarifies the administrative controls that are used for the revision and maintenance of the Certified Fuel Handler Training Program. The change allows the licensee to make changes to the certified fuel handlers program without prior NRC staff approval. The text of the proposed change is taken from the improved standard technical specifications, NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the requirements of 10 CFR 50.92, ''Issuance of amendment,'' this license amendment request is judged to involve no significant hazards consideration based upon the following:

1. The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is a clarification of the method of control that will be used for the Certified Fuel Handler Training Program, and as such, is administrative in nature and has no impact on the probability or consequences of accidents previously evaluated. The physical structures, systems, and components of the facility and the operating procedures for their use are unaffected by this proposed clarification. The proposed administrative controls provide adequate confidence that personnel that perform the certified fuel handler functions will have been adequately trained for the changing conditions of the facility. Since the training program will prepare the operations personnel for fuel handling operations, including responses to abnormal events/accidents, there will be no increase in the probability of occurrence or in the consequences of an accident previously evaluated.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change ensures the qualifications of the operations personnel are commensurate with the tasks to be performed and the conditions to which they may be required to respond. This change does not affect plant equipment or the procedures for operating plant equipment and, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

This change ensures the qualification of the operations personnel are commensurate with the tasks to be performed and the conditions to which they may be required to respond. The assumptions for a fuel handling accident in the Fuel Building are not affected by the proposed change. The proposed amendment does not, therefore, involve a reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for the Licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRR Project Director: Seymour H. Weiss.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: September 11, 1996.

Description of amendment request: The proposed amendment would permit operation with increased safety relief valve (SRV) and safety valve (SV) setpoint tolerance and permit operation up to 100% of rated power with a single inoperable SRV.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will permit operation with increased SRV and SV setpoint tolerance and permit operation up to 100% of rated power with a single inoperable SRV.

The valves are not related to the control rod system. The valves are not involved in the initiation of a Control Rod Drop Accident. The valves are part of the Reactor Vessel (RV) pressure boundary and their failure could initiate a LOCA [loss-of-coolant accident]. However, the proposed changes do not constitute a change in the design of the valves from a pressure boundary perspective. The proposed changes do not affect the probability of a LOCA initiated by valve failure. The valves are not a component, system, or structure involved in refueling operations. The valves and their as-found setpoint tolerance are not involved in the initiation of a Refueling Accident.

The design basis Main Steam Line Break is a complete severance of one main steam line outside the secondary containment. The SRVs and SVs are located inside primary containment and cannot cause a main steam line rupture outside secondary containment. The valves are not involved in the initiation of a design basis Main Steam Line Break. The probability or consequences of these accidents are not affected.

Attachment C [see application dated September 11, 1996] includes an analysis to demonstrate that margin exists to SV challenges during an Abnormal Operational Transient (AOT). For this purpose a Generator Load Rejection without Bypass (GLRWOBP) was identified as the limiting AOT. The results confirm that SV challenges would not occur with an inoperable SRV at rated power.

The current Technical Specification limit of 95% rated power or less with an inoperable SRV is therefore not required to prevent SV challenges during an AOT.

As discussed in Attachment C [see application], the impact of the proposed as-found SRV setpoint tolerance increase on SRV piping/supports and discharge loads to the Torus was evaluated. A mechanical loads analysis confirmed the integrity of these components, systems, and structures during SRV discharge with the proposed changes.

Attachment C [see application] provides an evaluation of the impact of the proposed changes on the consequences of the Loss of Coolant Accident and the Main Steam Line Break. The limiting LOCA event is a break in the recirculation loop, with a break area of 0.6 ft^2, at the pump discharge location, with a loss of one train of DC power as the single failure. For breaks in the recirculation line larger than 0.4 ft^2, the SRVs would not be challenged. Therefore, in assessing the impact of the proposed changes on 10CFR50.46 acceptance criteria, only recirculation line breaks less than 0.4 ft^2 were reevaluated. Results show that the 0.6 ft^2 recirculation line break remains the limiting LOCA event and it is not affected. The consequences of the limiting design basis LOCA are not increased by the proposed changes. The design basis accident for containment performance is a double-ended break in the recirculation pump suction. For this size break, the SRVs are not challenged. Therefore, the proposed changes do not have any effect on the design basis accident for containment performance. The design basis accident for radioactive material releases and radiological effects is a complete severance of one main steam line outside the secondary containment. For steam line breaks outside the containment, MSIVs [main steam isolation valves] close and terminate radiological releases outside the containment, SRVs are not challenged until after MSIV closure and isolation. Therefore, the proposed changes do not increase the radiological consequences of the design basis Main Steam Line Break.

The SRVs and SVs are designed to mitigate the consequences of malfunctions of equipment which result in a Nuclear System pressure increase. These abnormal operational transients are defined and analyzed in Section 14.5.1 of the VY [Vermont Yankee] FSAR [final safety analysis report]. The impact of the proposed changes on these abnormal operational transients was evaluated. Results are documented in Attachment C [see application] and show that applicable acceptance criteria are met provided operating MCPR [minimum critical power ratio] limits as specified in the COLR [core operating limit report] are adjusted to reflect the effects of the proposed changes. A hot channel analysis of the limiting delta CPR overpressure transient confirmed that a 0.02 increase in the operating MCPR limits bounds the combined effects of implementing the proposed changes in the current cycle. The operating MCPR limits in COLR have already been increased for the current cycle. Appropriate operating MCPR limits for future cycles will be determined from cycle-specific safety analyses performed with the approved changes.

Current practice regarding SRV setpoints is to assure plus or minus 1% tolerance is met as required by the ASME [American Society of Mechanical Engineers] Boiler & Pressure Vessel Code referenced in Technical Specification Surveillance Requirement 4.6.E.2. As-left setpoints always meet the plus or minus 1% tolerance. The safety analysis in Attachment C [see application] demonstrates that as-found setpoints within plus or minus 3% are acceptable. However, valves re-installed after testing will continue, as previously, to meet plus or minus 1% tolerance as required by the ASME Boiler & Pressure Vessel Code. Thus, the probability of SRV actuation (and the associated risk of failure to reseat properly) is not increased by the proposed change.

2. The proposed amendment will not create the possibility of a new or different kind of accident from an accident previously evaluated.

The proposed changes will permit operation with increased Safety Relief Valve (SRV) and Safety Valve (SV) setpoint tolerance and permit operation up to 100% of rated power with a single inoperable SRV. The proposed changes:

(1) do not constitute a change in the design of the valves;

(2) will not cause the valve or associated systems and structures to be operated beyond their original design envelopes; and,

(3) do not involve new plant equipment.

Therefore, this amendment does not create the possibility of a new or different kind of accident.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

Technical Specification Basis 3.6 and 4.6D identifies the minimum critical power ratio (MCPR) safety limit. Operational restraints on MCPR are placed in the COLR to assure no violation of the MCPR safety limit during AOTs. The impact of the proposed changes on MCPR limits was determined by performing a hot channel analysis for the overpressure transient which yields the largest transient drop in CPR [critical power ratio] (delta CPR). Results are documented in Attachment C [see application], and show that a 0.02 increase in the operating MCPR limits bounds the combined effects of the proposed changes and assures the MCPR safety limit is not violated during AOTs. The margin of safety defined by the MCPR safety limit is not reduced.

Technical Specification Basis 3.6 and 4.6D also identifies the ASME Boiler and Pressure Vessel Code Section III-A limit which permits pressure transients up to 10% over design pressure (110% x 1250 = 1375 psig). This margin of safety is not reduced by the proposed changes. Attachment C [see application] documents new overpressure transient analysis with results that demonstrate the ASME overpressure limit of 110% of design is met. This license amendment request does not propose to reduce the margin of safety defined by the ASME Boiler & Pressure Vessel Code limit.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Attorney for licensee: R. K. Gad, III, Ropes and Gray, One International Place, Boston, MA 02110–2624.

NRC Project Director: Patrick D. Milano, Acting.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: February 3, 1997 as supplemented March 18, 1997.

Description of amendment request: The proposed change to Technical Specification 4.15.B.1 is administrative in nature in that it revises the Technical Specifications (TS) to be consistent with the NRC-approved inservice inspection program. In addition, three TS pages which were previously approved by NRC, and which were inadvertently omitted in an earlier amendment (amendments 40 and 39 for units 1 and 2, respectively), are being reissued.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. Operation of Surry Units 1 and 2 in accordance with the proposed Technical Specifications change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is administrative in nature, and station operations are not being affected. The ASME Section XI Code requirements are thoroughly established, reviewed and approved by ASME, the industry and ultimately endorsed by the NRC for inclusion into 10 CFR 50.55a. Updates to the Code reflect advances in technology and consider information obtained from plant operating experience to provide enhanced inspection and examination techniques for pipe welds. Therefore, performing weld examinations for the pipe in our augmented inspection program to the requirements of the 1989 edition of the ASME Section XI Code provides a regulatory acceptable and adequate level of assurance that the integrity of the pipe will be maintained. By not referencing a specific Code edition in the Technical Specifications, our examinations for pipe in the augmented inspection program will consistently be performed to the Code of record, consistent with the requirements [of] 10 CFR 50.55a. Consequently, the probability or consequences of an accident previously evaluated are not increased.

2. The proposed Technical Specifications change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As noted above, the proposed change is administrative in nature, and no new accident precursors are being introduced. Since the augmented inspection program will continue to be performed to NRC approved ASME Section XI Code requirements, adequate assurance is provided to ensure the integrity of the pipe. Consequently, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed Technical Specifications change does not involve a significant reduction in a margin of safety.

Performing weld examinations to the Code of record is prudent, consistent with accepted industry and regulatory requirements, and provides adequate assurance that piping integrity will be maintained. The use of a general ASME Section XI Code reference in Technical Specification 4.15.B.1 is consistent with the existing wording in Technical Specifications 4.15.A and C, and ensures that weld examinations are being consistently performed to the currently approved edition of the ASME Section XI Code. This is an administrative change and as such does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. The staff notes that the reissuance of three TS pages is a purely administrative matter which involves no significant hazards consideration and which has been considered previously. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Mark Reinhart, Acting.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Dates of amendment requests: June 4, 1996, as supplemented August 5, September 26, October 21, November 13, November 20, and December 2, 1996, and January 16, March 5, and March 20, 1997 (TSCR 188 and 189).

Description of amendment requests: The proposed amendments would revise License Nos. DPR–24 and DPR–27 to add commitments for control room habitability and revise Technical Specification (TS) Sections 15.1, ''Definitions,'' 15.2.1, ''Safety Limit, Reactor Core,'' 15.2.3, ''Limiting Safety System Settings and Protective Instrumentation,'' Section 15.3.1, ''Reactor Coolant System,'' 15.3.4, ''Steam and Power Conversion System,'' 15.3.5, ''Instrumentation System, 15.4.1, ''Operational Safety Review,'' 15.5.3, ''Design Features—Reactor,'' and 15.6.9, ''Plant Reporting Requirements,'' and modify the bases for Section 15.2.2, ''Safety Limit, Reactor Coolant System Pressure,'' and Section 15.3.1.C, ''Maximum Coolant Activity,'' to incorporate changes associated with the operation of Point Beach Nuclear Plant (PBNP), Unit 2, with replacement steam generators. The new analyses performed for replacing Unit 2 steam generators resulted in changes to the reactor core safety limits and protective instrumentation setpoints for Unit 1 as well as Unit 2. Calculations are based on operation at either 2000 psia or 2250 psia and an average temperature limit of greater than or equal to 557 degrees Fahrenheit and less than or equal to 573.9 degrees Fahrenheit. New dose calculations were performed based on new setpoints for low-low steam generator water level, new values of primary and secondary steam generator volumes, and revised accident analyses for steam generator tube rupture, main steam line break, locked rotor, and control rod ejection. Additional license conditions are proposed to document the commitments made to improve habitability of the control room so that dose limits do not exceed 10 CFR Part 50, Appendix A, General Design Criterion 19, without relying on the use of potassium iodide pills and/or self-contained breathing apparatus. The original applications were previously noticed in the **Federal Register** on July 3, 1996 (61 FR 34903 and 34904).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes reflect the replacement of steam generators at PBNP, including new analyses and setpoints, and a different standard and acceptance criteria for Dose Equivalent I–131. The proposed setpoints maintain the margin to safe operation of Unit 2 with the replacement steam generators. In order to maintain one set of safety analyses for both units, the analyses for operation of Unit 2 with the replacement steam generators were performed to encompass the operation of Unit 1. Therefore, the proposed changes apply to the operation of both units and maintain the margin of safety for each. The staff independently performed an evaluation of the dose consequences for steam generator tube rupture, main steam line break, locked rotor accident, and a rod ejection accident. The staff determined there are no significant increases in dose for the low population zone or the exclusion area boundary. The licensee had not previously analyzed these accidents for control room habitability. As a result of the proposed changes, limiting control room doses will require compensatory measures, use of potassium iodide and self-contained breathing apparatus, which have been previously approved, until such time that the control room ventilation design is improved. The commitments to improve control design/operation are included as license conditions. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Installation of new steam generators, with a small increase in primary side volume and new setpoints for instrumentation, does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed setpoints

maintain the margin to safe operation of Unit 2 with the replacement steam generators. In order to maintain one set of safety analyses for both units, the analyses for operation of Unit 2 with the replacement steam generators were performed to encompass the operation of Unit 1. Therefore, the proposed changes apply to the operation of both units and maintain the margin of safety for each. These changes do not affect any of the parameters or conditions that contribute to initiation of any accidents. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

The proposed setpoints maintain the margin to safe operation of Unit 2 with the replacement steam generators. In order to maintain one set of safety analyses for both units, the analyses for operation of Unit 2 with replacement steam generators were performed to encompass the operation of Unit 1. Therefore, the proposed changes apply to the operation of both units and maintain the margin of safety for each. Compensatory measures will ensure control room doses remain within the dose guidelines in 10 CFR Part 50, Appendix A, General Design Criterion 19, until such time as the control ventilation system design/operation is revised. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: September 30, 1996, as supplemented November 26, and December 12, 1996, February 13, and March 5, 1997 (TSCR 192).

Description of amendment request: The proposed amendments would revise License Nos. DPR–24 and DPR–27 to add commitments for control room habitability and revise Technical Specification (TS) Sections 15.3.3, ''Emergency Core Cooling System, Auxiliary Cooling Systems, Air Recirculation Fan Coolers, and Containment Spray,'' TS 15.3.7, ''Auxiliary Electrical Systems,'' 15.5.2, ''Design Features-Containment,'' and associated TS Bases to reflect proposed changes to the limiting conditions for operation, action statements, allowable outage times, and design specifications for the Point Beach Nuclear Plant (PBNP) TS associated with the containment accident fan coolers, service water equipment (pumps and piping), component cooling water pumps, and normal and emergency power supplies. Specifically, these proposed changes increase the number of service water pumps and component cooling water pumps required to be operable, change the description of the service water system to define three separate loops, modify the limiting conditions for operation of the containment cooling and iodine removal systems and the component cooling water and service water systems, modify the auxiliary electrical system requirements, modify the associated TS Bases, and change the design value for each containment ventilation/air coolers from 55,600 Btu/sec to 41,700 Btu/sec. The original application was previously noticed in the **Federal Register** on November 19, 1996 (61 FR 58905).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes involve components currently installed in the facilities and reflect current capabilities of this equipment. Increasing the number of service water and component cooling water pumps required to be operable, changing the service water header definitions and modifying the limiting conditions for operation for service water and component cooling water, and modifying the requirements for the 4160/480-volt safeguards buses does not increase the probabilities of any accidents currently evaluated in the final safety analysis report (FSAR). The probabilities of accidents previously evaluated in the FSAR are based on the probability of initiating events for these accidents. Initiating events for accidents previously evaluated for Point Beach include: Control rod withdrawal and drop, CVCS [chemical volume and control system] malfunction (boron dilution), startup of an inactive reactor coolant loop, reduction in feedwater enthalpy, excessive load increase, losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, loss of all AC power to the auxiliaries, turbine overspeed, fuel handling accidents, accidental releases of waste liquid or gas, steam generator tube rupture, steam pipe rupture, control rod ejection, and primary coolant system ruptures. The change to the heat removal capability of the containment ventilation/air coolers from 55,600 Btu/sec to 41,700 Btu/sec was evaluated to ensure that containment design is not challenged. Therefore, the proposed changes do not affect the probability of occurrence or the consequences of any accident previously evaluated in the FSAR. During review of the proposed changes, the staff determined that other changes made to the operation of the containment spray system and the control room ventilation design and operation could affect the doses associated with a loss-of-coolant accident. The staff has determined that there is no significant increase in offsite doses. As a result of the proposed changes and current plant design, limiting control room doses will require compensatory measures, use of potassium iodide and self-contained breathing apparatus, which have been previously approved, until such time that the control room ventilation design/operation is improved. The commitments to improve control design/operation are included as license conditions.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not introduce any new accidents from any previously evaluated. Failures for the systems affected by the proposed changes, service water system, component cooling water system, containment ventilation/air cooling units, and the 4160/480-volt safeguards buses are factored into the accident analyses included in the FSAR. No new or different kinds of accidents are created since no new or different accident initiators or sequences are involved. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated in the Point Beach FSAR.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes provide the appropriate limiting conditions for operation, action statements, allowable outage times, and design specifications for service water, component cooling water, containment cooling, and normal and emergency power supplies. This ensures that the safety systems that protect the reactor and containment will operate as required. The impact of changes to design and operation of affected systems do not affect the reactor and containment design. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed and the safety systems and limiting conditions of operation for these safety systems that provide their protection that are being changed will continue to meet the requirements for accident mitigation for PBNP. Compensatory measures will ensure control room doses remain within the dose guidelines in 10 CFR Part 50, Appendix A, General Design Criterion 19, until such time as the control ventilation system design/

operation is revised. Therefore, the proposed changes will not create a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: March 7, 1997.

Description of amendment request: The proposed amendments would revise Technical Specification 3/4.7.1.6 and Section 15.6.3 of the Updated Final Safety Analysis Report to require four instead of three steam generator pressure operated relief valves operable.

Date of publication of individual notice in **Federal Register:** March 13, 1997 (62 FR 11931).

Expiration date of individual notice: April 14, 1997.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: March 17, 1997.

Brief description of amendment request: The proposed amendment would modify the Design Features Section 5.3.1 of the Technical Specifications to reflect the Atrium-10 design and would include a Siemens Power Corporation topical report reference in Section 6.9.3.2 to reflect mechanical design criteria for this fuel. This change would allow this fuel to be loaded and maintained in the core only under Condition 5, (refueling).

Date of publication of individual notice in **Federal Register:** March 25, 1996 (62 FR 14167).

Expiration date of individual notice: April 24, 1997.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: May 2, 1995, as supplemented by letter dated March 7, 1996.

Brief description of amendments: These amendments modify the licenses to authorize incorporation in the Updated Final Safety Analysis Report (UFSAR) of certain changes to the description of the facilities involving a revised large-break loss of coolant accident (LOCA) analysis that addresses a previously unanalyzed release path through the steam generators to the atmosphere.

Date of issuance: March 17, 1997.

Effective date: March 17, 1997, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 1—111; Unit 2—103; Unit 3—83.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Operating Licenses and Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register:** December 6, 1995 (60 FR 62487). The March 7, 1996, supplemental letter provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 17, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: January 29, 1997, as supplemented February 6, and February 21, 1997.

Brief description of amendment: The amendment adds a new Technical

Specification 3.0.5 to provide guidance for returning equipment to service under administrative controls for the sole purpose of performing testing to demonstrate operability.

Date of issuance: March 17, 1997.

Effective date: March 17, 1997.

Amendment No.: 69.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 12, 1997 (62FR6569).

The February 6, and February 21, 1997 letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 1997.

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: January 10, 1997, as supplemented January 31, February 20, and March 3, 1997.

Brief description of amendment: The amendment revises Technical Specification 4.8.1.1.2 to clarify pressure testing requirements for the isolable and non-isolable portions of the diesel fuel oil piping.

Date of issuance: March 19, 1997.

Effective date: March 19, 1997.

Amendment No.: 70.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register***:* February 5, 1997 (62 FR 5490). The January 31, February 20, and March 3, 1997, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 19, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina.

Date of application for amendments: November 4, 1996 and supplemented February 5, 1997.

Brief description of amendments: The amendments revise Technical Specification Section 4.7.13.1.c to eliminate the requirement that the 18-month Standby Shutdown System diesel generator inspection be performed only during shutdown of both reactors.

Date of issuance: March 13, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—157—Unit 2—149.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register***:* December 4, 1996 (61 FR 64383) The supplemental letter dated February 5, 1997, provided additional information that did not change the scope of the November 4, 1996, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 13, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 13, 1997.

Brief description of amendments: The amendments revise the Technical Specifications so that the containment integrated leak rate Type A testing will now be performed consistent with the revised 10 CFR Part 50, Appendix J, Option B, by referring to Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program.'' No changes to implement Option B for the Type B and Type C tests were requested by the licensee at this time.

Date of issuance: March 21, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—173—Unit 2—155.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register***:* February 12, 1997 (62 FR 6575) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, North Carolina 28223–0001.

Duke Power Company, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: February 15, 1996, as supplemented by letter dated February 18, 1997.

Brief description of amendments: The amendments add operability and surveillance requirements regarding operation and testing of the Keowee Hydro Station to the Oconee Technical Specifications.

Date of Issuance: March 20, 1997.

Effective date: As of the date of issuance to be implemented within 30 days. Implementation shall include revision of the Selected Licensee Commitment manual to incorporate the Keowee Hydro units' commercial power operating restrictions curves in accordance with the application for the amendments.

Amendment Nos.: Unit 1—222; Unit 2—222; Unit 3—219.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 27, 1996 (61 FR 13523) The February 18, 1997, letter provided clarifying information that did not change the scope of the February 15, 1996, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: September 18, 1992, as supplemented October 6, 8, 15, 23, and November 13 and 20, 1992, March 5, May 24, June 10, and December 20, 1993, April 6 and July 28, 1995, and September 11, October 1, December 13, 19 and 23, 1996.

Brief description of amendments: The amendments modify the Facility Operating Licenses, Technical Specifications, Environmental Protection Plan, and Antitrust conditions to add Southern Nuclear Operating Company, Inc., as operator of the facilities, with exclusive responsibility and control over its physical construction, operation, and maintenance. The antitrust license conditions divorce Southern Nuclear from marketing or brokering power or energy from the Hatch Plant and holds Georgia Power Company accountable for the actions of its agent, Southern Nuclear, to the extent Southern Nuclear's actions contravene the Hatch antitrust license conditions. An Order Approving Southern Nuclear Operating Company, Incorporated, As Exclusive Operator was included along with the issuance of the amendments.

Date of issuance: March 17, 1997.

Effective date: To be implemented within 60 days of the date of issuance.

Amendment Nos.: 203 and 144.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications and Operating Licenses.

Date of initial notice in **Federal Register**: October 14, 1992 (57 FR 47131). The October 6, 8, 15, 23, and November 13 and 20, 1992, March 5, May 24, June 10, and December 20, 1993, April 6 and July 28, 1995, and September 11, October 1, December 13, 19 and 23, 1996, letters, did not change the scope of the September 18, 1992, application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 17, 1997, and an Environmental Assessment dated October 27, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 7, 1996.

Brief description of amendments: The amendments revise Surveillance Requirements (SRs) 3.1.7.7 and 3.4.3.1, and Limiting Conditions for Operation 3.4.3, 3.5.1, and 3.6.1.6 to increase the nominal mechanical pressure relief setpoints for all of the 11 safety/relief valves (SRVs) to 1150 psig and allow operation with one SRV and its associated functions inoperable. The change will reduce the potential for SRV pilot leakage and the potential for forced outages due to an inoperable SRV during a fuel cycle.

Date of issuance: March 21, 1997.

Effective date: As of the date of issuance to be implemented for Unit 1 prior to startup from its refueling outage scheduled for fall 1997; and for Unit 2 prior to startup from its refueling outage currently scheduled for March 15, 1997.

Amendment Nos.: 204 and 145.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 2, 1997 (62 FR 129). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 29, 1996, as supplemented February 19, 1997.

Brief description of amendments: The amendments revise the Technical Specifications associated with the installation of a digital Power Range Neutron Monitoring system.

Date of issuance: March 21, 1997.

Effective date: As of the date of issuance to be implemented for Unit 1 prior to its startup from the fall of 1997 refueling outage; and implemented for Unit 2 prior to its startup from the spring of 1997 refueling outage.

Amendment Nos.: 205 and 146.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 2, 1997 (62 FR 130). The February 19, 1997, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear

Date of application for amendment: November 27, 1996 (TSCR 232).

Brief description of amendment: The amendment changes the acceptance criteria for the individual cell voltage from 2.0v to 2.09v, the frequency for battery specific gravities to implement the recommendations of IEEE 450–1995, deletes surveillance 4.7.B.4.d, and adds a clarifing phrase ''while on a float charge . . .'' where appropriate.

Date of Issuance: March 24, 1997.

Effective date: March 24, 1997.

Amendment No.: 189.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 12, 1997 (62 FR 6576) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 24, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 20, 1996, as supplemented by letters dated February 20, 1997, and March 25, 1997.

Brief description of amendment: The amendment revises Section 5.2 of the Fort Calhoun Station technical specifications to relocate controls for working hours to the Updated Safety Analysis Report.

Date of issuance: March 27, 1997.

Effective date: March 27, 1997.

Amendment No.: 181.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications and operating license.

Date of initial notice in **Federal Register**: January 2, 1997 (62 FR 131) The February 20, 1997, and March 25, 1997, supplemental letters provided additional clarifying information that did not change the portion of the initial no significant hazards consideration determination that addressed this proposed change.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: January 11, 1996, as supplemented by letters dated February 26, May 22, June 27, July 12, December 23, 1996, and March 17, 1997

Brief description of amendment: The amendments revise Section 6.0 (Administrative Controls) of the Hope Creek TS to: (1) Relocate the requirements of Section 6.5 (Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control) to the Quality Assurance Program, (2) replace specific management titles with generic management functional positions, (3) change Operating Engineer to Assistant Operations Manager, (4) require a Senior Reactor Operator license be held by either the Operations Manager or one of the Assistant Operations Managers, and (5) correct some typographical errors in Section 6.0.

Date of issuance: March 21, 1997.

Effective date: As of date of issuance and shall be implemented within 60 days.

Amendment No.: 97.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications and the license.

Date of initial notice in **Federal Register**: February 14, 1996 (61 FR 5817).

The supplemental letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination nor the original notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: October 25, 1996, as supplemented by letters dated December 4, 1996, and January 24, 1997.

Brief description of amendment: This amendment changes Hope Creek Technical Specification (TS) 3/4.1.3.5, ''Control Rod Scram Accumulator,'' in order to: 1) Permit a separate entry into a TS action statement for each inoperable control rod; 2) provide more specific applicability for required actions in Operational Condition 1 or 2 with one inoperable control rod scram accumulator (reactor pressure of ≥ 900 psig would be specified); 3) provide more specific actions (verify charging water pressure) for two or more inoperable control rod scram accumulators when reactor pressure is ≥ 900 psig; 4) provide more specific actions when reactor pressure is < 900 psig and one or more control rod scram accumulators are inoperable (verify insertion of control rods associated with inoperable accumulators and verify that charging water header pressure is ≥ 940 psig); 5) provide specific actions in Operational Condition 5 with one or more withdrawn control rods inoperable; and 6) eliminate the requirements to perform an 18-month channel functional test of the leak detectors and the 18-month channel calibration of the pressure detectors.

Date of issuance: March 26, 1997.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment No.: 98.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 4, 1996 (61 FR 64394) The December 4, 1996, and January 24, 1997, supplements did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 11, 1996, as supplemented by letters dated February 26, May 22, June 27, July 12, December 23, 1996, and March 17, 1997.

Brief description of amendments: The amendments revise Section 6.0 (Administrative Controls) of the Salem TS to: 1) relocate the requirements of Section 6.5 (Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control) to the Quality Assurance Program, 2) replace specific management titles with generic management functional positions, 3) change Operating Engineer to Assistant Operations Manager, 4) require a Senior Reactor Operator license be held by either the Operations Manager or one of the Assistant Operations Managers, and 5) correct some typographical errors in Section 6.0.

Date of issuance: March 21, 1997.

Effective date: Both units, as of date of issuance, to be implemented within 60 days.

Amendment Nos.: 192 and 175.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications and the license.

Date of initial notice in **Federal Register**: February 14, 1996 (61 FR 5818) The supplemental letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination nor the original notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 Joseph M. Farley Nuclear Plant, Unit 1, Houston County, Alabama

Date of amendment request: December 26, 1997, as supplemented by letter dated February 6, March 7, and March 21, 1997.

Brief Description of amendment: The amendment changes Technical Specification 3/4.4.6, ''Steam Generators'' and associated Bases to implement the voltage-based alternate repair criteria for steam generator tubes in Farley Unit 1 in accordance with

Generic Letter 95–05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.''

Date of issuance: March 24, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 124.

Facility Operating License Nos. NPF–2 and NPF–8: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 29, 1997 (62 FR 4353) By letter dated February 6, 1997, the licensee submitted additional information to clarify the changes to the proposed repair criteria, which did not change the scope of the December 26, 1996, application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: January 10, 1997, as supplemented by letter dated February 24, 1997.

Brief Description of amendments: The amendments revise the Technical Specifications (TS) to incorporate the latest revised topical reports governing the installation of laser welded steam generator tube sleeves. In addition, the reference to a one-cycle implementation of L*, which expired at the last Unit 2 outage was deleted from the Unit 2 TS.

Date of issuance: March 24, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 125 and 119.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: January 29, 1997 (62 FR 4355) The February 24, 1997, letter provided clarifying information that did not change the original application and the initial proposed no significant hazards consideration determination published in the **Federal Register** on January 29, 1997 (62 FR 4355).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: September 30, 1996.

Brief description of amendments: The amendments revise Technical Specifications (TS) 3/4.1.1.1, 3/4.1.1.2, 3/4.1.1.3, 3/4.1.3.5, 3.1.3.6, 3.2.1, 3.2.2 and 3.2.3 and associated Bases to remove certain cycle-specific parameter limits from the TS and relocate them to the Core Operating Limits Report.

Date of issuance: March 25, 1997.

Effective date: As of the date of issuance to be implemented for Unit 1 prior to entry into Mode 5 following the next scheduled refueling outage, which should begin in March 1997; for Unit 2 prior to entry into Mode 5 following the refueling outage scheduled to begin in March 1998.

Amendment Nos.: 126 and 120.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications and License Conditions.

Date of initial notice in **Federal Register**: November 6, 1996 (61 FR 57491) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 25, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Southern California Edison Company, et al., Docket No. 50–362, San Onofre Nuclear Generating Station, Unit No. 3, San Diego County, California

Date of application for amendment: February 18, 1997, as supplemented by letter dated February 21, 1997.

Brief description of amendment: The amendment defers implementation of Surveillance Requirement 3.3.5.6 of Technical Specifcation 3.3.5, ''Engineered Safety Features Actuation System (ESFAS) Instrumentation,'' until the next SONGS Unit 3 shutdown, which will be no later than the upcoming Cycle 9 refueling outage (currently scheduled for April 12, 1997).

Date of issuance: March 17, 1997.

Effective date: March 17, 1997.

Amendment No.: 127

Facility Operating License No. NPF–15: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (62 FR 9001 dated February 27, 1997). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 31, 1997, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The February 21, 1997, letter provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 1997.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: February 14, 1997.

Brief description of amendment: This amendment revises Technical Specification (TS) Section 3/4.5.2, ''Emergency Core Cooling Systems, ECCS Subsystems—$T_{avg} \geq 280°F$.'' Surveillance requirement 4.5.2.f would be modified to state that opening and closing of the inspection port on the watertight enclosure for the decay heat valve pit would not require this surveillance procedure to be performed. This amendment also revises the applicable TS bases.

Date of issuance: March 24, 1997.

Effective date: Immediately, and shall be implemented no later than 120 days after issuance.

Amendment No.: 215.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (62 FR 8783 dated February 26, 1997). The notice

provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 30, 1997, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of NSHC are contained in a Safety Evaluation dated March 24, 1997.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

United States Department of Commerce, National Institute of Standards and Technology, Docket No. 50–184, NIST Test Reactor

Date of application for amendment: January 17, 1997.

Brief description of amendment: This amendment revises the Technical Specifications to change the name of the Reactor Radiation Division to the NIST Center for Neutron Research and the Chief, Radiation Division to Director, NIST Center for Neutron Research.

Date of issuance: March 31, 1997.

Effective date: March 31, 1997.

Amendment No.: 8.

Amended Facility License No. TR–5: This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: February 26, 1997 (62 FR 8801). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room Location: N/A.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 9, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the

designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director)*: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: December 27, 1996, as supplemented by letter dated March 18, 1997.

Brief description of amendments: The amendments modify the licenses to authorize incorporation of certain changes to the description of the facilities involving offsite power sources into the Updated Final Safety Analysis Report (UFSAR) for the Palo Verde Nuclear Generating Station (PVNGS).

Date of issuance: March 26, 1997.

Effective date: March 26, 1997, to be implemented within 60 days of the date of issuance.

Amendment Nos.: Unit 1—112; Unit 2—104; Unit 3—84.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the operating licenses and the Updated Final Safety Analysis Report.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 26, 1997.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

NRC Project Director: William H. Bateman.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: March 26, 1997, as supplemented on March 27, 1997.

Brief description of amendments: The proposed amendments provided (1) An evaluation of the Unreviewed Safety Question (USQ) involving the control room operator dose resulting from error in the secondary containment volume, (2) a change in Technical Specification (TS) 4.7.P.2.b and 4.7.P.3 values for the allowed methyl iodide penetration for the standby gas treatment charcoal adsorbers, and (3) change of TS 5.2.C to reflect the new calculated free volume of the secondary containment.

Date of Issuance: March 27, 1997.

Effective date: March 27, 1997.

Amendment Nos.: 175, 171.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 27, 1997.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

NRC Project Director: Robert A. Capra.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: January 29, 1997, as supplemented February 11, 12, March 7, 10, 11, 19, and 20, 1997.

Brief description of amendments: The amendments authorize Northern States Power Company to continue operation of Prairie Island Units 1 and 2 on an interim basis, through the incorporation of three license conditions into its licenses, until a seismically qualified emergency cooling water source is provided that will provide the basis to extend the time for operator post-seismic cooling water load management. This could be done either through a seismic evaluation of the intake canal, physical modifications to the intake canal or plant, or some combination of the two.

Date of issuance: March 25, 1997.

Effective date: March 25, 1997, with implementation of License Condition 1 prior to Unit 2 entering Mode 2, with implementation of the requirements of License Condition 2 by July 1, 1997, and December 31, 1998, and with implementation of License Condition 3 at the next updated safety analysis report update following completion of License Condition 2, but no later than June 1, 1999.

Amendment Nos.: 128 and 120.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the licenses.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (62 FR 5857 dated February 7, 1997). This notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. The notice also provided for an opportunity to request a hearing by March 10, 1997, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendments. Because of the significant revisions to the licensee's original application, NRC also published a public notice of the proposed amendments, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed finding be provided to the staff by close of business on March 20, 1997. The notice was published in the St. Paul Pioneer Press on March 15, 1997, the Minneapolis Star Tribune on March 16, 1997, and the Red Wing Republican Eagle on March 17, 1997. No comments have been received. The Commission's related evaluation of the amendments, finding of exigent circumstances, and final determination of NSHC are contained in a Safety Evaluation dated March 25, 1997.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

NRC Project Director: John N. Hannon.

Dated at Rockville, Maryland, this 2nd day of April, 1997.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–8916 Filed 4–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219, License No. DPR–16]

Oyster Creek Nuclear Generating Station; Issuance of Final Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC), has granted in part and denied in part Petitions, dated September 19, 1994, and supplemented by a letter dated December 13, 1994, submitted by Messrs. Paul Gunter and William deCamp, Jr. (Petitioners) on behalf of Oyster Creek Nuclear Watch, Reactor Watchdog Project, and Nuclear Information and Resource Service. Petitioners requested that the NRC take immediate action with regard to Oyster Creek Nuclear Generating Station (OCNGS) operated by GPU Nuclear Corporation (GPU or licensee). By letter dated December 13, 1994, Petitioners supplemented the Petition dated September 19, 1994.

Specifically, the Petition of September 19, 1994, requested that the NRC (1) immediately suspend the OCNGS operating license until the licensee inspects and repairs or replaces all safety-class reactor internal component parts subject to embrittlement and cracking, (2) immediately suspend the OCNGS operating license until the licensee submits an analysis regarding the synergistic effects of through-wall cracking of multiple safety-class components, (3) immediately suspend the OCNGS operating license until the licensee has analyzed and mitigated any areas of noncompliance with regard to irradiated fuel pool cooling as a single-unit boiling water reactor (BWR), and (4) issue a generic letter requiring other licensees of single-unit BWRs to submit information regarding fuel pool boiling in order to verify compliance with regulatory requirements, and to promptly take appropriate mitigative action if the unit is not in compliance.

The supplemental Petition, in addition to providing more information on the original request, requested that the NRC (1) suspend the OCNGS operating license until the Petitioners' concerns regarding cracking are addressed, including inspection of all reactor vessel internal components and other safety-related systems susceptible to intergranular stress-corrosion cracking and completion of any and all necessary repairs and modification; (2) explain the discrepancies between the response of the NRC staff dated October 27, 1994, to the Petition of September 19, 1994, and time-to-boil calculations for the FitzPatrick plant; (3) require GPU to produce documents for evaluation of the time-to-boil calculation for the OCNGS irradiated fuel pool; (4) identify redundant components that may be powered from onsite power supplies to be used for spent fuel pool cooling as qualified Class IE systems; (5) hold a public meeting in Toms River, New Jersey, to permit presentation of additional information related to the Petition; and (6) treat the Petitioners' letter of December 13, 1994, as a formal appeal of the denial of their request of September 19, 1994, to immediately suspend the OCNGS operating license.

The Director of the Office of Nuclear Reactor Regulation has granted requests (3), with the exception of suspending OCNGS operating license which was previously denied, and in part (4) of the Petition of September 19, 1994, and requests (2), (3), and (4) of the supplemental Petition of December 13, 1994. The reasons for these decisions are explained in the ''Final Director's Decision Under 10 CFR 2.206: (DD–97–08), the complete text of which follows this notice. The decision and the documents cited in the decision are available for public inspection and copying at the Commission's Public

Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at Ocean County Library, Reference Department, 101 Washington Street, Toms Rivers, NJ 08753.

A copy of this Final Director's Decision will be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c). As provided in that regulation, the decision will contribute the final action of the Commission 25 days after the date of its issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of April 1997.

Attachment: DD 97–08

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Final Director's Decision Under 10 CFR 2.206

I. Introduction

By a Petition submitted pursuant to 10 CFR 2.206 on September 19, 1994 (Petition), Reactor Watchdog Project, Nuclear Information and Resource Service, and Oyster Creek Nuclear Watch (Petitioners) requested that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to Oyster Creek Nuclear Generating Station (OCNGS) operated by GPU Nuclear Corporation (GPU or Licensee). By letter dated December 13, 1994, Petitioners supplemented the Petition.

In the Petition of September 19, 1994, Petitioners requested that the NRC: (1) immediately suspend the OCNGS operating license until the Licensee inspects and repairs or replaces all safety-class reactor internal component parts subject to embrittlement and cracking, (2) immediately suspend the OCNGS operating license until the Licensee submits an analysis regarding the synergistic effects of through-wall cracking of multiple safety-class components, (3) immediately suspend the OCNGS operating license until the Licensee has analyzed and mitigated any areas of noncompliance with regard to irradiated fuel pool cooling as a single-unit boiling water reactor (BWR), and (4) issue a generic letter requiring other licensees of single-unit BWRs to submit information regarding fuel pool boiling in order to verify compliance with regulatory requirements and to promptly take appropriate mitigative action if the unit is not in compliance.

In addition to providing more information on the original request, the supplement dated December 13, 1994, requested that the NRC: (1) suspend the OCNGS operating license until Petitioners' concerns regarding cracking are addressed, including inspection of all reactor vessel internal components and other safety-related systems susceptible to intergranular stress-corrosion cracking and completion of any and all necessary repairs and modifications, (2) explain the discrepancies between the response of the NRC staff dated October 27, 1994, to the Petition and time-to-boil calculations for the FitzPatrick Plant, (3) require GPU to produce documents for evaluation of the time-to-boil calculations for the OCNGS irradiated fuel pool, (4) identify redundant components that may be powered from onsite power supplies to be used for spent fuel pool cooling as qualified Class 1E systems, (5) hold a public meeting in Toms River, New Jersey, to permit presentation of additional information related to the Petition, and (6) treat Petitioners' letter of December 13, 1994, as a formal appeal of the denial of their request of September 19, 1994, to immediately suspend the OCNGS operating license.

On October 27, 1994, the Director of the Office of Nuclear Reactor Regulation informed the Petitioners that he was denying their request for immediate suspension of the OCNGS operating license, that their Petition was being evaluated under 10 CFR 2.206 of the Commission's regulations, and that action would be taken in a reasonable time. By letter dated April 10, 1995, the Director denied requests (5) and (6) of Petitioner's supplemental Petition. On August 4, 1995, the Director issued a Partial Director's Decision (DD–95–18), denying requests (1) and (2) of their Petition of September 19, 1994, and request (1) of the supplemental Petition of December 13, 1994. A decision regarding requests (3) and (4) of the Petition of September 19, 1994, and requests (2), (3), and (4) of the supplemental Petition of December 13, 1994, was deferred pending completion of our review.

The NRC staff's review of the Petition and supplemental Petition is now complete. For the reasons set forth below, requests (3), with the exception of suspending OCNGS operating license which was previously denied, and (4) of the Petition of September 19, 1994, are granted in part and requests (2), (3), and (4) of the supplemental Petition of December 13, 1994 are granted as described below.

II. Background

On November 27, 1992, a report was filed pursuant to 10 CFR Part 21 by two contract engineers that notified the Commission of potential design deficiencies in spent fuel pool decay heat removal systems and containment systems at Susquehanna Steam Electric Station (SSES). The report noted that under certain conditions, systems designed to remove decay heat from the spent fuel pool would be unable to perform their intended function, and that as a result of concurrent plant conditions it would not be possible for operators to place backup systems in service or that backup systems would otherwise be unable to perform their intended function. The report concluded that under such conditions, the spent fuel pool could reach boiling conditions and that the adverse environment created by a boiling pool would render systems designed to remove decay heat from the reactor core and systems designed to limit the release of fission products to the environment unable to perform their intended function. The ultimate consequence of these conditions could be the failure (meltdown) of fuel in both the reactor vessel and the spent fuel pool and a substantial release of fission products to the environment that would cause significant harm to public health and safety.

Although the issues raised by this Part 21 report appeared to be of low safety significance, because of the low probability that the necessary sequence of events would take place,[1] the complex nature of the issues prompted the NRC staff to undertake an extensive evaluation of the matter. The NRC staff review process, which continued from November 1992 to June 1995, included information-gathering trips to the licensee's engineering offices and to SSES, public meetings with the licensee, public meetings and written correspondence with the authors of the Part 21 report, and numerous written requests for information to the licensee and corresponding responses.

The staff issued Information Notice (IN) 93–83, ''Potential Loss of Spent Fuel Pool Cooling After a Loss-of-Coolant Accident or a Loss of Offsite Power,'' on October 7, 1993, which informed licensees of all operating reactors of the nature of the issues raised in the Part 21 report.

[1] Specifically, the NRC staff observed that a loss-of-coolant accident followed by multiple failures of emergency core cooling systems would be necessary to achieve the adverse radiological conditions that would preclude operator actions to ensure continued adequate decay heat removal from the spent fuel pool.

The NRC staff issued a draft safety evaluation (SE) addressing the issues raised in the Part 21 report on SSES for comment on October 25, 1994. After receiving comments from the licensee, the authors of the Part 21 report, and the Advisory Committee on Reactor Safeguards, the staff issued a final SE regarding the issues raised in the Part 21 report for the SSES on June 19, 1995 (SSES SE).[2]

The NRC staff reviewed and evaluated the SSES plant design and inspected operation of SSES plant equipment with respect to the various event sequences described in the Part 21 report. The staff also evaluated the response of SSES plant equipment to a broader range of initiating events than was identified in the Part 21 report. For example, the staff considered the safety significance of a loss of spent fuel pool decay heat removal capability resulting from a loss of offsite power events, from seismic events, and from flooding events. The staff considered the safety significance of such events potentially leading to spent fuel pool boiling sequences that could, in turn, jeopardize safety-related equipment needed to maintain reactor core cooling. The NRC staff conducted both deterministic and probabilistic evaluations to fully understand the safety significance of the issues raised. The staff evaluated the safety significance of the issues as they pertained to the plant at the time the Part 21 report was submitted and as they pertained to the plant after the completion of certain voluntary modifications made at SSES during the course of the NRC staff's review. Finally, the staff examined licensing issues associated with the design of the spent fuel pool cooling system to determine the extent to which SSES's design and operation met the applicable regulatory requirements.

On the basis of the staff's deterministic analysis of the plant as it was configured at the time the SSES SE was prepared, the NRC staff concluded that systems used to cool the spent fuel storage pool are adequate to prevent unacceptable challenges to safety-related systems needed to protect the health and safety of the public during design-basis accidents.

On the basis of its probabilistic evaluation, the NRC staff concluded that the specific scenario involving a large radionuclide release from the reactor vessel, which was described in the Part 21 report, is a sequence of very low probability. The staff's evaluation concluded that even with consideration of the additional initiating events previously described, ''loss of spent fuel pool cooling events'' represented a challenge of low safety significance to the plant at the time the Part 21 report was submitted. However, the staff also concluded that the plant modifications and procedural upgrades made during the course of the staff's review, which included removing the gates that separate the spent fuel storage pools from the common cask storage pit, installation of remote spent fuel pool temperature and level indication in the control room, and numerous procedural upgrades, provided a measurable improvement in plant safety and that these conclusions had potential generic implications. In summary, with regard to loss of spent fuel pool cooling events, the SSES SE concluded that the design of the SSES facility was adequate to protect public health and safety.

With regard to licensing-basis design issues, the staff concluded that only a loss of spent fuel pool cooling initiated by a seismic event was considered in the original granting of the SSES license by the NRC.

The staff issued IN 93–83, Supplement 1, ''Potential Loss of Spent Fuel Pool Cooling After a Loss-of-Coolant Accident or a Loss of Offsite Power,'' to all power reactor licensees on August 24, 1995, describing the conclusions of the June 19, 1995, SSES SE. The information notice described the staff's plans to implement a generic action plan to evaluate the generic concerns raised in the SSES SE and to address certain additional concerns arising from a special inspection at a permanently shutdown reactor facility.[3] The generic action plan, entitled ''Task Action Plan for Spent Fuel Storage Pool Safety'' (Task Action Plan), was issued on October 13, 1994, and included the following actions: (1) A search for and analysis of information regarding spent fuel storage pool issues, (2) an assessment of the operation and design of spent fuel storage pools at selected reactor facilities, (3) an evaluation of the assessment findings for safety concerns, and (4) selection and execution of an appropriate course of action based on the safety significance of the findings.

As part of the Task Action Plan review, the staff reviewed operating experience, as documented in licensee event reports and other information sources, as well as in previous studies of spent fuel pool issues. The staff also gathered detailed design data relating to the design basis and functional capability of the fuel storage pool, the fuel pool cooling system, and other systems associated with fuel storage for every operating reactor and analyzed these data to identify potential safety issues regarding a loss of spent fuel pool cooling or a loss of coolant inventory.

The NRC staff forwarded the results of its Task Action Plan review to the Commission on July 26, 1996.[4] The staff concluded that existing spent fuel storage pool structures, systems, and components provided adequate protection of public health and safety at all operating reactors. Protection is provided by several layers of defenses that perform accident prevention functions (e.g., quality controls on design, construction, and operation), accident mitigation functions (e.g., multiple cooling systems and multiple makeup water paths), radiation protection functions, and emergency preparedness functions. Design features addressing each of these areas for spent fuel storage for each operating reactor have been reviewed and approved by the staff. In addition, the risk analyses available for spent fuel storage suggest that current design features and operational constraints cause issues related to spent fuel pool storage to be a small fraction of the overall risk associated with an operating light-water reactor.

Notwithstanding these findings, the NRC staff reviewed the design of every operating reactor's spent fuel pool to identify strengths and weaknesses and potential areas for safety enhancements. The NRC staff identified seven categories of design features that reduce the reliability of spent fuel pool decay heat removal, increase the potential for loss of spent fuel coolant inventory, or increase the potential for consequential loss of essential safety functions at an operating reactor. The NRC staff determined that these design features existed at 22 sites; OCNGS was not one

[2] Letter to R. Byram, Pennsylvania Power & Light Company, from J. Stolz, NRC, ''Susquehanna Steam Electric Station, Units 1 and 2, Safety Evaluation Regarding Spent Fuel Pool Cooling Issues (TAC No. M85337),'' dated June 19, 1995.

[3] On January 25, 1994, the licensee for Dresden, Unit 1, a permanently shutdown facility, discovered approximately 55,000 gallons of water in the basement of the unheated Unit 1 containment. The water originated from a rupture of the service water system that occurred as a result of freeze damage. The licensee investigated further and found that although the fuel transfer system was not damaged, there was a potential for a portion of the fuel transfer system inside containment to fail and result in a partial draindown of the spent fuel pool that contained 660 spent fuel assemblies. The NRC issued NRC Bulletin 94–01, ''Potential Fuel Pool Draindown Caused by Inadequate Maintenance Practices at Dresden Unit 1,'' on April 8, 1994, to all licensees with permanently shutdown reactors that had spent fuel stored in spent fuel pools. The NRC requested that such licensees take certain actions to ensure that spent fuel storage safety did not become degraded.

[4] Memorandum to the Commission, from J. Taylor, ''Resolution of Spent Fuel Storage Pool Action Plan Issues,'' dated July 26, 1996.

of the 22 sites. As the staff has concluded that present facility designs provided adequate protection of public health and safety, possible safety enhancements will be evaluated pursuant to 10 CFR 50.109(a)(3). The analyses for possible safety enhancement backfits will consider whether modifications to the plant design to address the plant-specific design features identified by the NRC staff could provide a substantial increase in the overall protection of public health and safety and whether such modifications could be justified on a cost-benefit basis.

The NRC staff also identified three additional categories of design features that may have the potential to reduce the reliability of spent fuel pool decay heat removal, increase the potential for loss of spent fuel coolant inventory, or increase the potential for consequential loss of essential safety functions at an operating reactor. The NRC staff preliminarily determined that these design features existed at 11 sites. OCNGS was not one of the 11 sites. The staff has insufficient information at this time to determine whether backfits pursuant to 10 CFR 50.109(a)(3) are warranted at the 11 sites. For plants identified as having design features in these three categories, the NRC staff will gather and evaluate additional information prior to determining whether to require any backfits.

In addition to the plant-specific analyses described above for 22 sites which will address certain design features, the NRC staff informed the Commission in the July 26, 1996, Task Action Plan report that it plans to address issues related to the functional performance of spent fuel pool decay heat removal, as well as the operational aspects related to coolant inventory control and reactivity control, in a new proposed performance-based rule for shutdown operations (10 CFR 50.67) at all operating reactors. The new rule is schedule to be issued for public comment in 1997.

The NRC staff sent the Task Action Plan report of July 26, 1996, to all operating power reactor licensees. For those licensees whose plants have one or more of the design features that warrant a plant-specific safety enhancement backfit analysis, the staff has provided an opportunity to comment on: (1) The accuracy of the NRC staff's understanding of the plant design, (2) the safety significance of the design concern, (3) the cost of potential modifications to address the design concern, and (4) the existing protection from the design concern provided by administrative controls or other means. In developing a schedule and plans for conducting all of the plant-specific regulatory analyses, the NRC staff will consider comments received from licensees.

III. Discussion

A. Issuance of Generic Letter, Compliance Verification, and Mitigative Action (September 19, 1994 Petition Items (3) and (4))

The Petitioners requested (Items (3) and (4) of the September 19, 1994, Petition) that the NRC immediately suspend the OCNGS operating license until GPU analyzes and mitigates any areas of noncompliance with regard to irradiated fuel pool cooling as a single-unit boiling water reactor, and that the NRC issue a generic letter requiring other licensees of single unit BWRs to submit information regarding fuel pool boiling in order to verify compliance with NRC requirements and to take quick mitigative action if the unit is not in compliance.

As stated in the cover letter, the October 27, 1994, Director's letter informed you that he denied your request for immediate suspension of the OCNGS operating license.

While the NRC has not issued and does not plan to issue a generic letter, the staff has communicated the importance of conducting relevant spent fuel pool decay heat removal activities in accordance with technical specifications and other plant-specific applicable regulatory requirements to licensees through the issuance of other generic communications, as described below. The staff also surveyed all operating reactor licensees, including GPU Nuclear Corporation, licensee for OCNGS, to collect information on, among other things, parameters affecting boiling of the spent fuel pool. Results of the survey relevant to this Petition are discussed below.

The NRC staff issued three information notices on matters related to adequate removal of decay heat from the spent fuel pool. IN 93–83, ''Potential Loss of Spent Fuel Pool Cooling After a Loss-of-Coolant Accident or a Loss of Offsite Power,'' was issued on October 7, 1993, and described the concerns in the November 27, 1992, SSES Part 21 report discussed above. IN 93–83, Supplement 1, ''Potential Loss of Spent Fuel Pool Cooling After a Loss-of-Coolant Accident or a Loss of Offsite Power,'' issued on August 8, 1995, informed licensees of the results of the NRC's review of the concerns at SSES. IN 95–54, ''Decay Heat Management Practices During Refueling Outages,'' was issued on December 1, 1995, and described recent NRC assessments of events at certain plants regarding the licensee's control of refueling operations and the methods for removing decay heat produced by the irradiated fuel stored in the spent fuel pool during refueling outages. IN 95–54 communicated to licensees that the plant-specific events described therein and in the previous information notices illustrated the importance of ensuring that (1) planned core offload evolutions, including refueling practices and irradiated fuel decay heat removal, are consistent with the licensing basis, including the final safety analysis report, technical specifications, and license conditions; (2) changes to these evolutions are evaluated through the application of the provisions of 10 CFR 50.59, as appropriate; and (3) all relevant procedures associated with core offloads have been appropriately reviewed.

The staff surveyed operating reactors, including Oyster Creek, as part of the (a) Spent Fuel Pool (SFP) Task Action Plan, and (b) follow-up actions related to issues identified at Millstone, and reviewed the degree to which fuel pool operations compared with each facility's design basis and the degree that the fuel pool design features conformed with accepted guidance and standards. In the case of Oyster Creek, the NRC staff found no deviations in operation or design as a result of either review. The staff issued its report on the results of spent fuel pool survey regarding Millstone follow-up issues on May 21, 1996. As described in Section II of this decision, the NRC staff forwarded its report on the resolution of the SFP Task Action Plan on July 26, 1996, to all operating power reactor licensees.

As part of the SFP Task Action Plan, the staff considered, on a generic basis, the history of regulatory requirements related to spent fuel pools as they were applied in plant licensing actions. The staff found that SFP-related regulatory requirements have been evolving since the first nuclear power plants were licensed and that specific regulatory guidance on the design of spent fuel pool cooling systems was not formalized until 1975, when the Standard Review Plan was issued, which was after the issuance of construction permits for most currently operating reactors. Because the regulatory requirements were evolving during the era in which the staff was conducting licensing reviews for the current generations of operating reactors, staff-approved designs varied from plant to plant. However, based on the recent survey results, the staff concluded that all operating reactors had design features

for spent fuel storage (e.g., addressing accident prevention functions, accident mitigation functions, radiation protection functions, and emergency preparedness functions), which had been reviewed and approved in the past by the NRC. In addition, based on the review of the survey results, the staff found that all licensees were in compliance with current NRC requirements.

Although the NRC staff concluded that all plants, including OCNGS, are in compliance with the NRC spent fuel pool design requirements, the staff reviewed certain operating practices at all operating reactor plants to verify that the plants were being operated consistent with the plant design as described in the licensing basis,[5] specifically with respect to refueling outage practices associated with offloading irradiated fuel into the spent fuel pool. The staff concluded, on the basis of the information collected and reviewed and the specific licensee actions taken and commitments made during the course of this review, that core offload practices are consistent with the spent fuel pool decay heat removal licensing basis for all plants, or will be before the next refueling outage. It should be noted, however, that during the course of its review, the staff determined that nine sites (involving fifteen units) needed to modify their licensing basis or plant practices, pursuant to 10 CFR 50.59 or 10 CFR 50.90, to ensure that their refueling practices adhered to their licensing basis. This is an indication that these plants may have previously performed full core offloads inconsistent with their licensing basis. The staff is reviewing potential enforcement action for these facilities. It should be noted that OCNGS is *not* one of the nine sites.

The Petitioners requested that the NRC immediately suspend the OCNGS operating license until GPU analyzes and mitigates any areas of noncompliance with regard to irradiated fuel pool cooling as a single-unit BWR, and that the NRC issue a generic letter requiring other licensees of single unit BWRs to submit information regarding fuel pool boiling in order to verify compliance with NRC requirements and take quick mitigative action if the unit is not in compliance. These requests are granted in part as described above. Petitioners' request for immediate suspension of OCNGS operating license was previously denied.

[5] Memorandum to the Commission, from J. Taylor, dated May 21, 1996.

B. Time-to-Boil Calculations (December 13, 1994, Supplemental Petition Items (2) and (3))

Petitioners' supplementary request of December 13, 1994, asked the NRC to explain ''discrepancies'' between the response of the NRC staff dated October 27, 1994, to the Petition and the documented time-to-boil calculations for the FitzPatrick Plant as they bear on time-to-boil calculations for other single-unit General Electric BWRs, including OCNGS. Petitioners contend that documents available in the Public Document Room for FitzPatrick Plant, a single-unit site, indicated a time-to-boil following a loss-of-coolant accident of 8 hours, considerably less than the 25 hours SSES, a dual-unit site, committed to in a letter dated June 1, 1994. Petitioners also requested that the Licensee, GPUN, produce time-to-boil calculations for OCNGS.

The NRC staff letter of October 27, 1994, to Petitioners concluded that time-to-boil conditions at single-unit BWR sites, such as OCNGS, are of low safety significance because, unlike dual-unit sites, such as SSES, a large decay heat rate associated with a short time to reach boiling conditions is an unrealistic assumption during periods when the unit is operating and fuel in the reactor vessel is subject to a loss-of-coolant accident.

As explained in the Director's letter to Petitioners dated April 10, 1995, the time-to-boil calculation results for the FitzPatrick Plant single-unit BWR, which were presented in a New York Power Authority document dated May 31, 1990, were based on the maximum postulated decay heat rates during a refueling outage fuel discharge and full core offload that occurred about 7 and 10 days, respectively, after reactor shutdown. These calculations also assumed that spent fuel pool cooling was lost when the pool was at its maximum calculated temperature. In contrast, the staff calculated the time-to-boil for FitzPatrick to be 25 hours for a one-third core discharge 30 days after reactor shutdown, assuming the spent fuel pool was at its maximum temperature limit for normal operation, which is 125 °F. The details of this calculation were provided in our Director's letter to you dated April 10, 1995. Additionally, the staff had surveyed the factors that would most significantly affect the time-to-boil (i.e., spent fuel pool volumes, rated reactor thermal power level, total number of fuel assemblies in the reactor vessel, and spent fuel pool temperature limits) for 12 General Electric Company BWR/3 and BWR/4 reactors. The staff concluded that its time-to-boil calculations for FitzPatrick are representative for United States single-unit BWRs as a whole, and OCNGS in particular.

As part of the NRC staff's Task Action Plan activities, the staff collected information from licensee documents to calculate the time-to-boil for all operating reactors on a consistent basis. While the staff did not specifically require licensees (including GPU) to provide documentation to support time-to-boil calculations, the staff did independently calculate the time-to-boil for each plant from licensee-supplied information in Final Safety Analysis Reports and other design documents. On this basis, the staff determined that the time-to-boil at Oyster Creek is average among single-unit BWRs, thus confirming the same conclusion reached earlier in the Director's letter of April 10, 1995.

Accordingly, the Petitioners' requests to explain the ''discrepancies'' between the response of the NRC staff dated October 27, 1994, to the Petition and the documented time-to-boil calculations for the FitzPatrick Plant as they bear on time-to-boil calculations for other single-unit General Electric BWRs, including OCNGS, and that GPU produce documents for evaluation of time-to-boil calculations are granted as described above.

C. Redundant Class 1E Components and Power Supplies (December 13, 1994, Supplemental Petition Item (4))

In the supplemental Petition submittal of December 13, 1994, the Petitioners requested that the NRC identify redundant components that may be powered from on-site power supplies to be used for spent fuel pool cooling as qualified Class 1E systems at Oyster Creek.

The Petitioners noted that while Oyster Creek may have redundant components, in their view it is meaningless to have redundant components and power supplies if they have not been qualified to operate under emergency conditions.

At Oyster Creek, spent fuel decay heat removal consists of a two-train spent fuel pool cooling system. The first train (''Spent Fuel Pool Cooling System'') has two pumps and two heat exchangers. The second or augmented train, installed in parallel with the first train, contains two full capacity pumps and a single heat exchanger. The four pumps in both trains are powered from electrical busses supported by safety-related emergency diesels (MCCs 1A21, 1A23, 1B21 and 1B23). The augmented train is seismically qualified. Portions of

the spent fuel pool cooling system, initially designed to be a non-seismic system, has been upgraded to Seismic Category I requirements. Those portions of the system that do not meet seismic requirements can be isolated from the spent fuel pool cooling system if a seismic event renders them inoperable.

It should be made clear that the NRC staff does not require Class 1E qualification for spent fuel pool cooling equipment and instrumentation. Class 1E is the safety classification of electric equipment and systems that are essential to emergency reactor shutdown, containment isolation, reactor core cooling, and containment and reactor heat removal, or are otherwise essential in preventing significant release of radioactive material to the environment.[6] The spent fuel pool cooling system and monitoring instrumentation are not required for such functions.

In his letter of April 10, 1995, the Director informed Petitioners that they have not presented, nor was the staff aware of, any evidence that the spent fuel pool cooling system fails to comply with its design basis, or that the licensee failed to qualify these components to the degree Petitioners describe such that it would alter his decision as it pertains to the safety significance of these issues. Therefore, further review of the qualification of spent fuel cooling system components at OCNGS is not warranted. Additionally, Petitioners were informed that the staff would continue its generic review of spent fuel storage pool safety and would take appropriate action based on the conclusions of that review. Based on the results of the generic review of spent fuel storage pool safety thus far, the staff has concluded that no additional actions are warranted for the spent fuel pool cooling system components at OCNGS.

The Petitioners' request to identify redundant qualified Class 1E systems was granted as described above.

IV. Conclusion

Although the staff has not initiated formal enforcement proceedings in response to the Petition, the staff has taken a number of actions that address the concerns raised in the Petition. For example, during the course of its review, the NRC staff has issued generic communications responsive to Petitioners' request (4) of September 19, 1994. In addition, the NRC staff reviewed the compliance of NRC licensed facilities in the area of spent fuel pool design responsive to Petitioners' request (3) of September 19, 1994. To this extent, the Petition is granted in part. Finally, Petitioners' supplemental petition requests (2), (3), and (4) are granted as explained above.

A copy of this Final Director's Decision will be filled with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c). This Decision will become the final action of the Commission 25 days after its issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of April 1997.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–8915 Filed 4–8–97; 8:45 am]

BILLING CODE 7590–01–M

[6] IEEE Std 308–1980.

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, April 10, 1997
Thursday, April 24, 1997
Thursday, May 15, 1997
Thursday, May 22, 1997

The meeting will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, N.W., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

The meeting on April 10 may contain discussion of confidential private sector survey data for the Newburgh, New York, appropriated fund wage area. If so, that portion of the meeting will be closed to the public under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(4).

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: April 3, 1997.

Phyllis G. Foley,

Chair, Federal Prevailing Rate Advisory Committee.

[FR Doc. 97–9050 Filed 4–8–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38471; File No. SR–DCC–96–12]

Self-Regulatory Organizations; Delta Clearing Corp.; Order Approving on a Temporary Basis a Proposed Rule Change Relating to Monitoring and Limiting Exposure from Repurchase Agreements

April 2, 1997.

On November 26, 1996, the Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DCC–96–12) pursuant to

Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On January 10, 1997, DCC filed an amendment.[2] Notice of the proposal was published in the **Federal Register** on January 30, 1997.[3] On March 11, 1997, DCC filed a second amendment.[4] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change through September 30, 1997.

I. Description

The proposed rule change amends DCC's procedures for calculating the amount of margin to collect relating to the clearance and settlement of its participants' overnight repurchase and reverse repurchase agreements (''repos'').[5] Currently, DCC's rules provide for collection of core margin and performance margin based on an estimate of the net shortfall from liquidation of a participant's repo and reverse repo positions at the close of the next succeeding business day. The proposed rule change institutes a new method of collecting margin for overnight repos by implementing the following changes.

First, the proposed rule change adds Section 2602.2 to DCC's rules to allow DCC to collect an intraday mark-to-market for overnight repos. At approximately 2:30 p.m. during each business day, the mark-to-market margin requirements will be calculated for each participant with respect to all overnight repo transactions effected by the participant and submitted to DCC for clearance that business day. DCC will calculate overnight repo exposures by comparing the value of each transaction at the time the transaction was executed with the value of the transaction using the most recent intraday price from an information vendor. DCC will net positive values against negative values in order to derive a net mark-to-market valuation. In the event that the net mark-to-market valuation exceeds 65 percent of the sum of the participant's core margin (discussed below) and unreturned margin on deposit, DCC will require the participant to deposit additional margin in the amount of such excess.

DCC will provide each participant with a supplemental daily margin report by 3:00 p.m. of each business day. The supplemental daily margin report will indicate (i) the participant's overnight repo positions established during that business day, (ii) the net mark-to-market valuations for the participant's overnight repo positions, (iii) the core margin and excess unreturned margin on deposit (including margin originally deposited for term repos), and (iv) the amount of additional margin that the participant must deposit with DCC's clearing bank. The additional margin must be deposited with DCC no later than 5:00 p.m. of that business day. Failure to deposit the amount of any margin deficit shown on the supplemental daily margin report including mark-to-market and core margin will be grounds for suspension and sanctions pursuant to Section 2608 of DCC's rules.

Second, the proposed rule change establishes DCC's participants' core margin requirement as either $1 million dollars par amount of U.S. Treasury securities or a greater amount based upon exposures arising out of such participant's overnight repo agreements. To calculate each participant's core margin requirement, each week DCC will review the overnight repo activity of each participant for the most recent eight weeks (forty observations) of overnight repo transactions. This data will be used to calculate the mark-to-market exposure for each of these forty instances. Mark-to-market exposure will be calculated as the difference between the contract value of an overnight repo and the end-of-day pricing for the collateral underlying such overnight repos.[6] A negative number would represent an exposure for DCC, while a positive number would represent an overcollateralization. Instances of overcollateralization will be eliminated. The remaining instances will be used to calculate an average mark-to-market exposure.[7] DCC will then calculate two standard deviations. A participant's core margin requirement will be the sum of the average and two standard deviations.

By 3:00 p.m. on each business day on which the core margin requirement has been calculated, each participant will be notified of its new core margin requirement. If the requirement is greater than the prevailing core requirement, the participant must post the difference the following business day. If the new core requirement is below the then prevailing core requirement, the deposited excess will be returned to the participant by 11:00 a.m. the following business day.

Third, the proposed rule change amends DCC's rules to eliminate the collection of performance margin for overnight repos. The daily margin report will reflect only the performance margin required on the participant's term repo positions.

II. Discussion

Section 17A(b)(3)(F)[8] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that DCC's proposed rule change is consistent with DCC's obligations under the Act because the proposal establishes: (1) a minimum core margin requirement to reflect DCC's exposure to each participant's overnight repo activity and (2) an intraday margin requirement that is triggered if a participant's mark-to-market exposure is valued at more than 65 percent of the core requirement. Therefore, the Commission believes that the proposal should provide to DCC margin in an amount that will assist DCC in meeting its obligation to safeguard securities and funds.

While the Commission believes that DCC's required overnight repo margining system should provide sufficient risk protection, the Commission recognizes that the margining system is novel both in concept and to DCC. Therefore, the Commission believes that it is appropriate to grant temporary approval of the proposal in order that the Commission and DCC will have the opportunity to monitor the effectiveness of the new system in practice. Accordingly, the Commission is temporarily approving the proposed rule change through September 30, 1997.

In this regard, DCC has agreed that during the temporary approval period it will submit on a monthly basis reports detailing its analysis of its overnight repo margining system. The first report should be submitted by June 15, 1997, with each subsequent monthly report being submitted by the fifteenth of the succeeding month.

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from Howard Meyerson, Esq., Morgan, Lewis, and Bockius (January 10, 1997).

[3] Securities Exchange Act Release No. 38198 (January 23, 1997), 62 FR 4559.

[4] Letter from Howard Meyerson, Esq., Morgan, Lewis, and Bockius (March 11, 1997). The revisions contained in this amendment were nonsubstantive and therefore do not require republication of notice.

[5] Overnight repos are repo agreements whose off-date is the immediately succeeding business day following the on-date for such transactions. Term repos are repos agreements whose off-date is two or more business days following the on-date for such transactions.

[6] DCC will obtain the end-of-day prices from a vendor, which evaluates information received from traders, brokers, and various electronic sources.

[7] If 40 instances during the eight week period are not available, DCC will calculate an average based upon the number of actual observations.

[8] 15 U.S.C. 78q–1(b)(3)(F).

III. Discussion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DCC–96–12) be, and hereby is, approved through September 30, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–8996 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38472; File No. SR–GSCC–97–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of A Proposed Rule Change Relating To Comparison of Transactions Between Insolvent And Solvent Members

April 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 11, 1997, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC is proposing that it have the authority to issue a comparison of a transaction based solely on data submitted by one netting member when the counterparty to the trade becomes insolvent.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) Under the ordinary application of its rules, a transaction is not eligible for netting and guaranteed settlement by GSCC until and unless it is compared. Except for purchases made through the U.S. government's auction of Treasury securities, GSCC's rules provide that a comparison can only be generated upon the matching of data provided by two members. GSCC believes that this poses a potential problem from a risk management perspective in a situation where a netting member becomes insolvent and does not submit trades it or an executing firm for which it acts entered into prior to its insolvency. Absent the taking by GSCC of extraordinary action to compare the trade, such trades will not be netted and guaranteed. In such situations, GSCC believes it necessary and appropriate for it to have the clear authority under its rules to deem a transaction compared based solely on the data submitted by the insolvent member's counterparty. However, this needs to be done in a manner that does not expose GSCC to liability to a netting member for fraudulent or collusive activity.

In order to accomplish these goals, GSCC is proposing that it have the authority to issue a comparison of a transaction basedon data submitted by a solvent netting member, which may be an interdealer broker, under the following circumstances: (1) The data submitted by the solvent member indicates that the counterparty to the transaction is either an insolvent member or an executing firm that uses the insolvent member as its submitting member; (2) the solvent member has submitted in a timely manner all of its activity with the insolvent member or executing firm; (3) if GSCC had announced to its members that it would cease to act for the insolvent member as of a specified date and time (and, thus, not accept any further trades submitted against such member), the transaction was executed before such specified date and time; (4) the transaction is not an ''off-the-market'' transaction as defined in GSCC's rules,[3] and (5) GSCC has made a determination that the transaction was entered into by the solvent member or an executing firm that uses the solvent member as its submitting member in good faith and not primarily in order to take advantage of the insolvent member's financial condition.

(ii) The proposed rule change is consistent with the requirements of Section 17A the Act and the rules and regulations thereunder because they will make clear GSCC's authority to take action to compare trades in an insolvency situation without exposing GSCC to liability to a netting member for fraudulent or collusive activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an important notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the GSCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by GSCC.

[3] GSCC has filed a proposed rule change (File No. SR–GSCC–97–01) that will add a definition of ''off-the-market'' transactions to its rules. Essentially, an off-the-market transaction is a trade that has a price that differs significantly from the prevailing market price.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the GSCC. All submissions should refer to File No. SR–GSCC–97–02 and should be submitted by April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–8997 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38463; File No. SR–NASD–97–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Amendment of its Margin Rules

April 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 1997, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation proposes to amend the margin rules, Rule 2520 of the Conduct Rules, of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''). Specifically, NASD Regulation is proposing to amend Rule 2520 (''old Rule 2520'') to: (1) Renumber paragraphs (a) and (b) as Rules 2521 and 2522, respectively; and renumber paragraph (c) as Rule 2520 (referred to herein as ''Rule 2520'') to facilitate the use and comparison of the Rule in relation to the New York Stock Exchange's (''NYSE'') margin rule; (2) conform Rule 2520 to recent amendments to Federal Reserve Board Regulation T; and (3) add margin requirements for various over-the-counter (''OTC'') options and interest rate composite securities. The text of the proposed rule change is attached to NASD Regulation's rule filing as Exhibit 2.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As a result of the Federal Reserve Board of Governor's recent amendments to Regulation T, which governs the extension of credit by broker/dealers, and the NYSE's recent proposed amendments to its margin rule, NYSE Rule 431,[3] NASD Regulation is proposing to renumber old Rule 2520 to permit its members and others to more easily use and compare the provisions of the rule to NYSE Rule 431. In addition, NASD Regulation is proposing amendments to Rule 2520, the NASD's margin rule, to conform the NASD's margin requirements to Regulation T and NYSE Rule 431.

Numbering. At one time, former Article III, Section 30 of the NASD Rules of Fair Practice had substantially the same margin requirements as NYSE Rule 431.[4] Several years ago Section 30 was amended to adopt the same numbering scheme as NYSE Rule 431 in order to facilitate the use and comparison of the two rules. For example, old Section 30.3(f)(2) relates to margin requirements for puts, calls and other options. The same provisions appear in NYSE Rule 431(f)(2). Thus, any member could find the provisions in both the NASD and NYSE's rules under the same subsection number ''(f)(2).'' When the NASD Manual was reorganized in 1996, new rule numbering conventions were adopted that resulted in the renumbering of Article III, Section 30 as old Rule 2520. Under the 1996 numbering scheme, old Section 303.(f)(2), for example, became old Rule 2520(c)(6)(B). As a result of these numbering changes, comparison between old Rule 2520 and NYSE Rule 431 became much more problematic.

NASD Regulation is proposing to renumber old Rule 2520 by: (1) Renumbering paragraphs (a) and (b) as Rules 2521 and 2522, respectively; and (2) renumbering paragraph (c) as Rule 2520. This renumbering will cause most of the paragraphs and subparagraphs of Rule 2520 to have the same numbering as those of NYSE Rule 431, thereby facilitating comparison and use of the two rules. The renumbered Rule 2520 is set forth in Exhibit 2 to the rule filing; however, the former numbering of each subsection is not shown.

Amendments to Conform Rule 2520 to Regulation T. NASD Regulation is proposing two technical changes to Rule 2520 (as renumbered) to correct references to recently-repealed or renumbered provisions of Regulation T:

1. *Definition of OTC margin bond.* Rule 2520 (e)(2)(C), referring to the definition of OTC margin bond as stated in Regulation T, Section 220.2(t),[5] is proposed to be amended to eliminate the ''(t).'' Section 220.2 has been amended to eliminate subsection numbering.

2. *Cash equivalent.* Rule 2520(f)(2)(H)(iv), referring to cash equivalents as ''those instruments referred to in Section 220.8(a)(3)(ii) of Regulation T,'' is proposed to be amended to change the reference to Section 220.*2* of Regulation T. When Regulation T was amended, Section

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 38411 (March 17, 1997) 62 FR 14174.

[4] There were a few minor differences in the two Rules related to the fact that the NASD regulates the over-the-counter market and that certain requirements in the respective rules relate only to exchange specialists or dealers.

[5] The definition of OTC margin bond in Regulation T, Section 220.2 refers to several types of debt securities with specifically defined characteristics, all of which are sold or traded over-the-counter, not on an exchange.

220.8(a)(3)(ii) was amended to eliminate conditions relating to cash equivalents and Section 220.2 was amended by adding a definition of cash equivalents.

Amendments to Conform Rule 2520 to Recent Amendments to NYSE Rule 431. Option Products and Interest Rate Composites. The NYSE recently proposed amending its Rule 431 to establish new margin requirements for various OTC option products and interest rate campsite securities.[6] Rule 2520, paragraphs (f)(2)(D) and (F), which currently requires customer margin for short OTC stock and index options of 100% of the option premium plus 45% of the current market value of the underlying security, are proposed to be amended by adding specific margin requirements for OTC options equal to a specific percentage of the current value of the underlying component to conform these paragraphs with the corresponding paragraphs of NYSE Rule 431. In addition, a new definition of the term ''underlying component'' is being added as paragraph 2522(a)(66) to replace more complex references to ''underlying security or the product of the current index group value of the underlying index stock group.''

The principal amendments to Rule 2520, paragraphs (f)(2)(D) and (F) include new initial and maintenance margin requirements (including provisions for reduced margin requirements under certain circumstances) for:

—OTC options on stock and convertible corporate debt (30%), industry index stock groups (30%) and broad index stock groups (20%).

—OTC options on 30-year U.S. Treasury bonds and non-mortgage backed U.S. Government agency debt securities that qualify for exemption pursuant to SEC Rule 3a12–7 (3%).[7]

—OTC options on all other U.S. Government securities including agency debt (5%),[8] and marginable corporate debt securities (15%). OTC options on all other securities including CMO's remain subject to the current 45% general OTC option margin requirement.

—Interest rate contracts (10%) to be consistent with other exchanges.[9]

In addition, the proposed amendments recognize certain spread and straddle positions for margin purposes between listed and OTC options when a customer's long and short positions are controlled by the same broker-dealer.

Specialist and Market Maker Options Margin. The amendments to Regulation T that are scheduled to take effect on July 1, 1997, eliminate margin requirements for options transactions for customers and market markers/specialists and shift responsibility for setting such margin requirements to the self-regulatory organizations. The NYSE has proposed adding new provisions establishing such margin requirements to Rule 431,[10] and NASD Regulation is proposing to make substantially identical changes to subparagraph (f)(2)(J) of Rule 2520.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 15A(b)(6)[11] that an association have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to protect and perfect the mechanism of free and open market and a national market system, and in general, to protect investors and the public interest.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act in that conforming the margin rules of the self-regulatory organizations will prevent inconsistent requirements from being imposed upon broker/dealers who are members of more than one self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD Regulation. All submissions should refer to the file number SR–NASD–97–14 and should be submitted by April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–8998 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–M

[6] See *supra* note 3.

[7] The text of the rule filing indicates that the initial and/or maintenance margin for U.S. Government or U.S. Government Agency debt securities other than those exempted by Rule 3a12–7 under the Act is 5%.

[8] *Id.*

[9] There is currently no margin requirement for interest rate contracts in the Rule. The NYSE added the requirement to Rule 431 in order to be consistent with other exchanges.

[10] See *supra* note 3.

[11] 15 U.S.C. 78o–3.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38469; International Series Release No. 1070; File No. SR–NASD–97–16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Revision of the Listing Standards for The Nasdaq Stock Market, Inc.

April 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 3, 1997,[3] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend Rules 4200, 4300, 4310, 4320, 4400, 4420, 4450, 4460, 4470 and 4480 of the NASD to revise the listing standards for Nasdaq. Below is the text of the proposed rule change. Proposed new language is in italic; proposed deletions are in brackets.

All references to ''the Association'' in Rules 4300 through 4480 inclusive should be replaced with ''Nasdaq,'' except in Rule 4300, Rule 4310(c)(16), Rule 4320(e)(15), Rule 4400, Rule 4420(f) and Rule 4420(g) which are amended as indicated, below.

4200. Definitions.

For purposes of the Rule 4000 Series, unless the context requires otherwise:

(a)—(f) No change.

[(g) ''Capital and surplus'' means total stockholders' equity as presented in accordance with generally accepted accounting principles as reflected on the issuer's statement of financial condition or comparable statement.]

(h)—(j) Renumbered as (g)—(i).

(j) ''Independent director'' means a person other than an officer or employee of the company or its subsidiaries or any other individual having a relationship which, in the opinion of the company's board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

(k)—(aa) No change.

(bb) *''Round lot holder'' means a holder of a normal unit of trading.*

(bb)—(dd) Renumbered as (cc)—(ee).

4300. Qualification Requirements For Nasdaq Stock Market Securities

The Nasdaq Stock Market [The Association, as operator of The Nasdaq Stock Market,] is entrusted with the authority to preserve and strengthen the quality of and public confidence in its market. The Nasdaq Stock Market stands for integrity and ethical business practices in order to enhance investor confidence, thereby contributing to the financial health of the economy and supporting the capital formation process. Nasdaq issuers, from new public companies to companies of international stature, by being included in Nasdaq, are publicly recognized as sharing these important objectives of the Nasdaq Stock Market.

No further change.

4310. Qualification Requirements for Domestic and Canadian Securities

To qualify for inclusion in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a) or (b), and (c) hereof.

(a) No change.

(b) No change.

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

[(1) For initial and continued inclusion, the issue shall have two registered and active market makers, one of which may be a market maker entering a stabilizing bid.]

(1) For initial inclusion, the issue shall have three registered and active market makers, and for continued inclusion, the issue shall have two registered and active market makers, one of which may be a market maker entering a stabilizing bid.

[(2) For initial inclusion, the issuer shall have total assets of at least $4 million. For continued inclusion, the issuer shall have total assets of at least $2 million. An issuer's total assets will be determined on the basis of a balance sheet prepared in accordance with generally accepted accounting principles. Assets that are temporary or restricted in their use will be excluded from the determination of total assets.]

[(3) For initial inclusion, the issuer shall have capital and surplus of at least $2 million. For continued inclusion, the issuer shall have capital and surplus of at least $1 million. Only issues of common and preferred stock will be included in capital and surplus. Debentures and redeemable securities with the redemption provision within the sole control of the holder will be excluded from the determination of capital and surplus.]

(2)(A) For initial inclusion, the issuer shall have:

(i) net tangible assets of $4 million;

(ii) market capitalization of $50 million; or

(iii) net income of $750,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(B) For continued inclusion, the issuer shall maintain:

(i) net tangible assets of $2 million;

(ii) market capitalization of $35 million; or

(iii) net income of $500,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(3) For initial inclusion, the issuer shall have an operating history of at least one year or market capitalization of $50 million.

(4) For initial inclusion, common or preferred stock shall have a minimum bid price of [$3] *$4* per share. For continued inclusion the minimum bid price per share shall be $1 [, provided however that an issuer shall not be required to maintain the $1 per share minimum bid price if it maintains market value of public float of $1 million and $2 million in capital and surplus].

(5) No change.

(6) In the case of common stock, there shall be at least 300 *round lot* holders of the security. An account of a member that is beneficially owned by a customer (as defined in Rule 0120) will be considered a holder of a security upon appropriate verification by the member.

(7) In the case of common stock, there shall be at least [100,000] *1,000,000* publicly held shares *for initial inclusion and 500,000 publicly held shares for continued inclusion.* For initial inclusion such shares shall have a market value of at least [$1] *$5* million.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 27, 1997, Nasdaq filed Amendment No. 1 to the proposed rule change. On April 1, 1997, Nasdaq filed Amendment No. 2 to the proposed rule change. Amendment No. 1 and Amendment No. 2 make technical and conforming changes to the proposed rule filing. See letter from Robert E. Aber, Vice President and General Counsel, Nasdaq to Katherine England, Assistant Director, Commission, dated March 27, 1997 and letter from Robert E. Aber, Vice President and General Counsel, Nasdaq to Katherine England, Assistant Director, Commission, dated April 1, 1997.

For continued inclusion such shares shall have a market value of at least [$200,000] *$1 million*. Shares held directly or indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than 10 percent of the total shares outstanding are not considered to be publicly held.

(8)(A) No change.

(B) A failure to meet the continued inclusion requirements for minimum bid price and market value of public float shall be determined to exist only if the deficiency for the applicable criterion continues for a period of [10] *30* consecutive business days. Upon such failure, the issuer shall be notified promptly and shall have a period of 90 calendar days from such notification to achieve compliance with the applicable continued inclusion standard. *Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 90 day compliance period.*

(9)—(15) No change.

(16) Except in unusual circumstances, the issuer shall make prompt disclosure to the public through the news media of any material information that would reasonably be expected to affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to *Nasdaq's Market Watch Department* [the Association's Market Surveillance Department].*

*This notice shall be made to the *Market Watch* [Market Surveillance] Department at 9513 Key West Avenue, Rockville, Maryland 20850–3389. The telephone number is 1–800–537–3929, (301) 590–6411, or from 7 p.m. to 8 a.m. Eastern Time, (301) 590–6413. The fax number is (301) 590–6482.

(17)—(24) No change.

(25) Corporate Governance Requirements—Nasdaq shall review the issuer's past corporate governance activities when the issuer's securities were traded on or after withdrawal from Nasdaq or a securities exchange which imposes corporate governance requirements. Based on such review, Nasdaq may take any appropriate action, including placing of restrictions on or additional requirements for listing, or the denial of listing of a security if Nasdaq determines that there have been violations or evasions of such corporate governance standards. Determinations under this subparagraph shall be made on a case-by-case basis as necessary to protect investors and the public interest.

(A) Distribution of Annual and Interim Reports

(i) Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with Nasdaq at the time it is distributed to shareholders.

(ii) Each issuer which is subject to SEC Rule 13a–13 shall make available copies of quarterly reports including statements of operating results to shareholders either prior to or as soon as practicable following the company's filing of its Form 10–Q with the Commission. If the form of such quarterly report differs from the Form 10–Q, the issuer shall file one copy of the report with Nasdaq in addition to filing its Form 10–Q pursuant to Rule 4310(c)(14). The statement of operations contained in quarterly reports shall disclose, as a minimum, any substantial items of an unusual or nonrecurrent nature and net income before and after estimated federal income taxes or net income and the amount of estimated federal taxes.

(iii) Each issuer which is not subject to SEC Rule 13a–13 and which is required to file with the Commission, or another federal or state regulatory authority, interim reports relating primarily to operations and financial position, shall make available to shareholders reports which reflect the information contained in those interim reports. Such reports shall be made available to shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report provided to shareholders differs from that filed with the regulatory authority, the issuer shall file one copy of the report to shareholders with Nasdaq in addition to the report to the regulatory authority that is filed with Nasdaq pursuant to Rule 4310(c)(14).

(B) Independent Directors

Each issuer shall maintain a minimum of two independent directors on its board of directors.

(C) Audit Committee

Each issuer shall establish and maintain an Audit Committee, a majority of the members of which shall be independent directors.

(D) Shareholder Meetings

Each issuer shall hold an annual meeting of shareholders and shall provide notice of such meeting to Nasdaq.

(E) Quorum

Each issuer shall provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33⅓ percent of the outstanding shares of the company's common voting stock.

(F) Solicitation of Proxies

Each issuer shall solicit proxies and provide proxy statements for all meetings of shareholders and shall provide copies of such proxy solicitation to Nasdaq.

(G) Conflicts of Interest

Each issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilize the company's Audit Committee or a comparable body of the board of directors for the review of potential conflict of interest situations where appropriate.

(H) Shareholder Approval

(i) Each issuer shall require shareholder approval of a plan or arrangement under subparagraph a. below or, prior to the issuance of designated securities under subparagraph b., c., or d. below:

a. when a stock option or purchase plan is to be established or other arrangement made pursuant to which stock may be acquired by officers or directors, except for warrants or rights issued generally to security holders of the company or broadly based plans or arrangements including other employees (e.g. ESOPs). In a case where the shares are issued to a person not previously employed by the company, as an inducement essential to the individual's entering into an employment contract with the company, shareholder approval will generally not be required. The establishment of a plan or arrangement under which the amount of securities which may be issued does not exceed the lesser of 1% of the number of shares of common stock, 1% of the voting power outstanding, or 25,000 shares will not generally require shareholder approval;

b. when the issuance will result in a change of control of the issuer;

c. in connection with the acquisition of the stock or assets of another company if:

1. any director, officer or substantial shareholder of the issuer has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the

company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more; or

2. where, due to the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, other than a public offering for cash:

A. the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of stock or securities convertible into or exercisable for common stock; or

B. the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares or common stock outstanding before the issuance of the stock or securities; or

d. in connection with a transaction other than a public offering involving:

1. the sale or issuance by the issuer of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or substantial shareholders of the company equals 20% or more of common stock or 20% or more of the voting power outstanding before the issuance; or

2. the sale or issuance by the company of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock.

(ii) Exceptions may be made upon application to Nasdaq when:

a. the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise; and

b. reliance by the company on this exception is expressly approved by the Audit Committee or a comparable body of the board of directors.

A company relying on this exception must mail to all shareholders not later than ten days before issuance of the securities a letter alerting them to its omission to seek the shareholder approval that would otherwise be required and indicating that the Audit Committee or a comparable body of the board of directors has expressly approved the exception.

(iii) Only shares actually issued and outstanding (excluding treasury shares or shares held by a subsidiary) are to be used in making any calculation provided for in this subparagraph (25)(H)(i)d.1. Unissued shares reserved for issuance upon conversion of securities or upon exercise of options or warrants will not be regarded as outstanding.

(iv) Voting power outstanding as used in this Rule refers to the aggregate number of votes which may be cast by holders of those securities outstanding which entitle the holders thereof to vote generally on all matters submitted to the company's security holders for a vote.

(v) An interest consisting of less than either 5% of the number of shares of common stock or 5% of the voting power outstanding of an issuer or party shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.

(vi) Where shareholder approval is required, the minimum vote which will constitute shareholder approval shall be a majority of the total votes cast on the proposal in person or by proxy.

(26) Listing Agreement

Each issuer shall execute a Listing Agreement in the form designated by Nasdaq.

(27) Peer Review

(A) Each issuer must be audited by an independent public accountant that:

(i) has received an external quality control review by an independent public accountant (''peer review'') that determines whether the auditor's system of quality control is in place and operating effectively and whether established policies and procedures and applicable auditing standards are being followed; or

(ii) is enrolled in a peer review program and within 18 months receives a peer review that meets acceptable guidelines.

(B) The following guidelines are acceptable for the purposes of subparagraph (c)(27):

(i) The peer review should be comparable to AICPA standards included in Standards for Performing on Peer Reviews, codified in the AICPA's SEC Practice Section Reference Manual;

(ii) The peer review program should be subject to oversight by an independent body comparable to the organizational structure of the Public Oversight Board as codified in the AICPA's SEC Practice Section Reference Manual; and

(iii) The administering entity and the independent oversight body of the peer review program must, as part of their rules of procedure, require the retention of the peer review working papers for 90 days after acceptance of the peer review report and allow Nasdaq access to those working papers.

(d) No change.

4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)—(d) No change.

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1) [For initial and continued inclusion, the issue shall have two registered and active market makers.] *For initial inclusion, the issue shall have three registered and active market makers, and for continued inclusion, the issue shall have two registered and active market makers.* A failure to meet the continued inclusion requirement for number of market makers shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure the issuer shall be notified promptly and shall have a period of 30 calendar days from such notification to achieve compliance with the market maker requirements.

(2) [For initial inclusion, the issuer shall have total assets of at least U.S. $4 million. For continued inclusion, the issuer shall have total assets of at least U.S. $2 million.]

(A) For initial inclusion, the issuer shall have:

(i) net tangible assets of U.S. $4 million;

(ii) market capitalization of U.S. $50 million; or

(iii) net income of U.S. $750,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(B) For continued inclusion, the issuer shall maintain:

(i) net tangible assets of U.S. $2 million;

(ii) market capitalization of U.S. $35 million; or

(iii) net income of U.S. $500,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(C) An issuer's [total] *net tangible* assets will be determined on the basis of a balance sheet prepared in accordance with U.S. generally accepted

accounting principles or those accompanied by detailed schedules quantifying the differences between U.S. generally accepted accounting principles and those of the issuer's country of domicile. [Assets that are temporary or restricted in their use will be excluded from the determination of total assets.]

[(3) For initial inclusion, the issuer shall have capital and surplus of at least U.S. $2 million. For continued inclusion, the issuer shall have capital and surplus of at least U.S. $1 million. Only issues of common, preferred or equivalent stock will be included in capital and surplus. Debentures and redeemable securities with the redemption provision within the sole control of the holder will be excluded from the determination of capital and surplus.]

[(4)] *(3)* In the case of a convertible debt security, for initial inclusion, there shall be a principal amount outstanding of at least U.S. $10 million. For continued inclusion, there shall be a principal amount outstanding of at least U.S. $5 million.

[(5)] *(4)* In the case of foreign shares, there shall be at least 300 *round lot* holders of the security. An account of a member that is beneficially owned by a customer (as defined in Rule 0120) will be considered a holder of a security upon appropriate verification by the member.

[(6)] *(5)* In the case of foreign shares, there shall be at least [100,000] *1,000,000* publicly held shares *for initial inclusion and 500,000 publicly held shares for continued inclusion.* Shares held directly or indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than 10 percent of the total shares outstanding are not considered to be publicly held.

(7)—(15) renumbered as subparagraphs (6)—(14)

(15)[16] Except in unusual circumstances, the issuer shall make prompt disclosure to the public in the United States through international wire services or similar disclosure media of any material information that would reasonably be expected to affect the value of its securities or influence investor' decisions and shall, prior to the release of the information, provide notice of such disclosure to *Nasdaq* [the Association].*

*This notice shall be made to the *Market Watch* [Market Surveillance] Department at 9513 Key West Avenue, Rockville, Maryland 20850–3389. The telephone number is 1–800–537–3929, (301) 590–6411, or from 7 p.m. to 8 a.m. Eastern Time, (301) 590–6413. The fax number is (301) 590–6482.

(17)—(21) renumbered as subparagraphs (16)—(20)

(21) Corporate Governance Requirements—No provisions of this subparagraph shall be construed to require any foreign issuer to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such issuer or that is contrary to generally accepted business practices in the issuer's country of domicile. Nasdaq shall have the ability to provide exemptions from the applicability of these provisions as may be necessary or appropriate to carry out this intent.

Nasdaq shall review the issuer's past corporate governance activities when the issuer's securities were traded on or after withdrawal from Nasdaq or a securities exchange which imposes corporate governance requirements. Based on such review, Nasdaq may take any appropriate action, including placing of restrictions on or additional requirements for listing, or the denial of listing of a security if Nasdaq determines that there have been violations or evasions of such corporate governance standards. Determinations under this subparagraph shall be made on a case-by-case basis as necessary to protect investors and the public interest

(A) Distribution of Annual and Interim Reports

(i) Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with Nasdaq at the time it is distributed to shareholders.

(ii) Each issuer which is subject to SEC Rule 13a–13 shall make available copies of quarterly reports including statements of operating results to shareholders either prior to or as soon as practicable following the company's filing of its Form 10–Q with the Commission. If the form of such quarterly report differs from the Form 10–Q, the issuer shall file one copy of the report with Nasdaq in addition to filing its Form 10–Q pursuant to Rule 4310(c)(14). The statement of operations contained in quarterly reports shall disclose, as a minimum, any substantial items of an unusual or nonrecurrent nature and net income before and after estimated federal income taxes or net income and the amount of estimated federal taxes.

(iii) Each issuer which is not subject to SEC Rule 13a–13 and which is required to file with the Commission, or another federal or state regulatory authority, interim reports relating primarily to operations and financial position, shall make available to shareholders reports which reflect the information contained in those interim reports. Such reports shall be made available to shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report provided to shareholders differs from that filed with the regulatory authority, the issuer shall file one copy of the report to shareholders with Nasdaq in addition to the report to the regulatory authority that is filed with Nasdaq pursuant to Rule 4310(c)(14).

(B) Independent Directors

Each issuer shall maintain a minimum of two independent directors on the board of directors.

(C) Audit Committee

Each issuer shall establish and maintain an Audit Committee, a majority of the members of which shall be independent directors.

(D) Shareholder Meetings

Each issuer shall hold an annual meeting of shareholders and shall provide notice of such meeting to Nasdaq.

(E) Quorum

Each issuer shall provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33 ⅓ percent of the outstanding shares of the company's common voting stock.

(F) Solicitation of Proxies

Each issuer shall solicit proxies and provide proxy statements for all meetings of shareholders and shall provide copies of such proxy solicitation to Nasdaq.

(G) Conflicts of Interest

Each issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilize the company's Audit Committee or a comparable body of the board of directors for the review of potential conflict of interest situations where appropriate.

(H) Shareholder Approval

(i) Each issuer shall require shareholder approval of a plan or arrangement under subparagraph a.

below or, prior to the issuance of designated securities under subparagraph b., c., or d. below: a. when a stock option or purchase plan is to be established or other arrangement made pursuant to which stock may be acquired by officers or directors, except for warrants or rights issued generally to security holders of the company or broadly based plans or arrangements including other employees (e.g. ESOPs). In a case where the shares are issued to a person not previously employed by the company, as an inducement essential to the individual's entering into an employment contract with the company, shareholder approval will generally not be required. The establishment of a plan or arrangement under which the amount of securities which may be issued does not exceed the lesser of 1% of the number of shares of common stock, 1% of the voting power outstanding, or 25,000 shares will not generally require shareholder approval;

b. when the issuance will result in a change of control of the issuer;

c. in connection with the acquisition of the stock or assets of another company if:

1. any director, officer or substantial shareholder of the issuer has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more; or

2. where, due to the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, other than a public offering for cash:

A. the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of stock or securities convertible into or exercisable for common stock; or

B. the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares or common stock outstanding before the issuance of the stock or securities; or

d. in connection with a transaction other than a public offering involving:

1. the sale or issuance by the issuer of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or substantial shareholders of the company equals 20% or more of common stock or 20% or more of the voting power outstanding before the issuance; or

2. the sale or issuance by the company of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock.

(ii) Exceptions may be made upon application to Nasdaq when:

a. the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise; and

b. reliance by the company on this exception is expressly approved by the Audit Committee or a comparable body of the board of directors.

A company relying on this exception must mail to all shareholders not later than ten days before issuance of the securities a letter alerting them to its omission to seek the shareholder approval that would otherwise be required and indicating that the Audit Committee or a comparable body of the board of directors has expressly approved the exception.

(iii) Only shares actually issued and outstanding (excluding treasury shares or shares held by a subsidiary) are to be used in making any calculation provided for in this subparagraph (21)(H)(i)d.1. Unissued shares reserved for issuance upon conversion of securities or upon exercise of options or warrants will not be regarded as outstanding.

(iv) Voting power outstanding as used in this Rule refers to the aggregate number of votes which may be cast by holders of those securities outstanding which entitle the holders thereof to vote generally on all matters submitted to the company's security holders for a vote.

(v) An interest consisting of less than either 5% of the number of shares of common stock or 5% of the voting power outstanding of an issuer or party shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.

(vi) Where shareholder approval is required, the minimum vote which will constitute shareholder approval shall be a majority of the total votes cast on the proposal in person or by proxy.

(22) Listing Agreement

Each issuer shall execute a Listing Agreement in the form designated by Nasdaq.

(23) Peer Review

(A) Each issuer must be audited by an independent public accountant that:

(i) has received an external quality control review by an independent public accountant (''peer review'') that determines whether the auditor's system of quality control is in place and operating effectively and whether established policies and procedures and applicable auditing standards are being followed; or

(ii) is enrolled in a peer review program and within 18 months receives a peer review that meets acceptable guidelines.

(B) The following guidelines are acceptable for purposes of subparagraph (e)(23):

(i) The peer review should be comparable to AICPA standards included in Standards for Performing on Peer Reviews, codified in the AICPA's SEC Practice Section Reference Manual;

(ii) The peer review program should be subject to oversight by an independent body comparable to the organizational structure of the Public Oversight Board as codified in the AICPA's SEC Practice Section Reference Manual; and

(iii) The administering entity and the independent oversight body of the peer review program must, as part of their rules of procedure, require the retention of the peer review working papers for 90 days after acceptance of the peer review report and allow Nasdaq access to those working papers.

(f) No change.

4400. Nasdaq National Market—Issuer Designation Requirements

Pursuant to SEC Rule 11Aa2–1, those securities for which transaction reporting is required by an effective transaction reporting plan are designated as national market system securities. *A transaction reporting plan has been filed with the Commission under which securities satisfying the requirements of this Rule 4400 Series are covered by the transaction reporting plan and transactions in such securities are subject to the transaction reporting provision of the Rule 4630 Series.* [The Association has filed with the Commission a transaction reporting plan under which securities satisfying the requirements of this Rule 4400 Series are covered by the transaction reporting plan and transactions in such securities are subject to the transaction reporting provisions of the Rule 4630 Series.]

4420. Quantitative Designation Criteria

In order to be designated, an issuer shall be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), [or (e)] *(e), (f), or (g)* below. Initial Public Offerings substantially

meeting such criteria are eligible for immediate inclusion in the Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. [All other qualifying issues, excepting special situations, are included on the next inclusion date established by Nasdaq.]

(a) [Alternative 1] *Entry Standard 1*

(1) The issuer of the security had annual pre-tax income of at least [$750,000] *$1,000,000* [and net income of at least $400,000] in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(2) There are at least [500,000] *1,100,000* publicly held shares.

(3) The market value of publicly held shares is at least [$3] *$8* million.

(4) The *bid* price per share [on each of the five business days prior to the date of application by the issuer] is $5 or more.

(5) The issuer of the security has net tangible assets of at least [$4] *$6* million.

(6) The issuer has a minimum of [800] *400 round lot* shareholders [if the issuer has between 500,000 and 1 million shares publicly held, or a minimum of 400 shareholders if the issuer has either (A) over 1 million shares publicly held or (B) over 500,000 shares publicly held and average daily trading volume in excess of 2,000 shares per day for the six months preceding the date of application].

(7) *There are* [A] at least [two] *three registered and active* [dealers act as Nasdaq] market makers with respect to the security [on each of the five business days preceding the date of application by the issuer].

(b) [Alternative 2] *Entry Standard 2*

(1) The issuer of the security has net tangible assets of at least [$12] *$18* million.

(2) There are at least [1 million] *1,100,000* publicly held shares.

(3) The market value of publicly held shares is at least [$15] *$18* million.

(4) The *bid* price per share [on each of the five business days prior to the date of application by the issuer] is [$3] *$5* or more.

(5) *There are* [A] at least [two] *three registered and active* [dealers act as Nasdaq] market makers with respect to the security [on each of the five business days preceding the date of application by the issuer].

(6) The issuer has a [three-year] *two-year* operating history.

(7) The issuer has a minimum of 400 *round lot* shareholders.

(c) *Entry Standard 3*

An issuer designated under this paragraph need not also be in compliance with the quantitative criteria for initial inclusion in the Rule 4300 series.

(1) There are at least 1,100,000 publicly held shares.

(2) The market value of publicly held shares is at least $20 million.

(3) The bid price per share is $5 or more.

(4) There are at least four registered and active market makers with respect to the security.

(5) The issuer has a minimum of 400 round lot shareholders.

(6) The issuer has:

(A) a market capitalization of $75 million; or

(B) total assets and total revenue of $75 million each for the most recently completed fiscal year or two of the last three most recently completed fiscal years.

[(c)] *(d)* Warrants

(1) No change.

(2) No change.

[(d)] *(e)* Computations

The computations required by paragraph (a)(1), *(a)(5)*, and (b)(1) shall be taken from the issuer's most recent financial information filed with Nasdaq. The computations required in paragraphs (a)(2), (a)(3), (b)(2),[and] (b)(3), *(c)(1), and (c)(2)* shall be as of the date of application of the issuer. Determinations of beneficial ownership for purposes of paragraphs (a)(2) [and], (b)(2), *and (c)(1)* shall be made in accordance with SEC Rule 13d–3. In the case of American Depositary Receipts, the computations required by paragraphs (a)(1), *(a)(5)*, and (b)(1) shall relate to the foreign issuer and not to any depositary or any other person deemed to be an issuer for purposes of Form S–12 under the Securities Act of 1933.

[(e)] (f) Other Securities

(1) *Nasdaq* [The corporation] will consider designating any security not otherwise covered by the criteria in paragraphs (a), (b), [or] (c), *or (d)* of this Rule, provided the instrument is otherwise suited to trade through the facilities of Nasdaq. Such securities will be evaluated for designation against the following criteria:

(A) The issuer shall have assets in excess of $100 million and stockholders' equity of at least $10 million. In the case of an issuer which is unable to satisfy the income criteria set forth in paragraph (a)(1), *Nasdaq* [the Corporation] generally will require the issuer to have the following: (i) assets in excess of $200 million and stockholders' equity of at least $10 million; or (ii) assets in excess of $100 million and stockholders' equity of at least $20 million.

(B)—(D) No change.

(2) No change.

(3) No change.

[(f)] *(g)* Nasdaq will consider designating as Nasdaq National Market securities Selected Equity-linked Debt Securities (SEEDS) that generally meet the criteria of this paragraph [(f)] *(g)*. SEEDS are limited-term, non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock (or sponsored American Depositary Receipts (ADRs) overlying such equity securities).

(1)—(2) No change.

(3) No change.

(A)—(B) No change.

(C) be issued by:

(i) No change.

(ii) a non-U.S. company (including a company that is traded in the United States through sponsored ADRs) (for purposes of this paragraph *(g)* [(f)], a non-U.S. company is any company formed or incorporated outside of the United States) if:

a. the Association *or its subsidiaries* has a comprehensive surveillance sharing agreement in place with the primary exchange in the country where the security is primarily traded (in the case of an ADR, the primary exchange on which the security underlying the ADR is traded);

b. the combined trading volume of the non-U.S. security (a security issued by a non-U.S. company) and other related non-U.S. securities occurring in the U.S. market and in markets with which the Association *or its subsidiaries* has in place a comprehensive surveillance sharing agreement represents (on a share equivalent basis for any ADRs) at least 50% of the combined world-wide trading volume in the non-U.S. security, other related non-U.S. securities, and other classes of common stock related to the non-U.S. security over the six month period preceding the date of designation; or

c.—d. No change.

(4) No change.

(5) Prior to the commencement of trading of a particular SEEDS designated pursuit to this subsection, the Association *or its subsidiaries* will distribute a circular to the membership providing guidance regarding member firm compliance responsibilities (including suitability recommendation

and account approval) when handling transactions in SEEDS.

4450. Quantitative Maintenance Criteria

After designation as a Nasdaq National Market security, a security must substantially meet the criteria set forth *in paragraphs (a) or (b), and (c), (d), (e), and (f)* below to continue to be designated as a national market system security. *A security maintaining its designation under paragraph (b) need not also be in compliance with the quantitative maintenance criteria in the Rule 4300 series.*

(a) *Maintenance Standard 1*—Common Stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) [200,000] *750,000* shares publicly held;

(2) Market value of publicly held shares of [$1] *$5* million;

(3) The issuer has net tangible assets of at least *$4 million;* [:]

[(A) $1 million;

(B) $2 million if the issuer has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years; or

(C) $4 million if the issuer sustained losses from continuing operations and/or net losses in three of its four most recent fiscal year;]

(4) 400 shareholders [or 300 shareholders] of round lots; and

(5) Minimum bid price per share of $1 [or, in the alternative, market value of public float of $3 million and $4 million of net tangible assets].

(b) Maintenance Standard 2—Common Stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) The issuer has:

(A) a market capitalization of $50 million; or

(B) total assets and total revenue of $50 million each for the most recently completed fiscal year or two of the last three most recently completed fiscal years.

(2) 1,100,000 shares publicly held;

(3) Market valve of publicly held shares of $15 million;

(4) Minimum bid price per share of $5;

(5) 400 shareholders of round lots; and

(6) At least four registered and active market makers.

[(b)] *(c)* Other Securities Designated Pursuant to Rule 4420 [(e)] *(f)*

The aggregate market value or principal amount of publicly-held units must be at least $1 million.

[(c)] *(d)* Rights and Warrants

Common stock of issuer must continue to be designated.

[(d)] *(e)* Market Makers

At least two [authorized] *registered and active* market makers, *except that an issue must have at least four registered and active market makers to satisfy Maintenance Standard 2 under paragraph (b) of this rule.*

[(e)] *(f)* Bankruptcy and/or Liquidation

Should an issuer file under any of the sections of the Bankruptcy Act or announce that liquidation has been authorized by its board of directors and that it is committed to proceed, Nasdaq may suspend or terminate the issuer's securities unless it is determined that the public interest and the protection of investors would be served by continued designation.

4460. Non-Quantitative Designation Criteria for Issuers Excepting Limited Partnerships

(a)–(b) No change.

(c) Independent Directors

Each NNM issuer shall maintain a minimum of two independent directors on its board of directors. [For purposes of this section, ''independent director'' shall mean a person other than an officer or employee of the company or its subsidiaries or any other individual having a relationship which, in the opinion of the board of directors, would interfere with the exercise of independent judgement in carrying out the responsibilities of a director.]

(d)–(g) No change.

(h) Conflicts of Interest

Each NNM issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilize the company's Audit Committee or a comparable body *of the board of directors* for the review of potential conflict of interest situations where appropriate.

(i) Shareholder Approval

(1) No change.

(2) Exceptions may be made upon application to *Nasdaq* [the Association] when:

(A) No change.

(B) reliance by the company on this exception is expressly approved by the Audit Committee [of the Board] or a comparable body *of the board of directors.*

(C) in connection with the acquisition of the stock or assets of another company if:

(i) No change.

(ii) where, *due to* the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, other than a public offering for cash[,]*;*

a. [if] the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of stock or securities convertible into or exercisable for common stock[,]*;* or

b. the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares or common stock outstanding before the issuance of the stock or securities; or

(D) No change.

(3)–(6) No change.

(j)–(l) No change.

(m) Peer Review

(1) Each issuer must be audited by an independent public accountant that:

(A) has received an external quality control review by an independent public accountant (''peer review'') that determines whether the auditor's system of quality control is in place and operating effectively and whether established policies and procedures and applicable auditing standards are being followed; or

(B) is enrolled in a peer review program and within 18 months receives a peer review that meets acceptable guidelines.

(2) The following guidelines are acceptable for purposes of paragraph (m):

(A) The peer review should be comparable to AICPA standards included in Standards for Performing on Peer Reviews, codified in the AICPA's SEC Practice Section Reference Manual;

(B) The peer review program should be subject to oversight by an independent body comparable to the organizational structure of the Public Oversight Board as codified in the AICPA's SEC Practice Section Reference Manual; and

(C) The administering entity and the independent oversight body of the peer review program must, as part of their rules of procedure, require the retention of the peer review working papers for 90 days after acceptance of the peer review report and allow Nasdaq access to those working papers.

4470. Non-Quantitative Designation Criteria for Issuers That Are Limited Partnerships

(a)–(h) No change.

(i) Conflict of Interest

Each NNM issuer which is a limited partnership shall conduct an

appropriate review of all related party transactions on an ongoing basis and shall utilize the Audit Committee or a comparable body *of the board of directors* for the review of potential material conflict of interest situations where appropriate.

4480. Termination Procedure

(a) No change.

(b) An issuer that is subject to termination of its designation may request a review by a *Panel authorized to hear appeals* [Committee of the Board of Governors]. If a review is requested, the issuer is entitled to submit materials and arguments in connection with such review.

(c) The *Panel* [Committee] may grant or deny continued designation on the basis of the written submission by the issuer and whatever other date it deems relevant.

(d) Determinations by the *Panel* [Committee] may be appealed to the *Nasdaq Listing and Hearing Review Committee* [Association's Board of Governors] by any aggrieved person. An appeal to the *Nasdaq Listing and Hearing Review Committee* [Board] shall not operate as a stay of the decision of the Panel unless the *Nasdaq Listing and Hearing Review Committee* [Board] in its discretion determines to grant such stay.

(e) *The Rule 9700 series sets forth procedures applicable to the review of the termination of an issuer's designation.*

(e) Renumbered as (f).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Background

Nasdaq qualification requirements for listing of securities on the National Market and SmallCap Market were last revised in 1989 and 1991, respectively.[4] Since that time, Nasdaq has witnessed significant growth in terms of the size and number of listings, and volume of transactions. Accompanying this growth has been an increase in participation of individual investors, and heightened public awareness and expectations for Nasdaq listed companies. Nasdaq recognizes that along with this growth and the changes in the market, a commensurate level of quality and investor protection must be assured. Nasdaq believes it is extremely important to place an emphasis not only on ensuring that all Nasdaq companies warrant listing by virtue of their compliance with the applicable qualification requirements, but also that the qualification requirements themselves are in fact appropriate and designed to foster the protection of investors and enhance the credibility of the market.

Given Nasdaq's objective of providing necessary safeguards to public investors in Nasdaq securities, and given the growth and changes in the market, the structural enhancements to Nasdaq now underway, and the time that has passed since the listing standards were last changed, Nasdaq determined to undertake a thorough review of its qualifications requirements. In conducting this review, Nasdaq carefully sought to balance its role in facilitating legitimate capital formation for issuers with Nasdaq's responsibility to provide the appropriate protection to public investors in its markets, and to maintain the trust and confidence reposed in Nasdaq generally. Such capital formation continues to be an important source of new jobs and investment opportunities in the United States today.

While Nasdaq recognizes that certain companies may not be able to meet the more stringent standards proposed herein, it is important to note that companies not in compliance will have the opportunity to achieve compliance with the applicable standards during a reasonable interval of time. In addition, for those companies who are unable to effect compliance with the new standards, a meaningful alternative is now available through their eligibility for quotation in the OTC Bulletin Board (''OTCBB''). The OTCBB is a quotation medium used by NASD members to reflect quotations in non-Nasdaq securities. Securities quoted in the OTCBB are subject to real-time trade reporting,[5] thus providing a level of transparency not present when the listing standards were last revised.

Summary of Proposed Rule Change[6]

Elimination of the Alternative to the $1 Minimum Bid Price. Under the existing standards, issuers with securities trading below $1 may remain listed on the Nasdaq National and SmallCap Markets if they meet an alternative test.[7] Nasdaq is proposing to eliminate the alternative test for several reasons. First, it will remove the incentive to engage in large, below market private placements (generally pursuant to Regulation S) which cause dilution and concomitant harm to Nasdaq investors. It will also provide a safeguard against certain market activity associated with low-priced securities. Further, when the alternative test was adopted, it was intended to address ''temporary adverse market conditions'' resulting in a bid price below $1.[8] Contrary to this intent, issuers have used the alternative test as a permanent means of meeting the listing standards. Finally, Nasdaq believes that a $1 minimum bid price would serve to increase investor confidence and the credibility of its market commensurate with its increased prominence.

After careful consideration of comments received on this provision of the proposal, and as discussed further below, Nasdaq believes that the proposal should be modified to provide for a reasonable expansion in the time period that an issuer's stock price remains below $1 before it is deemed a deficiency.

Corporate Governance Standards for SmallCap Issuers. Nasdaq is proposing to extend the important shareholder protection benefits of its corporate governance requirements to the SmallCap Market. These are the same requirements that currently apply to National Market issuers, and include, among other things: (1) a minimum of two independent directors; (2) an audit committee with a majority of independent directors; (3) an annual shareholder meeting; and (4) shareholder approval for certain

[4] These requirements are contained in NASD Rule 4300 Series and Rule 4400 Series.

[5] *See* NASD Rule 6550 (requiring that transactions in OTCBB-eligible securities be reported pursuant to the requirements of the Rule 6600 Series).

[6] *See* Nasdaq Bulletin dated November 15, 1996, attached as Exhibit 2 to the rule filing, for a detailed chart comparing the current listing standards to the proposed rule change.

[7] On SmallCap, the alternative requirement is $1 million in market value of public float and $2 million in capital and surplus. On the National Market, the alternative requirement is $3 million in market value of public float and $4 million in net tangible assets.

[8] *See* Exchange Act Release No. 28391 (September 5, 1990), 55 FR 36372.

corporate actions.[9] These requirements provide investors with a means to become more actively involved in corporate affairs. The shareholder approval requirement should prevent the further potential for dilutive stock issuances in the SmallCap Market without the prior knowledge of investors. The audit committee, independent director and annual meeting requirements will provide vastly enhanced safeguards to the investing public.

Increase in the Quantitative Standards for Both the SmallCap and National Markets. Increases to the quantitative standards are believed to be wholly appropriate given the passage of time since the standards were last adjusted, the opportunities for improvement gleaned from experience over that period, and the concomitant increases in the growth of the market and the rate of inflation. These increases are believed capable of further strengthening the financial criteria consistent with the goal of enhancing the quality of Nasdaq companies, while preserving the ability of qualified Nasdaq companies to raise capital.

Market Capitalization Test for National Market. Consistent with the abiding interest of Nasdaq in facilitating capital formation for high-technology industries and the corresponding opportunity for growth in employment, it was determined that there was a need to recognize and appropriately respond to the unique operating characteristics of certain industries represented in this market. Nasdaq has therefore proposed an accommodation for companies that may fail to comply with the National Market net tangible asset test as a result of accounting for goodwill associated with various merger and acquisition activities, or as in the case of the telecommunications industry, significant depreciation charges.

Specifically, an issuer that is unable to meet either of two alternative net tangible asset tests, as amended by the proposed rule change,[10] could be afforded designation as a National Market issuer provided it initially had a market capitalization of $75 million, or total assets and total revenue of $75 million each. For continued listing, these issuers would have to maintain a market capitalization of $50 million, or total assets and total revenue of $50 million.

The changes provide access for Nasdaq National Market caliber companies that would otherwise not qualify due to accounting conventions associated with certain business combinations and specialized industries.

Peer Review for Auditors of Nasdaq Listed Companies. Nasdaq solicited comment to further its evaluation of a requirement that auditors of Nasdaq listed companies be subject to a practice monitoring program under which the auditor's quality control system would be reviewed by an independent peer auditor on a periodic basis. Currently, companies whose shares are publicly traded are not required to have auditors who are subject to such peer review. Although neither the New York Stock Exchange nor the American Stock Exchange have a peer review requirement, certain banking agencies such as the Federal Deposit Insurance Corporation (''FDIC'') have successfully implemented a peer review requirement for certain financial institutions. In addition, the Commission has generally expressed support for the concept of peer review.[11] Although it withdrew its mandatory peer review proposal, the Commission nonetheless confirmed its belief that ''the peer review process contributes significantly to improving the quality control systems of accounting firms auditing Commission registrants and enhances the consistency and quality of practice before the Commission.'' [12]

Consistent with this, Nasdaq also received strong support from commenters on this requirement. Accordingly, Nasdaq has determined to include a peer review requirement as part of the proposed changes to the listing criteria.

The language of the proposed rule is similar to the peer review requirement of the FDIC.[13] Specifically, all independent public accountants auditing Nasdaq listed companies must have received, or be enrolled in, a peer review that meets acceptable guidelines. Acceptable guidelines would include comparability to standards of the American Institute of Certified Public Accountants (''AICPA'') included in the Standards for Performing on Peer Reviews codified in the AICPA's SEC Practice Section Reference Manual, and oversight by an independent body comparable to the organizational structure of the Public Oversight Board as codified in the AICPA's SEC Practice Section Reference Manual. Further, copies of peer review reports, accompanied by any letters of comment and letters of response, would be maintained by the administering entity of the peer review program and be made available to Nasdaq upon request. Similarly, working papers of the administering entity and the independent oversight body would also be required to be retained for a period after the report is filed, and be made available to Nasdaq upon request.

Other Clarifying and Conforming Changes. Nasdaq also is proposing changes to specify that the shareholder number requirements in the SmallCap Market are based on the number of ''round lot'' holders of an issuer's shares. This conforms with the standards on the National Market and other exchanges, and ensures that issuers maintain a broad and significant shareholder base justifying a listing on a national securities market.

In addition, Nasdaq is proposing to conform the stock price compliance mechanism for initial listing under the National Market standards with that of the SmallCap Market by specifying that the applicable price is the bid price, and by removing the provisions under the National Market standards that require satisfaction of the applicable stock price only ''on each of the five business days prior to the date of application by the issuer.'' This clarifies and ensures that issuers must be in compliance with the bid price requirement at the time of listing, and not just at the time coinciding with the filing of the application.

Furthermore, where possible, certain provisions and cross-references have been conformed and renumbered, outdated references and a definition have been deleted, and headings have been renamed for clarity.

Impact Analysis

Nasdaq analyzed the impact the new listing standards would have on both the SmallCap and National Market by applying the proposed standards to current Nasdaq issuers, using financial data from periodic filings to the Commission, and relevant price and volume data. With respect to the listing standards for initial entry for each market, Nasdaq applied the proposed criteria to issuers successfully listing

[9] It is contemplated that, as is currently the case with respect to National Market issuers, Nasdaq would have the discretion to waive or modify these corporate governance standards for foreign SmallCap issuers where the standards are contrary to generally accepted business practices in the issuer's country of origin.

[10] As amended under the proposed rule change for initial listing on the National Market, an issuer must have net tangible assets of $18 million, or $6 million if the issuer has had earnings of $1 million in the most recent year or two of the last three years. Net tangible assets equals total assets (including the value of patents, copyrights and trade marks but excluding the value of goodwill) less total liabilities. See NASD Rule 4200(w).

[11] See Securities Act Release No. 6695 (April 1, 1987), 52 FR 11665.

[12] See Exchange Act Release No. 31197 (September 17, 1992), 57 FR 45287, n. 26.

[13] See 12 CFR 363, Appendix A.

from June 30, 1994 to August 30, 1996. With respect to maintenance standards, Nasdaq applied the proposed criteria to all current Nasdaq issuers. This resulted in the following estimated impact.

With respect to the SmallCap Market entry criteria, of the 457 issuers successfully listing from June 30, 1994 to August 30, 1996, 229 or 50% would not have qualified for listing. With respect to the SmallCap Market maintenance criteria, of the 1,318 issuers currently listed on SmallCap, 394 or 30% would no longer be eligible for continued listing.

With respect to the National Market entry criteria, of the 1,151 issuers successfully listing from June 30, 1994 to August 30, 1996, 176 or 15% would not have qualified for listing. With respect to the National Market maintenance criteria, of the 3,910 issuers currently listed on National Market, 171 or 4% would no longer be eligible for continued listing.

Nasdaq believes the analysis overstates the impact of the proposed listing standards on issuers for several reasons. For example, certain of the standards, such as public float, are within the control of the issuer and may be adjusted to meet the new standards within a relatively short time frame. Further, a majority of the issuers failing the new criteria only failed one of the standards. Given time, many of these issuers may be able to come into compliance, by, for example, raising additional capital. Past experience supports this belief. In 1991, Nasdaq performed a similar analysis which predicted that 526 issuers would not qualify upon application of the new standards. In fact, after undertaking corrective corporate actions, only 125 issuers (24%) were unable to qualify.

Implementation

Nasdaq recognizes the potential impact the proposed standards would have on existing issuers and issuers applying for initial listing. Therefore, Nasdaq believes the new standards should be made effective six months after the proposed rule change is approved by the Commission to provide current issuers with adequate time to enact the corporate actions necessary to comply with the new rules.

For issuers applying for initial listing after the date the proposed rule change is submitted to the SEC, the new listing standards would be retroactively applied once the proposed rule change was approved. This provides advance notice to issuers applying for listing that they would be subject to higher listing standards upon approval of the rule, so such issuers would not be prejudiced. These issuers will be afforded ninety days after the SEC approves the proposed rule change to meet the new listing entry criteria. In addition, an issuer will be deemed to have satisfied the new listing entry criteria once the proposed rule change is approved by the Commission, if the issuer is in compliance with the new listing standards at any time after the issuer commenced trading, but prior to Commission approval. This removes an incentive to apply prior to approval of the new criteria for the purpose of circumventing the new standards. Thus, it avoids a rush to apply and provides for the orderly processing of listing applications by Nasdaq staff.

For initial listing of an issuer that applied before the proposed rule change is submitted to the Commission, but which is still pending as of that date, the issuer would have 90 days from the date the proposed rule change is submitted to commence trading on Nasdaq under the existing listing entry criteria. These issuers would not be required to meet the new listing entry criteria after approval by the Commission, but like all other listed issuers, would have to meet the new maintenance criteria six months after approval by the Commission. These procedures are similar to those used when the listing standards were last revised.

Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[14] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general, to protect investors and the public interest. Nasdaq believes that the extension of the corporate governance requirements to the SmallCap market will permit greater participation by investors in corporate affairs. The elimination of the alternative to the $1 minimum bid price requirement is an important step to provide a safeguard against certain market activity associated with low priced securities, to remove the incentive for large, below market issuances, and to generally enhance the credibility of the market. The increase in the quantitative standards for both the National Market and SmallCap Market is necessary and appropriate to strengthen the qualification requirements for Nasdaq issuers, and is consistent with a nationwide securities marketplace. Finally, the peer-review requirement for auditors of Nasdaq companies will provide further safeguards for investors by ensuring that an auditing firm's quality control systems are subject to an industry-accepted level of review.

In sum, the proposed rule change has been designed to ensure the protection of investors and the public interest while maintaining the proper balance between small entrepreneurial companies' access to capital and investors' access to quality companies. Nasdaq has carefully considered public feedback while developing this proposal and appropriate modifications were made where necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq states that it does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

In November of 1996, Nasdaq sought public comment on the proposed rule change. In an effort to seek the broadest possible solicitation of comments from investors, Nasdaq widely distributed a Nasdaq Bulletin and a Nasdaq Notice to NASD Members to investors, issuers, NASD member firms, and other interested parties. In addition, the entire proposal was posted on the Nasdaq website (www.nasdaq.com), which also solicited comments via E-mail. In total, 227 comments were received. A copy of the Nasdaq Bulletin is attached to the rule filing as Exhibit 2. Copies of the comments received are attached to the rule filing as Exhibit 3.

Of the 227 comments received, 143 were from private investors. 109 comments expressed an opinion regarding the overall proposal, of which 32 were in favor and 77 were opposed. Of those comments expressing general opposition, many were in the form of a brief E-mail, and at least fifteen were reproductions of a letter submitted by a trade association.[15] The single issue evoking the most significant negative comment, mostly from investors, concerned the elimination of an alternative to the $1 bid price requirement. Commenters expressed strong support for the proposals to extend corporate governance requirements to the SmallCap Market and to establish a peer review

[14] 15 U.S.C. 78*o*–3.

[15] See letter from Jeffrey Adduci, President, Regional Investment Bankers Association to Perry Peregoy, Vice President, Nasdaq, dated December 19, 1996.

requirement for auditors of Nasdaq issuers.

Of those comments expressing opposition to the proposed rule change, three general themes emerged:

- The bid price is not within the direct control of the issuer.
- The proposal singles out small issuers.
- More emphasis should be placed on regulating the activity of broker-dealers who engage in fraudulent activity, rather than stigmatizing issuers.

First, with respect to comments opposing the proposed rule change on the basis that the bid price is not within the direct control of the issuer, Nasdaq notes that elimination of the alternative to the minimum bid price requirement is intended to address the following: (1) The concern that securities trading below $1 are more susceptible to certain activity by stock promoters; (2) the elimination of the incentive for large, below market issuances which may harm Nasdaq investors; (3) the curtailing of its use as a permanent solution to bid price deficiencies; and (4) the enhancement of the credibility of the market. Some issuers argued that a stock's bid price is not within their direct control, and thus the $1 minimum bid price may unfairly penalize these issuers. Market anomalies such as year-end tax selling or short-term price swings could trigger a bid price deficiency resulting in the initiation of de-listing proceedings for what may otherwise be a viable company with long-term prospects. In a related vein of comments, many investors argued that, as current investors in low-priced stocks, they would be harmed if these companies were to lose their Nasdaq listing.

Nasdaq continues to believe that the minimum bid price would be an important component to the listing standards, and would benefit, in the long run, all market participants, including both present and future investors. However, in response to concerns that bid price is not within the direct control of the issuer, Nasdaq is proposing to expand from 10 to 30 consecutive business days the time period that an issuer's stock price, and its related market value of public float, must remain below the applicable standard before it is deemed a deficiency. Once an issuer's stock falls below $1 for 30 consecutive business days, it will continue to have 90 days to come back into compliance with the maintenance standards. Compliance can be achieved with respect to the bid price or market value deficiency by meeting the applicable maintenance standard for any consecutive 10 business days during the 90 day compliance period.

Secondly, with respect to comments opposing the proposed rule change on the basis that it singles out small issuers, Nasdaq recognizes that some companies may be unable to satisfy the revised listing standards. As discussed in the section on implementation above, companies that are at risk of not complying with the new maintenance standards would have a period of time to come into compliance. Companies that are ultimately delisted would be eligible for quotation in the OTCBB, which currently provides real-time quote and real-time last sale price information for issuer's securities.[16] Moreover, Nasdaq is currently in the process of requesting an exemption from the Securities and Exchange Commission under SEC Rule 15c2–11, similar to an exemption obtained in 1992 after standards were last increased. This would, under most circumstances, permit member firms to continue providing liquidity by quoting issuers in the OTCBB without interruption immediately following a de-listing from Nasdaq.

Finally, commenters stated that more emphasis should be placed on regulating the activity of broker-dealers who engage in fraudulent activity, rather than stigmatizing issuers. Nasdaq agrees that a strong regulatory and enforcement program is an indispensable element in the operation of any securities marketplace. Nasdaq consulted with its sister corporation responsible for regulating the activities of broker-dealers, NASD Regulation, Inc. (''NASDR''),[17] in developing these revised listing standards. Further, Nasdaq continues to work with NASDR on formulating regulatory initiatives to enhance the oversight and regulation of activities of NASD member firms generally. It should be noted that NASDR has brought a record number of disciplinary actions this past year.[18] Nonetheless, Nasdaq believes that these efforts can and should be complemented with appropriately designed listing standards to further the NASD's obligation as a self-regulatory organization to provide the necessary protection that investors and the marketplace have come to expect and deserve.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. The Commission requests comments on the proposed listings standards in light of the goals of the Exchange Act; the impact of the proposals on small businesses; and on any alternatives to the proposal that could achieve the objectives identified by the NASD and Nasdaq. Commenters are encouraged to provide data where possible.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be

[16] Contrary to statements mischaracterizing the OTCBB, as contained in letters from the Regional Investment Bankers Association and others echoing statements therein, NASD rules in fact permit market makers to insert *unlimited* quotation updates throughout the day for domestic equity securities quoted in the OTCBB. These quotes are in turn disseminated to the public on a real-time basis. *See* NASD Rules 6520 and 6540(b)(1). The ''twice-daily update restriction'' referred to in these letters only applies to certain unregistered foreign securities subject to a limitation involving an exemption from registration under Exchange Act Rule 12g3–2(b). Furthermore, transactions in domestic and Canadian securities quoted in the OTCBB are now subject to real-time last sale trade reporting and dissemination, thus providing a level of transparency not present when the listing standards were last revised.

[17] NASDR is also a wholly owned subsidiary of the NASD.

[18] These include the recent expulsion of Stratton Oakmont, Inc., a firm with an extensive and serious regulatory history. Major enforcement cases have also been brought against: Sterling Foster; H.J. Meyers & Co. (f/k/a Thomas James Associates, Inc.); A.R. Baron & Co., Inc.; and Lew Lieberbaum & Company, Inc.

available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–16 and should be submitted by April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9004 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38466; File No. SR–NASD–97–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend the Damage Ceilings for Claims Under the Standard Arbitration and Simplified Arbitration Procedures

April 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items has been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation, Inc. (''NASDR'') is proposing to amend the Code of Arbitration Procedure (''Code'') of the NASD to: (1) Raise the ceiling for disputes to be eligible for resolution by a single arbitrator under simplified arbitration procedures from $10,000 to $25,000; and (2) raise the ceiling for disputes eligible for resolution by a single arbitrator under standard arbitration procedures from $30,000 to $50,000.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In its January 1996 Report on Securities Arbitration Reform, the NASD's Arbitration Policy Task Force (''Task Force'') recommended that the ceiling for cases eligible for resolution by a single arbitrator under simplified arbitration procedures should be raised from $10,000 to $30,000. The Task Force also recommended that the ceiling for cases eligible for resolution by a single arbitrator under standard arbitration procedures should be raised from $30,000 to $50,000. The Task Force recommended that these changes apply to all NASD arbitrations—public customer and intra-industry. The Task Force stated, and NASDR concurs, that raising the threshold, which will cause a larger percentage of cases to be resolved under the simplified arbitration procedures, will ''strike an appropriate balance between the desire for faster and less expensive arbitration on the one hand and more expansive procedures on the other.'' [1]

NASDR has consulted with the Securities Industry Conference on Arbitration (''SICA'') and the New York Stock Exchange (''NYSE'') on the appropriate threshold for simplified and single-arbitrator proceedings. While SICA and the NYSE agree with the Task Force's rationale, they are concerned that setting the threshold for simplified arbitrations too high could disadvantage customer claimants by limiting their procedural rights [2] under the Code in cases that have significant economic value to the customer. In view of these concerns, NASD is instead proposing to set the threshold for simplified arbitration at $25,000, instead of $30,000. SICA approved of the adjusted thresholds at its October 17, 1996 meeting.

Accordingly, NASD is proposing to amend Rules 10202, Composition of Panels (former Section 9) and 10308, Designation of Number of Arbitrators (formerly Section 19) [3] of the Code to establish the threshold for single arbitrator cases at $50,000. NASDR is also proposing to amend Rules 10203, Simplified Industry Arbitration (formerly Section 10) and 10302, Simplified Arbitration (formerly Section 13) of the Code to establish the threshold for simplified arbitrations at $25,000. In addition, NASD is proposing to amend each of those rules to state that the threshold amount is ''exclusive of attendant costs and interest.''

Under the proposed rule change to Rules 10302(d) and 10308(b), claims involving public customers and exceeding $25,000, exclusive of attendant costs and interest, will be heard by a three member arbitration panel, rather than a panel of no less than three and no more than five arbitrators. Under the proposed rule change to Rule 10302 (f) and (h)(3), the Director of Arbitration will ''appoint,'' rather than ''select,'' the public arbitrator for simplified arbitration. The proposed rule change amends Rule 10308(a) to state that a majority of the arbitrators on a three member arbitration panel (for claims that are less than or equal to $50,000 but where a party or arbitrator requested a panel of three arbitrators) shall be public arbitrators, rather than stating that a majority of the three arbitrator panel ''shall not be from the securities industry.'' The proposed rule change also includes several technical changes designed to correct inconsistencies in the rule language and which were also adopted by SICA.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the

[1] *See* Report of the Arbitration Policy Task Force on Securities Arbitration Reform, at 73.

[2] Under the simplified arbitration procedures for matters between a public customer and an associated person or member, cases are resolved without a hearing (so-called ''paper cases'') by a single public arbitrator. A public customer may, however, demand a hearing, or the arbitrator may call a hearing, in which case the arbitrator will hold a hearing and the parties will have the benefit of all of the available forms of discovery. *See* Rule 10302. Under the standard arbitration procedures for all matters involving public customers, cases in which the claims are more than $10,000 but less than $30,000 may be heard by a single public arbitrator. These cases are not decided on the papers; rather, the arbitrator holds a hearing. However, any party may demand a three person panel. *See* Rule 10308.

[3] NASDR will shortly be filing a proposed rule change to amend Rule 10308 to implement the list selection process for the selection of arbitrators recommended by the Task Force. The list selection rule filing will further substantially amend Rule 10308, but will not be implemented until NASD has developed the technology and procedures to administer the process and developed a pool of arbitrators sufficient to provide lists of arbitrators in accordance with the requirements of the rule. Accordingly, NASD is amending Rule 10308 in the interim until the list selection rule is filed, approved and implemented.

Act[4] in that raising the thresholds for simplified arbitration and for standard arbitrations using a single arbitrator will permit such cases to be resolved more quickly and at lower cost to the parties and is consistent with the NASD's longstanding goal of providing the investing public with a fair, efficient and cost-effective forum for the resolution of disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–22 and should be submitted by April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9065 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. § 78*o*–3.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38453; File No. SR–NSCC–97–3]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding Exemption Processing

March 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''), notice is hereby given that on March 7, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to NSCC's procedures regarding exemption processing in NSCC's Continuous Net Settlement (''CNS'') system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[1]

[1] The Commission has modified the text of the summaries submitted by NSCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) The purpose of the proposed rule change is to modify the methods of submitting exemptions under NSCC's procedures. As a part of the NSCC's CNS Accounting Operation, members may control the delivery of their securities to NSCC through the use of exemptions. CNS is an on-going accounting system that nets a member's securities obligations on a daily basis to produce a new short or long position in each issue.

A short position in CNS represents the quantity owed to NSCC by the member. To satisfy short positions for purposes of settlement, securities are delivered from the member's account at The Depository Trust Company (''DTC'') to NSCC's account at DTC. These deliveries are subject to exemption limitations imposed by the member, which may elect to deliver to NSCC all, part, or none of any short position.

Exemptions assist members in complying with the segregation provisions of Rule 15c3–3 of the Act and in meeting other delivery needs. NSCC presently requires members to input exemption instructions on a daily basis. Currently, NSCC also permits but does not require members to input standing instructions.

In addition to submitting exemption instructions to NSCC, members may also manage their segregation and delivery needs through the use of DTC's ''Memo Segregation'' facility. Since a member may either use NSCC's or DTC's systems to control delivery requirements, the proposed rule change will no longer mandate that exemption instructions be submitted to NSCC every day.

If a daily instruction is not submitted, not received, or is received but cannot be processed by NSCC, the member's standing exemption instructions will be used. As a result, members will now be required to submit standing exemption instructions to NSCC since they will serve as the member's default instructions under the proposed procedures.

(2) The proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder since it will facilitate the prompt and accurate clearance and settlement of securities transactions and in general protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–97–03 and should be submitted by April 30, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9005 Filed 4–8–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2940]

State of Illinois

As a result of the President's major disaster declaration on March 21, 1997, I find that Alexander, Gallatin, Hardin, Massac, and Pope Counties in the State of Illinois constitute a disaster area due to damages caused by severe storms and flooding beginning on March 1 and continuing. Applications for loans for physical damages may be filed until the close of business on May 20, 1997, and for loans for economic injury until the close of business on December 22, 1997 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Hamilton, Johnson, Pulaski, Saline, Union, White, and Williamson in Illinois; Cape Girardeau, Mississippi, and Scott in Missouri. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.625
Homeowners Without Credit Available Elsewhere	3.875
Businesses With Credit Available Elsewhere	8.000
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credti Available Elsewhere	7.250
For Economic Injury:	
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 294006. For economic injury the numbers are 944300 for Illinois and 944400 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 26, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–8980 Filed 4–8–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2933, Amdt. 2]

Commonwealth of Kentucky

In accordance with a notice from the Federal Emergency Management Agency, dated March 21, 1997, the above-numbered Declaration is hereby amended to include the Counties of Ballard, Carlisle, Estill, Fulton, Grayson, Hart, Hickman, Marshall, Monroe, Simpson, Todd, and Warren in the Commonwealth of Kentucky a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on March 1, 1997 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Allen, Barren, Calloway, Cumberland, Jackson, and Metcalfe in the Commonwealth of Kentucky; Alexander County in the State of Illinois, and Clay County in the State of Tennessee. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

The numbers assigned to this disaster for economic injury are 944500 for Tennessee, and 943900 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 25, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–8981 Filed 4–8–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2941]

Massachusetts; (And Contiguous Counties in Connecticut, New York and Vermont)

Berkshire County and the contiguous counties of Franklin, Hampden, and Hampshire in Massachusetts; Litchfield County in Connecticut, Dutchess, Columbia and Rennselear Counties in

New York and Bennington and Windham Counties in Vermont constitute a disaster area as a result of damages caused by a fire in the Town of Great Barrington which occurred on February 22, 1997. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 30, 1997 and for economic injury until the close of business on December 31, 1997 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.625
Homeowners Without Credit Available Elsewhere	3.875
Businesses With Credit Available Elsewhere	8.000
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.250
For Economic Injury:	
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical and economic injury damage are 294105 and 944600 for Massachusetts, 294205 and 944700 for Connecticut, 294305 and 944800 for New York, and 294405 and 944900 for Vermont.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 31, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–8983 Filed 4–8–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2937, Amdt. 3]

State of Tennessee

In accordance with a notice from the Federal Emergency Management Agency, dated March 24, 1997, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on February 28, 1997 and continuing through March 24, 1997.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 6, 1997, and for loans for economic injury the deadline is December 8, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 31, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–8982 Filed 4–8–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 6⅝ percent for the April-June quarter of FY 97.

Pursuant to 13 CFR 120.932, the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801) shall be the greater of 6% over the New York prime rate. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

Jane Palsgrove Butler,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 97–8979 Filed 4–8–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on six currently approved public information collections which will be submitted to OMB for renewal.

DATES: Comments must be received on or before June 9, 1997.

ADDRESSES: Comments on any of these collections may be mailed or delivered to the FAA at the following address: Ms. Judith Street, Room 612, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection. Following are short synopses of the six, currently approved public information collection activities, which will be submitted to OMB for review and renewal:

1. 2120–0033, Representatives of the Administrator, FAR 183. Title 49, U.S.C., Section 44702, authorizes appointment of properly qualified private persons to be representatives of the Administrator for examining, testing, and certifying airmen for the purpose of issuing them airmen certificates. The information collected is used to determine eligibility of the representatives. There is an estimate of 8,500 respondents who will take an hour or less to prepare the appropriate application form for the job for which they are applying. This submission will no longer cover the application for airmen medical examiners since that reporting burden now has its own OMB control number of 2120–0604.

2. 2120–0045, Bird Strike Incident/Ingestion Report. Bird strike data are collected to develop standards and monitor hazards to aviation. Data identify bird strike control requirements and provide in-service data on aircraft component failure. We estimate 2000 incident reports annually at approximately 5 minutes per report.

3. 2120–0557, Passenger Facility Charge (PFC) Program. The Aviation Safety and Capacity Expansion Act of 1990 (Pub. L. 101–508) authorizes airports to impose passenger facility charges. FAR Part 158 recordkeeping/reporting requirements affect two groups of respondents—air carriers and public agencies. It is estimated that there will be 100 respondents and the total would be 50,000 hours annually.

4. 2120–0559, FAA Research and Development Grants. The FAA Aviation Research and Development Grants Program establishes uniform policies and procedures for the award and administration of research grants to colleges, universities, not-for-profit organizations, and profit organizations for security research. This program implements OMB Circular A–110,

Public Law 101–508, Section 9205, 9208 and Public Law 101–604, Section 107(d). We estimate that we will have 200 respondents per year for an average of 2800 burden hours.

5. 2120–0563, Notice and Approval of Airport Noise and Access Restrictions—Part 161. The Airport Noise and Capacity Act of 1990, Public Law 101–508, mandates the formulation of a national noise policy. One part of that mandate is the development of a national program to review noise and access restrictions on the operation of State 2 and Stage 3 aircraft. Respondents are airport operators proposing voluntary agreements and/or mandatory restrictions on Stage 2 and Stage 3 aircraft operations and aircraft operators that request reevaluation of a restriction. There is an estimated 18 respondents with an average annual burden of 32,000 hours.

6. 2120–0585, Flight Attendant Duty Limitations and Rest Requirements. This is a recordkeeping requirement on air carriers operating under parts 121, 125, and 135. The recordkeeping will enable the Administrator of the FAA to verify that each airline is in compliance with the flight attendant duty/rest regulations. The information is used to ensure that flight attendants receive sufficient rest to perform safety duties onboard airplanes. There is an estimated 180 affected air carriers for a total recordkeeping burden of approximately 104,000 hours annually.

Issued in Washington, DC., on April 3, 1997.

Steve Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–9127 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Revision No. 1 to the Approved Noise Compatibility Program for Palm Springs Regional Airport, Palm Springs, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on Revision No. 1 to the Approved Noise Compatibility Program for the Palm Springs Regional Airport, submitted by the city of Palm Springs, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and non federal responsibilities in Senate Report No. 96–52 (1980). On November 28, 1994, the FAA determined that the Noise Exposure Maps, submitted by the city of Palm Springs, California under 14 CFR part 150, were in compliance with applicable requirements. On July 25, 1995, the Associate Administrator for Airports approved the Noise Compatibility Program for Palm Springs Regional Airport. On March 19, 1997, the Associate Administrator for Airports approved Revision Number 1 to the Approved Noise Compatibility Program for Palm Springs Regional Airport. One (1) additional measure to the approved program was approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program for Palm Springs Regional Airport is March 19, 1997.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Environmental Protection Specialist, AWP–611.2, Planning Section, Western-Pacific Region, Federal Aviation Administration, PO Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, Telephone 310/725–3615, Street Address: 15000 Aviation Boulevard, Room 3012, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to Revision No. 1 to the Approved Noise Compatibility Program for Palm Springs Regional Airport, effective March 19, 1997. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (herein after referred to as the ''Act''), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non compatible land uses and prevention of additional non compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal Program. The FAA does not substitute its judgment for that of the airport sponsor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional non compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government and;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of navigable airspace and air traffic control responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an Airport Noise Compatibility Program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State or local law. Approval does not, by itself, constitute an FAA implementation action. A request for Federal action or approval to implement specific Noise Compatibility Measures may be required and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982, as amended. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Hawthorne, California.

The city of Palm Springs, California submitted to the FAA on March 3, 1994, the Noise Exposure Maps, descriptions, and other documentation produced during the Noise Compatibility Planning study conducted from September 23, 1993 through July 18, 1995. The Palm Springs Regional Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on November 28, 1994. Notice of this determination

was published in the **Federal Register** on December 16, 1994.

The Palm Springs Regional Airport study contained a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to or beyond, the year 1999. It was requested that the FAA evaluated and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on January 26, 1995 and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). The Noise Compatibility Program was approved by the FAA on July 26, 1995. On September 27, 1996 the FAA began its review of Revision No. 1 to the approved program and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed an approval of such program.

The submitted revision to the approved program contained one (1) proposed action for establishing a permanent noise and flight track monitoring system. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAA part 150 have been satisfied. Revision Number 1 to the Approved Noise Compatibility Program, was therefore approved by the Associate Administrator for Airports effective March 19, 1997.

Outright approval was granted for the one (1) new Continuing Program Measure for provision of establishment of a permanent noise and flight track monitoring system.

This determination is set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on March 19, 1997. The Record of Approval, as well as other evaluation materials, and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Palm Springs Regional Airport.

Issued in Hawthorne, Calif. on March 28, 1997.

Robert C. Bloom,

Acting Manger, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 97–9140 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Training and Qualifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss training and qualification issues.

DATES: The meeting will be held on April 23 at 10 a.m.

ADDRESSES: The meeting will be held at the Regional Airlines Association, Second floor, 1200 19th St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Regina L. Jones, (202) 267–9822, Office of Rulemaking, (ARM–100) 800 Independence Avenue, SW Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to discuss training and qualification issues. This meeting will be held April 23, 1997, at 10 a.m., at the Regional Airlines Association. The agenda for this meeting will include progress reports from The Air Carrier Pilot Pay for Training Working Group, the Air Carrier Minimum Flight Time Requirements Working Group, and the Air Carrier Pilot Pre-Employment Screening Standards and Criteria Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 1, 1997.

Thomas Toula,

Executive Director for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–9150 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on April 25, 1997 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. Louis C. Cusimano, Assistant Executive Director for General Aviation Operations, Flight Standards Service (AFS–800), 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267–8452; Fax: (202) 267–5094.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on April 25, 1997 at 9:30 a.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

The agenda for this meeting will include a status report from the part 103 (Ultralight Vehicles) Working Group and an informational briefing on a draft Notice of Proposed Rulemaking that the IFR Requirements/Destination and Alternate Weather Minimums Working Group has developed.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an

assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 1, 1997.

Louis C. Cusimano,

Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–9151 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc., Special Committee 191, Collaborative Decisionmaking and Near-Term Procedures

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Special Committee 191 meeting to be held April 22, 1997, starting at 9 a.m. This new special committee is being established to provide a forum to address specific near-term Task Force 3—Free Flight implementation recommendations. The initial focus is on capabilities and improvements to the ground-to-ground interface between the Federal Aviation Administration and users. Subsequently, other recommendations addressing ground delay program enhancements, pre-flight collaborative re-routing, and the information exchange/data integration to support them will be discussed. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Approval of Proposed Meeting Agenda; (3) Terms of Reference Review/ Approval; (4) Presentations; (5) Other Business; (6) Set Agenda for Next Meeting; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 2, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–9144 Filed 4–8–97; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (#97–02–C–00–DRO) to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Durango-La Plata County Airport, Submitted by the Durango-La Plata County Airport, Durango, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Durango-La Plata County Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 9, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ron Dent, A.A.E., Director of Aviation, at the following address: Durango-La Plata County Airport, 1000 Airport Road, Durango, CO 81301.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Durango-La Plata County Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#97–02–C–00–DRO) to impose and use PFC revenue at Durango-La Plata County Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 2, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Durango-La Plata County Airport, Durango, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 1, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1997.

Proposed charge expiration date: February 1, 2000.

Total requested for use approval: $606,983.00.

Brief description of proposed project: Relocate County Road 309A; Grading and drainage for extension taxiway ''A''; Rehabilitation and widening of existing taxiway ''A''; Paving and lighting of taxiway extension; Snow removal equipment.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Durango-La Plata County Airport.

Issued in Renton, Washington, on April 2, 1997.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 97–9126 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Youngstown-Warren Regional Airport, Vienna, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the

application to impose and use the revenue from a PFC at Youngstown-Warren Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 9, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas P. Nolan, Director of Aviation of the Youngstown-Warren Regional Airport, Western Reserve Port Authority at the following address:

Youngstown-Warren Regional Airport, 1453 Youngstown-Kingsville Road, NE, Vienna, Ohio 44473–9797.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Western Reserve Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Conrad, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7295). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Youngstown-Warren Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 7, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Western Reserve Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 6, 1997.

The following is a brief overview of the application.

PFC Application No.: 97–02–C–00–YNG.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1997.

Proposed charge expiration date: March 1, 2002.

Total estimated PFC revenue: $734,078.00.

Brief description of proposed project(s): Terminal Area Access Road & Rehabilitation & Signage; Airline Terminal Roof Reconstruction; Americans with Disabilities Act (ADA) Improvements; Snow Removal Equipment; Prepare Passenger Facility Charge Application. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Airport Managers Office, Youngstown-Warren Regional Airport.

Issued in Des Plaines, IL, on April 2, 1997.

Irene R. Porter,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–9128 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–944]

Lykes Bros. Steamship Co., Inc.; Notice of Additional Application for Written Permission Pursuant to Section 805(a) of the Merchant Marine Act, 1936, As Amended

Lykes Bros. Steamship Co., Inc. (Lykes), by letter of April 4, 1997, requests further written permission, in addition to its March 14, 1997, request published on March 19, 1997 (62 FR 13209–11), and its March 20, 1997 request published on March 25, 1997 (62 FR 14183), pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (Act), and Lykes' Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–451. The April 4, 1997 letter requests permission for Lykes to become affiliated after the confirmation of its Chapter 11 plan of reorganization (Reorganization Plan), when it will emerge from Chapter 11 as a reorganized entity (Reorganized Lykes) with Gilman Financial Services Inc. (Gilman) through Gilman's wholly owned subsidiary GFS Second Transportation Leasing, Inc. (GFST). Reorganized Lykes will be 50% owned by GFST. Lykes' operating-differential subsidy (ODS) is effective through December 31, 1997, for seven vessels. The additional request involves another wholly owned Gilman subsidiary, GFS Third Transportation Leasing, Inc., which is the Owner Participant in a trust agreement under which Fleet Bank is the Owner Trustee and documented owner of the vessel SEA-LAND NAVIGATOR, which is bareboat chartered to and operated by Sea-Land Service, Inc. (Sea-Land). The SEA-LAND NAVIGATOR, which was built with construction-differential subsidy, operates in a mixed domestic/foreign trade, and carries cargo between the United States Pacific Coast and Hawaii.

The ''affiliation'' giving rise to this request for permission will be created as part of a restructuring under the supervision of the United States Bankruptcy Court. Lykes believes that the operational facts of this situation should be distinguished from the more common section 805(a) situation in which an ODS contractor wishes to directly or indirectly establish a domestic service. While Gilman, through GFS Third Transportation Leasing, Inc., indirectly holds a beneficial interest in the SEA-LAND NAVIGATOR, that vessel is bareboat chartered to and operated by Sea-Land. Lykes states that Reorganized Lykes, as the ODS contractor, has absolutely no affiliation with Sea-Land. According to Lykes, nothing in the affiliation of Reorganized Lykes and Gilman (and its subsidiaries) created by the reorganization will have any effect on the operation or competitive status of the SEA-LAND NAVIGATOR, and there will be no impact on any competitor of that vessel. Lykes indicates that neither it nor Reorganized Lykes plans to operate in the trade in which the SEA-LAND NAVIGATOR sails.

For the foregoing reasons, and in light of the complete operational separation between Reorganized Lykes and the operator of the vessel in which Gilman indirectly holds a beneficial interest and the short remaining term of Lykes' ODS contract, Lykes requests that the Secretary issue written permission pursuant to section 805(a) for Reorganized Lykes to become affiliated with Gilman and its subsidiaries. Lykes states that grant of the requested permission will facilitate the consummation of the Reorganization Plan and accordingly preserve U.S.-flag service and the employment of U.S. seamen. Lykes respectfully requests that its application be given the most expeditious possible consideration.

Notice is also given that Lykes has been authorized to be a party to operating agreements under the Maritime Security Program (MSP) Contract Nos. MA/MSP–21 through MA/MSP–23. Section 656 of the Act provides that no contractor or related party shall receive MSP payments during a period when it participates in a noncontiguous trade without written permission. The SEA-LAND NAVIGATOR operates in the noncontiguous trade to Hawaii. Sea-Land made application under section 656 for the operation of the SEA-LAND NAVIGATOR among others. A Gilman subsidiary is the Owner Participant of the SEA-LAND NAVIGATOR. The section 656 aspects are being addressed in Docket MSP–002.

The application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest (within the meaning of section 805(a)) in Lykes' request and desiring to submit comments concerning the request must by 5:00 PM on April 16, 1997, file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such actions as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.805 (Operating-Differential Subsidy)).

Dated: April 7, 1997.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 97–9205 Filed 4–8–97; 8:45 am]

BILLING CODE 9410–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–110; Notice 2]

Cosco, Inc.; Mootness of Application for Decision of Inconsequential Noncompliance

On August 29, 1996, Cosco, Inc. (Cosco), filed an application with the agency for exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for noncompliance with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 213 ''Child Restraint Systems.''

Notice of receipt of the application was published on October 29, 1996, and an opportunity afforded for comment (61 FR 55836). The comment closing date was November 29, 1996. The reader is referred to that notice for further information.

After the comment period closed, in a December 6, 1996, letter to the agency, Cosco made a request to withdraw its application for the following reasons:

> Upon further review, we (Cosco) do not believe these booster seats (Cosco Grand Explorer-Model #02–424 OXF and 02–424 GDM) fall under the jurisdiction of this section (S5.2.3.2 of S5.2.3, Head Impact Protection). S5.2.3.1 specifies the child restraints systems which must meet the S5.2.3.2 criteria:
>
> S5.2.3.1 Each child restraint system, other than a child harness, which is recommended under S5.5.2(f) or children whose masses are less than 10 kg, shall comply with S5.2.3.2.
>
> The booster seats in question are recommended for 30 lbs. (13.6 kg) to 60 lbs. (27 kg), therefore, they are not recommended for children under 10 kg and the booster seats are not required to meet S5.2.3.2.

After review of Standard No. 213 and the facts of this case, the agency agrees with Cosco's interpretation of the applicable sections of the Standard. Therefore, Cosco's application is moot, and the agency is closing Docket No. 96–110 without making a decision on Cosco's application.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: April 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–9054 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. PDA–15(R)]

Application by Association of Waste Hazardous Materials Transporters for a Preemption Determination as to Houston, Texas, Requirements on the Storage, Use, Dispensing and Handling of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public Notice Reopening Comment Period.

SUMMARY: RSPA is reopening the comment period on the application by the Association of Waste Hazardous Materials Transporters (AWHMT) for an administrative determination that Federal hazardous material transportation law preempts certain provisions of the Fire Code of the City of Houston, Texas (Houston Fire Code), relating to the storage, use, dispensing, and handling of hazardous materials. In November 1996, the Houston City Council amended the Houston Fire Code, including provisions challenged in AWHMT's application. The comment period is being reopened to allow interested parties the opportunity to comment upon the amended requirements in the Houston Fire Code and the manner in which these requirements are presently being applied and enforced.

DATES: Comments received on or before May 27, 1997, and rebuttal comments received on or before July 8, 1997, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8421, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590–0001 (Tel. No. 202–366–4453). Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number (PDA–15(R)). Three copies of each should be submitted. In addition, a copy of each comment and each rebuttal comment must also be sent to (1) Mr. Charles Dickhut, Chairman, Association of Waste Hazardous Materials Transporters, 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. Gene

L. Locke, City Attorney, City of Houston Legal Department, P.O. Box 1562, Houston, TX 77251. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: ''I hereby certify that copies of this comment have been sent to Messrs. Dickhut and Locke at the addresses specified in the **Federal Register**.'')

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

On March 20, 1996, RSPA published in the **Federal Register**, and invited comments on, an application by AWHMT for an administrative determination that Federal hazardous material transportation law preempts certain provisions of the Houston Fire Code, as adopted May 15, 1995, in Ordinance No. 95–279. Public Notice and Invitation to Comment, 61 FR 11463. The Houston Fire Code adopted in Ordinance No. 95–279 consisted of the Uniform Fire Code (1991 edition), as modified in a ''Conversion Document.'' The specific provisions challenged by AWHMT concerned the storage, use, dispensing, and handling of hazardous materials.

AWHMT separately provided copies of citations issued to operators of cargo tank motor vehicles for loading or unloading corrosive materials without the permit required by the Houston Fire Code. In its application, AWHMT noted the exception in Sec. 80.101 of the Houston Fire Code for ''[o]ff-site hazardous materials transportation in accordance with DOT requirements,'' but stated that the Houston Fire Department did not consider ''off-site'' transportation to include loading, unloading, or storage incidental to transportation.

According to comments submitted by the Texas Tank Truck Carriers Association, Inc. (TTTC), the Houston Fire Department was applying the Houston Fire Code's permit requirements to any vehicle transporting hazardous materials (above threshold quantities) that was not transiting the City of Houston (City) on a designated ''hazardous material route.'' TTTC also stated that, in adopting Ordinance No. 95–279, the City had eliminated previous exemptions for: (a) Tank trucks that operated within the City for no more than 30 days per year and were in compliance with U.S. Department of Transportation requirements, and (b) liquid petroleum gas trucks that possessed a valid ''Form 4 Card'' issued by the Texas Railroad Commission.

In its initial May 1996 comments, the City stated that the Houston Fire Department did not construe the Houston Fire Code adopted in Ordinance No. 95–279 as applying to ''over-the-road (or off-site) transportation of flammable and combustible liquids or hazardous materials,'' but acknowledged that the Fire Department's practice had been to regulate and require a permit for ''any tank vehicle transporting those materials inside the city limits for more than thirty days.'' The City further stated that the Houston Fire Department intended to submit the 1994 edition of the Uniform Fire Code to the Houston City Council for adoption and would:

—Make clear that permit requirements would not apply to over-the-road (off-site) transportation of hazardous materials;
—Propose the deletion of Sec. 79.1203(n) which required a tank vehicle used for flammable or combustible liquids to be marked with a serial number issued by the fire chief, ''FLAMMABLE'' and ''NO SMOKING'' signs, and the company name or corporate symbol; and
—Propose the deletion of Houston's modification of Sec. 79.1207 which required two fire extinguishers (rather than one) on a tank vehicle used for flammable or combustible liquids.

In a February 13, 1997 ''supplementary comment,'' the City provided a certified copy of Ordinance No. 96–1249, approved by the Houston City Council on November 26, 1996, which (among other matters) amended Ordinance No. 95–279 to adopt the 1994 edition of the Uniform Fire Code together with certain ''City of Houston Amendments.'' The City also provided a three-page excerpt from Article 1 of the revised Houston Fire Code in which exceptions to Secs. 106.8(f) and (h) (concerning permit requirements for the storage, use, dispensing, and handling of flammable and combustible liquids and hazardous materials) state that ''A permit is not required for any activity where the requirement of local permits is preempted by federal or state law.'' The City did not otherwise explain the current status of the provisions challenged in the AWHMT application (including those requirements that the City's May 1996 comments stated would be proposed for deletion) or discuss the manner in which those provisions are currently applied and enforced. The City did not provide other excerpts from (or a complete copy of) the current Houston Fire Code.

On March 17, 1997, AWHMT provided RSPA with a copy of TTTC's Circular Letter No. 1224, dated February 21, 1997, in which TTTC expressed the opinion that, because ''federal preemption in this area prevails * * * bulk carriers will not be required to get hazardous materials permits for bulk equipment under the Uniform Fire Code for the City of Houston.'' TTTC stated that it was attempting to obtain information from ''the legal division of the Houston City Council'' regarding the City's interpretation of Ordinance No. 96–1249, and that it was still seeking deletion of the marking requirements in Sec. 79.1203(n) and the two-fire extinguisher requirement in Sec. 79.1207. TTTC also indicated that it had not yet obtained any parts of the revised Houston Fire Code other than the same three-page excerpt that the City included with its supplementary comment.

II. Reopening of Comment Period

The comment period on AWHMT's application is being reopened so that interested parties may provide further information on the current status of the challenged provisions in the Houston Fire Code and how those provisions are being applied or enforced. Interested parties are invited to submit comments on all issues relevant to whether 49 U.S.C. 5125 preempts provisions of the Houston Fire Code, including:

(1) The current text of the provisions that AHWMT's application asserted to be preempted by Federal hazardous material transportation law (*see* 49 CFR 107.203(b)(2)), and clarification as to which provisions challenged in AWHMT's application have been eliminated by Ordinance No. 96–1249;

(2) The manner in which the challenged provisions of the Houston Fire Code are applied and enforced, including examples of any recent enforcement actions taken by the Houston Fire Department;

(3) Whether the Houston Fire Code (including permit and inspection requirements) are currently being applied to operators of vehicles transporting hazardous materials that:

(a) Pick-up or deliver hazardous materials within the City;

(b) Depart from a designated ''hazardous material route'' for rest, fuel, food, or other purposes; or

(c) Are operated within the City for no more than 30 calendar days per year;

(4) The scope and meaning of the exceptions in Secs. 79.101(a) and 80.101(a) of the Houston Fire Code, including the City's construction of ''transportation * * * in accordance with DOT regulations'' in Sec. 79.101(a) and ''off-site transportation'' in Sec. 80.101(a), and whether the exceptions in Secs. 79.101(a) and 80.101(a) apply to permit requirements set forth in Article 4 (or elsewhere) in the Houston Fire Code; and

(5) Whether AWHMT's application raises issues concerning the applicability of the Hazardous Materials Regulations, 49 CFR parts 171–180, that should be considered by RSPA (in addition to or instead of action on AWHMT's application) in the rulemaking under Docket No. HM–223, ''Applicability of the Hazardous Materials Regulations to Loading, Unloading and Storage.'' *See* Advance Notice of Proposed Rulemaking, 61 FR 39522 (July 29, 1996), and Notices of Meeting, 61 FR 49723 (Sept. 23, 1996), 61 FR 53483 (Oct. 11, 1996).

Persons intending to comment should review the standards and procedures governing applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC, on April 3, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–9038 Filed 4–8–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33384]

Consolidated Rail Corporation; Trackage Rights Exemption; Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) will agree to grant local trackage rights to Consolidated Rail Corporation (Conrail) between a connection near Panhandle Crossing (Ash Street) located in Chicago, IL, BNSF's milepost 4.51 and a connection near McCook, IL, at BNSF's milepost 12.9, to the town of Willow Springs, IL, BNSF's milepost 17.72, a distance of approximately 13.21 miles.

The transaction is scheduled to be consummated on or about April 7, 1997. The purpose of the trackage rights is to allow Conrail to operate intermodal trains into BNSF's intermodal terminal at Willow Springs, IL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33384, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John K. Enright, Esq., Conrail Law Department, 16–A, 2001 Market Street, Philadelphia, PA 19101–1416.

Decided: April 2, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–9098 Filed 4–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33326]

I&M Rail Link, LLC; Acquisition and Operation Exemption; Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway

I&M Rail Link, LLC (I&M), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 and 1150.35 to acquire from Soo Line Railroad Company, d/b/a Canadian Pacific Railway (CPR), and operate approximately 1,109 miles of rail line and 262 miles of trackage rights in Iowa, Illinois, Minnesota, Missouri, Wisconsin, and Kansas. I&M will become a Class II rail carrier.[1]

The system to be acquired consists of: (1) CPR's ''KC Mainline'' between Kansas City, MO, and Pingree Grove, IL, including trackage rights between Pingree Grove and Chicago, IL; and (2) CPR's ''Corn Lines'' between Sabula and Sheldon, IA, including branch lines and trackage rights in southern Minnesota.[2]

The KC Mainline. The KC Mainline runs from Kansas City, MO (MP 499.2),[3] northeasterly through Missouri and Iowa to a junction near Sabula, IA (MP 141.6), at the Iowa-Illinois border,[4] including branch lines from Davenport, IA (MP 0.0), to Eldridge, IA (MP 9.7) (the Eldridge Branch), and from Davenport, IA (MP 0.0) to Albany, IL (MP 35.0) (the Nitrin Branch);[5] and then from the junction near Sabula, IA (MP 141.6), easterly across northern Illinois to Pingree Grove, IL (MP 41.9), including a branch line from Davis Jct., IL (MP 0.0), to Rockford, IL (MP 12.9), and then beyond to Janesville, WI (MP 45.8) (the Janesville Branch).[6]

The Corn Lines. The Corn Lines run from the junction near Sabula, IA (MP 141.6), north-northwesterly, approximately following Iowa's eastern border, to a junction near Marquette, IA (MP 98.0),[7] and then northerly into Minnesota to La Crescent, MN (MP 160.1); from the junction near Marquette (MP 0.0), westerly across northern Iowa to a junction at Mason City, IA (MP 116.7),[8] and continuing westerly to Sheldon, IA (MP 253.4); from the junction near Mason City northerly into Minnesota to a junction near Comus, MN (MP 123.8); and from a junction near Ramsey, MN (MP 43.0), westerly across southern Minnesota to Jackson, MN (MP 149.4),[9] including a branch line from Wells, MN (MP 0.0), to Minnesota Lake, MN (MP 9.0).

Additional Incidental Trackage Rights. I&M will also acquire from CPR additional incidental trackage rights: (i) For certain traffic over 34.9 miles of rail line from the end of CPR's line at Pingree Grove, IL, over certain lines owned by the Commuter Rail Division of the Regional Transportation Authority (METRA), to a connection with the Belt Railway Company of Chicago at Cragin Jct. (MP 7.0) in the Chicago Terminal; (ii) for overhead traffic over 125.8 miles of rail line owned by CPR, part of which is owned in common with BNSF, from River Jct.,

[1] This proceeding is related to STB Finance Docket No. 33327, wherein Dennis Washington, William H. Brodsky, Mort Lowenthal, Dorn Parkinson, J. Fred Simpson, and Thomas J. Walsh have filed a notice of exemption to continue in control of I&M upon I&M's becoming a Class II rail carrier.

[2] I&M indicates that, to the extent the assumption by I&M of any of these trackage rights requires the consent of third parties, I&M will take appropriate steps to obtain such consent.

[3] Operations into and out of Kansas City are via: a paired track agreement with the Union Pacific Railroad Company (UP) from Polo, MO (MP 456.7) to Birmingham, MO (MP 494.5); a joint track agreement with UP from Birmingham, MO (MP 494.5) to Airline Jct., MO (MP 499.2); and beyond for approximately 0.13 miles to Sheffield, MO, on a segment owned jointly by CPR and the Kansas City Southern Railway Company (KCS).

[4] Operation on the mainline at Clinton, IA, will require assumption of CPR's trackage rights through the UP interlocking at approximately MP 158.4.

[5] Over the Nitrin Branch, which is owned by The Burlington Northern and Santa Fe Railway Company (BNSF), I&M will acquire incidental trackage rights through an assignment of rights from CPR.

[6] Over the segment of the Janesville Branch that lies between Davis Jct. and Rockford (the Rockford Segment), which segment is owned by BNSF, I&M will acquire incidental trackage rights through an assignment of rights from CPR.

[7] Operation on the ''Dubuque Segment'' through Dubuque, IA, will involve the assumption by I&M of CPR's rights to operate on 1.7 miles of the former Chicago, Central & Pacific Railroad Company.

[8] I&M will assume CPR's trackage rights agreement for operation on the Iowa Northern Railway Company (IANR) from Plymouth Jct., IA (IANR MP 219.5), to Nora Springs, IA (IANR MP 210.7) (the Nora Springs Segment).

[9] Operation from Fairmont, MN (MP 182.97), to Welcome, MN (MP 190.28) will be by assumption of CPR's trackage rights on UP (the Welcome Segment).

MN (MP 288.0), to St. Paul, MN (MP 407.4), and for overhead traffic from Comus, MN (MP 123.8), to Rosemount, MN (MP 150.7); and (iii) over 78.2 miles of rail line owned by the Kansas City Terminal Railroad (KCT).[10]

Pursuant to a decision of the Board served April 2, 1997, the proposed transaction may be consummated on or after April 4, 1997. I&M intends to consummate the transaction as soon as practicable.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33326, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Mark H. Sidman, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

Decided: April 3, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–9095 Filed 4–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33378]

Sierra Pacific Industries; Acquisition and Operation Exemption; Amador Central Railroad Company

Sierra Pacific Industries (SPI), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 12 miles of rail line currently owned and operated by the Amador Central Railroad Company (ACRC), between milepost 0.0 at Ione and milepost 12.0 at Martell, in Amador County, CA. Included in the acquisition are a rail yard and associated tracks.

This transaction was scheduled to be consummated on March 31, 1997.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33378, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington DC 20423–0001. A copy of all pleadings must be served on applicant's representative: James F. Flint, Grove, Jaskiewicz and Cobert, 1730 M Street, NW., Suite 400, Washington, DC 20036.

Decided: April 3, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–9097 Filed 4–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33327]

Dennis Washington, et al.; Continuance in Control Exemption; I&M Rail Link, LLC

Dennis Washington, William H. Brodsky, Mort Lowenthal, Dorn Parkinson, J. Fred Simpson, and Thomas J. Walsh, noncarrier individuals (applicants), have filed a verified notice of exemption to continue in control, through ownership and management, of I&M Rail Link, LLC (I&M) upon I&M's becoming a rail carrier. Applicants control, through ownership and management, one other rail carrier, Montana Rail Link, Inc. (MRL), a Class II railroad operating in Montana, Idaho, and Washington.

This proceeding is related to STB Finance Docket No. 33326, wherein I&M, a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 and 1150.35 to acquire from Soo Line Railroad Company, d/b/a/ Canadian Pacific Railway (CPR), and operate approximately 1,109 miles of rail line and 262 miles of trackage rights in Iowa, Illinois, Minnesota, Missouri, Wisconsin, and Kansas. The system to be acquired by I&M, which is more fully described in the STB Finance Docket No. 33326 notice published concurrently herewith, consists generally of: (1) CPR's ''KC Mainline'' between Kansas City, MO, and Pingree Grove, IL, including trackage rights between Pingree Grove and Chicago, IL; and (2) CPR's ''Corn Lines'' between Sabula and Sheldon, IA, including branch lines and trackage rights in southern Minnesota. Upon acquiring such lines and trackage rights, I&M will become a Class II rail carrier.

Applicants state that: (i) I&M and MRL will not connect with each other or with any railroad in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any railroad in their corporate family; and (iii) the transaction does not involve any Class I carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Pursuant to a decision of the Board served April 2, 1997, I&M may consummate its proposed acquisition on or after April 4, 1997. I&M intends to consummate that acquisition as soon as practicable. The control transaction in the instant docket will be consummated simultaneously therewith.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Although applicants do not expect any employees to be adversely affected by this control transaction, they have agreed to apply employee protective conditions pursuant to 49 U.S.C. 11326(a). Therefore, any employees adversely affected by the control transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33327, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Mark H. Sidman, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

Decided: April 3, 1997.

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[10] I&M also will acquire CPR's minority interest (8.33%) in the common stock of KCT, and will thereby acquire certain rights and obligations attendant thereto, including the right to operate on the 78.2 miles of rail line owned by KCT. I&M also will acquire all of the rights, privileges, benefits, and obligations of CPR in that certain contract between KCS and predecessors of CPR, dated May 1, 1942, including any real estate owned by CPR in Kansas or in the metropolitan area of Kansas City, MO, together with any appurtenances and fixtures of CPR located thereon and affixed thereto, other than certain excluded assets.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–9096 Filed 4–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–21]

Recordation of Trade Name: ''Phase II''

AGENCY: U.S. Customs Service, Department of the Treasury.

SUMMARY: On Tuesday, January 28, 1997, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name ''PHASE II,'' used by Phase II Machine and Tool, Inc., a corporation organized under the laws of the State of New Jersey, located at 14 Caesar Place, Moonachie, New Jersey 07074, was published in the **Federal Register** (62 FR 4094). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than March 31, 1997. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name ''PHASE II,'' is recorded as the trade name used by Phase II Machine and Tool Inc., located at 14 Caesar Place, Moonachie, New Jersey 07074.

The trade name is used in connection with advertising, business cards, stationery. The merchandise is manufactured all over the world, but primarily Asia.

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, D.C. 20229 (202–482–6960).

Dated: April 3, 1997.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 97–8977 Filed 4–8–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, Amendment of Routine Use

AGENCY: Department of Veterans Affairs.

ACTION: Notice of amendment of routine use.

SUMMARY: As required by the Privacy Act of 1974 notice is hereby given that the Department of Veterans Affairs (VA) is amending a routine use statement that appears in the system of records, 77VA11, Health Care Provider Credentialing and Privileging Records–VA.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the routine uses. All relevant materials received before May 9, 1997, will be considered. All written comments received will be available for public inspection at the Office of Regulations Management, Room 1158, at the address given below, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by VA, the routine use amendment is effective May 9, 1997.

ADDRESSES: Written comments concerning the routine use amendment may be mailed to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Ruth-Ann Phelps, Ph.D., Health Systems Specialist, Office of the Under Secretary For Health, Patient Care Services, (202) 273–8473.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1990, the Department published original notice of the system of records (77VA11) at 55 FR 30790. This system of records was re-published in its entirety on June 13, 1991 at 56 FR 27292. Routine use number 19, and the retention and disposal statement were amended on July 30, 1993 at 58 FR 40852. This proposal intends to amend routine use number 6 in order to adhere to a change in VA policy as set forth below. The proposed amendment is not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report.

Policy

The Department of Veterans Affairs (VA) is amending its policy regarding initiating reporting to State Licensing Boards to include current VA employees who are licensed health care professionals. Therefore, VA proposes to add the words ''currently employed'' by amendment to routine use number 6 of the System of Records, 77VA11, Health Care Provider Credentialing and Privileging Records, where the existing release authority is contained. VA has long had a policy of initiating communications with other Federal Agencies, appropriate State Licensing Boards, and appropriate non-governmental entities about the professional performance history of former licensed health care professionals. This includes those who have been terminated for any reason, or who have resigned or retired and whose behavior or clinical practice so substantially failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. This policy is contained in 58 FR 48455, September 16, 1993, further explained at 38 CFR part 47, and is recognized by Congress in Section 204 of Pub. L. 99–166.

While VA has responded to inquiries from appropriate State Licensing Boards about the professional practice of its current employees, it has generally restricted its initiation of communications to State Licensing Boards regarding professional practice standards to former licensed health care employees. Generally, concerns about clinical practice standards or behavior of current VA licensed health care professionals are addressed under traditional management methods such as mentorships, proctorships, co-reviews and other controls designed to insure patient safety. The scope of these procedures, however, is limited to VA supervised or controlled provision of health care services and does not consider, those licensed health care professionals who, in addition to their VA employment, either full-time or part-time, may be providing health care services outside of VA in a jurisdiction where they are licensed. This is the basis for making current VA licensed health care professionals subject to the same VA initiated reporting requirements that have long existed for former VA licensed health care employees. Further, extending this reporting practice is consistent with VA's commitment to promote patient safety in the health care community at large and is consistent with reporting practices in private sector health care facilities.

Authority

VA has broad authority to report both employed or separated health care professionals. VA has long-standing statutory authority, contained in 38

U.S.C. 501 and 7401–7405, which authorizes VA to set the terms and conditions of initial appointment and continued employment of health care personnel as may be necessary to operate VA health care facilities. This authority includes requiring health care professionals to obtain and maintain a current license, registration, or certification in their health care field. Additionally, the Health Care Amendments Act of 1985, Pub. L. 99–166, and Part B of Title IV of Pub. L. 99–660, the Health Care Quality Improvement Act of 1986 are both Acts which authorize and require VA to strengthen quality assurance and reporting systems to promote better health care.

Additionally, there are minor changes in the wording for consistency sake such as changing ''professional medical practice'' to read ''clinical practice'' to more accurately reflect the coverage of all licensed clinicians who may not be medical doctors. Likewise, minor amendments are being made to the System Location, the Safeguards, and the System Manager and Address categories. These changes reflect internal reorganization changes.

Approved: April 1, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

77 VA 11

SYSTEM NAME:

Health Care Provider Credentialing and Privileging Records—VA

SYSTEM LOCATION:

Records are maintained at each VA health care facility. Address locations for VA facilities are listed in VA Appendix 1 at the end of this document. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 and/or Veterans Integrated Service Network (VISN) Offices, as well as at consolidated Health Care Systems Offices.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

6. Records from this system of records may be disclosed to a Federal agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty, in order for the Department to obtain information relevant to a Department decision concerning the hiring, retention or termination of an employee or to inform a Federal agency or licensing boards or the appropriate non-government entities about the health care practices of a currently employed, terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures: Credentialing and Privileging Manager (11B), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington DC 20420. Officials maintaining the system: the Chief of Staff at the VA health care facility where the provider made application for employment, or was or is employed; and the credentialing coordinator for individuals who made application for employment to, or are or were employed at VA Central Office or at a VISN location.

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Part II

Office of Management and Budget

1997 North American Industry Classification System—1987 Standard Industrial Classification Replacement; Notice

OFFICE OF MANAGEMENT AND BUDGET

1997 North American Industry Classification System—1987 Standard Industrial Classification Replacement

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of final decision.

SUMMARY: This notice presents the Office of Management and Budget's final decisions for the adoption of the North American Industry Classification System (NAICS) for the United States, a new economic classification system that replaces the 1987 Standard Industrial Classification (SIC) for statistical purposes. NAICS is a system for classifying establishments by type of economic activity. Its purposes are: (1) to facilitate the collection, tabulation, presentation, and analysis of data relating to establishments, and (2) to promote uniformity and comparability in the presentation of statistical data describing the economy. NAICS will be used by Federal statistical agencies that collect or publish data by industry. It is also expected to be widely used by State agencies, trade associations, private businesses, and other organizations.

The Instituto Nacional de Estadística, Geografía e Informatíca (INEGI) of Mexico, Statistics Canada, and the United States Office of Management and Budget (OMB), through its Economic Classification Policy Committee (ECPC), have collaborated on NAICS to make the industrial statistics produced in the three countries comparable. NAICS is the first industry classification system developed in accordance with a single principle of aggregation, the principle that producing units that use similar production processes should be grouped together in the classification. The fresh view of establishment data that this restructuring will provide should engender insights into the increasingly interrelated evolution of our economies. NAICS also reflects in a much more explicit way the enormous changes in technology and in the growth and diversification of services that have marked recent decades. Industry statistics compiled using NAICS will also be comparable with statistics compiled according to the latest revision of the United Nations' International Standard Industrial Classification (ISIC, Revision 3) for some sixty high level groupings.

NAICS will provide a consistent framework for the collection, tabulation, presentation, and analysis of industrial statistics used by government policy analysts, by academics and researchers, by the business community, and by the public. Because of differing national economic and institutional structures as well as limited resources and time for constructing NAICS, however, the NAICS structure has not been made entirely comparable at the individual industry level across all three countries. For some sectors and subsectors, the statistical agencies of the three countries have agreed to harmonize NAICS based on sectoral boundaries rather than on a detailed industry structure. Those sectors or subsectors are: utilities; construction; wholesale trade; retail trade; finance and insurance; real estate; waste management and remediation services; other services that include personal and laundry services, and religious, grantmaking, civic, and professional and similar organizations; and public administration. To ensure comparability between Canada and the United States, the two countries have agreed on an industry structure and hierarchy for each sector listed above except for construction, wholesale trade, and public administration. In some cases within these sectors, the United States will provide for additional industries at the national level to reflect important industries in the United States that will not be shown separately in Canada. To distinguish the three countries' versions of NAICS, they are called NAICS Canada, NAICS Mexico (SCIAN Mexico, in Spanish), and NAICS United States.

In developing NAICS United States, OMB has published a total of seven previous **Federal Register** notices advising the public of the work of the ECPC and seeking comment on that work. The March 31, 1993, **Federal Register** notice (pp. 16990–17004) announced OMB's intention to revise the SIC for 1997, the establishment of the Economic Classification Policy Committee, and the process for revising the SIC. The July 26, 1994, **Federal Register** notice (pp. 38092–38096) set forth the concepts for the new system and the decision to develop NAICS in cooperation with Statistics Canada and INEGI. That notice also included a request for the public to submit recommendations for the industries to be included in the new system. The deadline for submitting proposals for new or revised industries was November 7, 1994.

After considering all proposals from the public, consulting with a large number of U.S. data users and industry groups, and undertaking extensive discussions with INEGI and Statistics Canada, a new industrial structure for NAICS that would apply to all three North American countries was developed. A series of five **Federal Register** notices sought comment on the structure of the system. These notices are described in more detail in the **SUPPLEMENTARY INFORMATION** section below.

As intimated by the description below of the NAICS development process, the actual classification presented at the end of this notice in Tables 1 and 2 reveals only the tip of the work carried out by dedicated individuals from INEGI, Statistics Canada, and U.S. statistical agencies. It is through their efforts, painstaking analysis, and spirit of accommodation that NAICS has emerged as a harmonized international classification of economic activities. This has been an immense undertaking that has required the time, energy, creativity, and cooperation of numerous people and organizations throughout the three countries. The work that has been accomplished is a testament to the individual and collective willingness of many persons and organizations both inside and outside government to contribute to the development of NAICS.

EFFECTIVE DATE: Federal statistical data published for reference years beginning on or after January 1, 1997, will be published using the new NAICS United States codes. NAICS is scheduled to go into effect in 1997 in Canada and the United States, and in 1998 in Mexico. Publication of the 1997 NAICS United States Manual is planned for December 1997. Use of NAICS for nonstatistical purposes (e.g., administrative, regulatory, or taxation) will be determined by the agency or agencies that have chosen to use the SIC for nonstatistical purposes. Readers interested in the effective dates for the use of NAICS for nonstatistical purposes should contact the relevant agency to determine its plans, if any, for a transition from use of the SIC to NAICS.

ADDRESSES: Please send correspondence about the final decisions to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10201, Washington, D.C. 20503, telephone number: (202) 395–3093, FAX number: (202) 395–7245.

ELECTRONIC AVAILABILITY AND CORRESPONDENCE: This document is available on the Internet from the Census Bureau Internet site via WWW browser, ftp, and E-mail.

To obtain this document via WWW browser, connect to ''http://www.census.gov'' then select ''Subjects A to Z,'' then select ''N,'' then select

''NAICS (North American Industry Classification System).'' This WWW page contains previous NAICS United States **Federal Register** notices and related documents as well.

To obtain this document via ftp, log into ftp.census.gov as anonymous, and retrieve the files ''naicsfr8.pdf,'' ''naicsfr8tbl1.pdf,'' and ''naicsfr8tbl2.pdf'' from the ''/pub/epcd/naics'' directory. (That directory also contains previous NAICS United States **Federal Register** notices and related documents.)

To obtain this document via Internet E-mail, send a message to majordomo@census.gov with the body text as follows: ''get gatekeeper naics.txt''. Instructions for obtaining this and other NAICS United States documents will be delivered as a message attachment.

Correspondence may be sent via Internet E-mail to OMB at naics@a1.eop.gov (do not include any capital letters in the address).

FOR FURTHER INFORMATION CONTACT: Paul Bugg, 10201 New Executive Office Bldg., Washington, D.C. 20503, E-mail address: bugg__p@a1.eop.gov, telephone number: (202) 395–3093, FAX number: (202) 395–7245. Inquiries about the content of industries or requests for electronic copies of the tables should be made to Carole Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, Room 2633–3, Washington, D.C. 20233, E-mail address: cambler@ccmail.census.gov, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

SUPPLEMENTARY INFORMATION:

NAICS Development Process

The Standard Industrial Classification (SIC) was originally developed in the 1930's to classify establishments by the type of activity in which they are primarily engaged and to promote the comparability of establishment data describing various facets of the U.S. economy. The SIC covers the entire field of economic activities by defining industries in accordance with the composition and structure of the economy. Over the years, it was revised periodically to reflect the economy's changing industry composition and organization. OMB last updated the SIC in 1987.

In recent years, rapid changes in both the U.S. and world economies brought the SIC under increasing criticism. The 1991 International Conference on the Classification of Economic Activities provided a forum for exploring the issues and for considering new approaches to classifying economic activity.

In July 1992, the Office of Management and Budget established the Economic Classification Policy Committee chaired by the Bureau of Economic Analysis, U.S. Department of Commerce, with representatives from the Bureau of the Census, U.S. Department of Commerce, and the Bureau of Labor Statistics, U.S. Department of Labor. OMB charged the ECPC with conducting a ''fresh slate'' examination of economic classifications for statistical purposes and determining the desirability of developing a new industry classification system for the United States based on a single economic concept. A March 31, 1993, **Federal Register** notice (pp. 16990–17004) announced OMB's intention to revise the SIC for 1997, the establishment of the Economic Classification Policy Committee, and the process for revising the SIC. The ECPC published six issue papers relating to industrial classification for comment. Those papers are as follows:

Issues Paper No. 1—Conceptual Issues
Issues Paper No. 2—Aggregation Structures and Hierarchies
Issues Paper No. 3—Collectibility of Data
Issues Paper No. 4—Criteria for Determining Industries
Issues Paper No. 5—The Impact of Classification Revisions on Time Series
Issues Paper No. 6—Services Classifications

In addition to these issue papers, two research reports were published providing further information on industry classifications. The first report was part of a comparative review of Canadian and U.S. SIC concepts. The ECPC and Statistics Canada reviewed the existing structure of detailed ''4-digit'' industries in the 1987 U.S. SIC and the 1980 Canadian SIC for conformance to economic concepts. The results of the U.S. review are contained in ECPC Report No. 1, ''Economic Concepts Incorporated in the Standard Industrial Classification Industries of the United States,'' and the Canadian results are contained in ''The Conceptual Basis of the Standard Industrial Classification,'' Standards Division, Statistics Canada. The second ECPC report evaluated U.S. industries using the new ''index of heterogeneity'' to assess whether establishments in existing 1987 4-digit industries met the conditions for the production-oriented classification concept, as presented in ECPC Issues Paper No. 1. The ECPC Report No. 2 is titled ''The Heterogeneity Index: A Quantitative Tool to Support Industrial Classification.''

A July 26, 1994, **Federal Register** notice (pp. 38092–38096) announced that the ECPC was developing NAICS in cooperation with INEGI and Statistics Canada and proposed that NAICS replace the 1980 Canadian SIC, the Mexican Classification of Activities and Products (1994) (CMAP), the industry classification system of Mexico, and the 1987 SIC in the United States. The notice requested comments on that proposal and on the structure of the new system. That notice also included the concepts of the new system and the principles upon which the three countries proposed to develop NAICS, as follows:

(1) NAICS will be erected on a production-oriented, or supply-based, conceptual framework. This means that producing units that use identical or similar production processes will be grouped together in NAICS.

(2) The system will give special attention to developing production-oriented classifications for (a) new and emerging industries, (b) service industries in general, and (c) industries engaged in the production of advanced technologies.

(3) Time series continuity will be maintained to the extent possible. However, changes in the economy and proposals from data users must be considered. In addition, adjustments will be required for sectors where Canada, Mexico, and the United States presently have incompatible industry classification definitions in order to produce a common industry system for all three North American countries.

(4) The system will strive for compatibility with the 2-digit level of the International Standard Industrial Classification of All Economic Activities (ISIC, Rev. 3) of the United Nations.

In response to the July 26, 1994, **Federal Register** notice, the ECPC received 125 public responses to the call for proposals for new and revised industries, plus 8 responses from 6 State government agencies, and 9 responses from 6 Federal Government agencies. These formal responses contained several hundred proposals. Additional proposals and suggestions for change arose from the extensive ECPC public outreach program, which consisted of meetings and other communications with industry, data user, and data respondent groups. Other proposals for modifications such as changing industry definitions and clarifying boundaries, came from U.S. statistical agency personnel who worked on NAICS, reflecting accumulated public

comments and criticism, over a number of years, of the U.S. SIC system. The ECPC also received a number of proposals to eliminate U.S. industries, or to combine them with other industries.

Comments to the ECPC from these sources ranged over many aspects of the 1987 SIC system. For example, approximately 20 percent of the formal letters received concerned ambiguities in the titles and definitions of the 1987 SIC industries, and incomplete or out-of-date product lists. More than 40 respondents requested better-defined product detail within existing industries, without necessarily requesting changes to industry boundaries. These product-oriented requests and suggestions are being handled through the redesign of forms where product information is collected in the 1997 Economic Censuses.

Another group of responses to the notice were proposals for a ''separate, market-oriented product grouping system'' (July 26, 1994, **Federal Register**, p. 38095). These proposals were submitted as industry proposals but, after analysis by the ECPC, were found more appropriately to be market-oriented product groupings, and have been held over for action during production of the product coding system discussed below.

Proposals were also received for changing or modifying the boundaries of existing industries, without necessarily creating a new industry. In addition, changes to 1987 SIC industry definitions were frequently required to bring about compatibility with the Canadian and Mexican classifications (as were corresponding changes in those countries' classification systems). Those changes are listed and described in five **Federal Register** notices that portray portions of the proposed NAICS United States system. These notices are described more fully below. Some changes that were required for international compatibility interacted with proposed changes from the U.S. public, and in some cases the two kinds of changes resulted in a broader rethinking of the entire portion of the structure.

The ECPC established seven subcommittees composed of senior economists, statisticians, and classification specialists representing 14 of the Federal agencies that use the SIC. Subcommittees were established for Agriculture; Mining and Manufacturing; Construction; Distribution Networks (retail trade; wholesale trade; and transportation, communications, and utilities); Finance, Insurance, and Real Estate; Business and Personal Services; and Health, Social Assistance, and Public Administration. They were responsible for developing the proposed structure of NAICS in cooperation with representatives from INEGI and Statistics Canada. The ECPC also established the U.S. Coordinating Committee that was responsible for coordinating the work of the U.S. subcommittees and the work with INEGI and Statistics Canada.

The structure of NAICS was developed in a series of meetings among the three countries. Public proposals for individual industries from all three countries were considered for acceptance if the proposed industry was based on the production-oriented concept of NAICS.

As groups of subsectors of NAICS were completed and agreed upon by the three countries, the ECPC published the proposed industries for those subsectors for public comment in the **Federal Register**. Five successive **Federal Register** notices were published asking for comment. A first notice published in the **Federal Register**, July 26, 1995 (pp. 38436–38452), requested comment on proposed industry structures for petroleum and coal product manufacturing, chemical manufacturing, and rubber and plastics manufacturing; for broadcasting and telecommunications; and for food services and drinking places and accommodations. A second **Federal Register** notice published on February 6, 1996 (pp. 4524–4578), requested comment on proposed industry structures for crop production, animal production, forestry and logging; textile mills, textile product mills, apparel manufacturing, and leather and allied product manufacturing; food manufacturing and beverage and tobacco product manufacturing; fabricated metal product manufacturing; machinery manufacturing; electrical equipment, appliance and component manufacturing; and transportation equipment manufacturing. A third **Federal Register** notice published on May 28, 1996 (pp. 26558–26668), requested comment on proposed industry structures for health and social assistance; educational services; computers and electronics product manufacturing; furniture manufacturing; printing and related support activities; professional, technical and scientific services; performing arts, spectator sports and related industries; museums, historical sites and similar institutions; recreation, amusement and gambling; information; wood product manufacturing, except furniture; rental and leasing; repair and maintenance; management and support; transportation; mining; paper manufacturing; nonmetallic minerals manufacturing; primary metal manufacturing; miscellaneous manufacturing; and postal service and couriers. A fourth **Federal Register** notice published on July 5, 1996 (pp. 35384–35515), requested comment on proposed industry structures for finance and insurance; wholesale trade; retail trade; construction; utilities; waste management and remediation services; real estate; lessors of other nonfinancial assets; personal and laundry services; and religious, grant making, civic, and other membership organizations. That notice also requested comments on the proposed hierarchy and coding system for NAICS. Finally, a fifth **Federal Register** notice published on November 5, 1996 (pp. 57006–57183), announced the ECPC's final recommendations to OMB for the complete structure of NAICS United States, including the hierarchy and coding system, and asked for public comments. Final comments were due on December 20, 1996. Changes incorporated into the new system based on comments in response to the November 5, 1996, notice are presented in the section below containing OMB's Final Decisions.

In response to those notices, the ECPC received approximately 400 additional comments. A significant number of these comments supported the development of NAICS, expressed the view that NAICS is a significant improvement over the SIC system, or supported the inclusion in NAICS of specific industries. Other comments requested clarification of a concept or industry title. Of the few who commented on the proposed coding system, over one-half supported the 6-digit system that has been adopted. Over one-half of the comments received requested changes to the proposed system. Some of these proposed changes were requests for new or revised industries even though the deadline for receiving such requests was November 7, 1994. However, the ECPC did consider these new requests. There were also requests for title changes. Each comment was carefully considered, as were comments received by INEGI and Statistics Canada. After consultation with INEGI and Statistics Canada, changes based on the comments were incorporated into the ECPC's final recommendations to OMB for NAICS United States as presented in the November 5, 1996, **Federal Register** notice (pp. 57006–57183).

NAICS Structure

NAICS is organized in a hierarchical structure, much like the existing U.S.

SIC. The 1987 SIC employs a 4-digit coding system, in which the first two digits designate a ''major group'' that in NAICS is known as a ''subsector,'' the third digit designates the industry group, and the fourth digit designates the industry. For example, in the 1987 U.S. SIC, the two digits 26 designate the major group for the manufacture of ''Paper and Allied Products,'' within which the digits 262 designate an industry group titled ''Paper Mills,'' which contains one 4-digit industry, SIC 2621, also titled ''Paper Mills.''

NAICS employs a 6-digit coding system in which the first two digits designate the sector (the NAICS term ''sector'' is replacing the term ''division'' used in the 1987 SIC), the third digit designates the subsector, the fourth digit designates the industry group, the fifth digit represents the NAICS industry (the most detailed level at which comparable data will be available for Canada, Mexico, and the United States), and the sixth digit designates individual country-level national industries. Using the paper mill example above, in NAICS United States industry 322121 the two initial digits 32 designate a manufacturing sector and the three digits 322 designate the paper manufacturing subsector. Within 322 is the industry group 3221, Pulp, Paper, and Paperboard Mills, within which is NAICS industry 32212, Paper Mills. There are two U.S. national industries under Paper Mills: 322121, Paper (except Newsprint) Mills, and 322122, Newsprint Mills.

The NAICS coding system was expanded to six digits from the four digits used in the SIC for two reasons. First, it is desirable that the first character or characters in a coding system designate the sector. A modern economy is too complex to be described adequately with the nine or ten sectors permitted by using only a single digit in a coding system. For example, NAICS has 20 sectors. Accordingly, the first two digits are used to designate the sector in NAICS.

Second, the NAICS agreements among the ECPC, INEGI, and Statistics Canada permit each country to designate detailed industries, below the level of a five-digit NAICS industry, to meet national needs. The United States will have such national industry detail in many places in the new classification. The sixth digit in the NAICS United States codes designates the U.S. detailed national industries.

Thus NAICS will have a six-digit coding system in which the first two digits designate the NAICS sector, and the third, fourth, fifth, and sixth digits designate, respectively, the NAICS subsector, industry group, and industry, and U.S. national industry (if any). Although the 1997 NAICS United States industries will now have six digits compared with four digits for 1987 U.S. SIC industries, there will not be a uniform corresponding increase in classification detail that the 1997 NAICS United States provides compared with the 1987 U.S. SIC. As explained above, the two additional digits primarily allow for more sectors and for individual country-level detailed national industries.

NAICS United States Highlights

The 1987 U.S. SIC (excluding Nonclassifiable Establishments) includes 10 divisions subdivided into 1004 4-digit industries, of which 125 are nonmanufacturing goods producing industries (agriculture, mining, construction, and electric, natural gas, and water utility industries); 459 are manufacturing industries; and 420 are service producing industries. In contrast, the 1997 NAICS United States (excluding Unclassified Establishments) has 20 sectors subdivided into 1174 5-digit and/or 6-digit industries, of which 132 are nonmanufacturing goods producing industries (agriculture, mining, construction, and electric, natural gas, and water utility industries); 473 are manufacturing industries; and 569 are service producing industries. Most of the 170 industry increase between the 1987 U.S. SIC and the 1997 NAICS United States is in the service producing industries with a net increase of 149 industries, although there are net increases of seven industries in the Agriculture, Forestry, Hunting, and Fishing sector; one in Utilities; two in Construction; and 14 in Manufacturing. There is a net decrease of three industries in Mining.

Most of the changes in the Agriculture, Forestry, Hunting, and Fishing sector and the Mining sector are the result of changes necessary to achieve comparability with Canada and Mexico. The Utilities sector was reorganized to reflect the changing regulatory and technological structure of the industries within that sector.

The Manufacturing sector was reorganized to promote international comparability and to recognize technological changes occurring in that sector. For example, a new subsector, Computer and Electronic Product Manufacturing, was created to bring together industries producing electronic products and their components. The manufacture of computers, communications equipment, audio and video equipment, and semiconductors is grouped into the same subsector because of the inherent technological similarities of their production processes, and the likelihood that these technologies will continue to converge in the future. An important change is that the reproduction of packaged software is placed in this sector, rather than in the services sector, because the reproduction of packaged software is a manufacturing process, and the product moves through the wholesale and retail distribution systems like any other manufactured product. NAICS acknowledges the importance of these electronic industries, their rapid growth over the past several years, and the likelihood that these industries will, in the future, become even more important in the economies of the three North American countries.

NAICS creates a new sector, Information, that groups industries that primarily create and disseminate products with intellectual property content. In addition, the NAICS Information sector brings together those activities that transform information into a commodity that is produced and distributed, and activities that provide the means for distributing those products, other than through traditional wholesale-retail distribution channels. A few of the newly revised industries in this sector include: database and directory publishers; software publishers; music publishers; paging services; cellular and other wireless telecommunications services; telecommunications resellers; and satellite telecommunications. Also included in the Information sector are newspaper, periodical, and book publishers (but not printing, which is still included in manufacturing); motion picture and sound recording industries; and libraries and archives. There are 34 industries in the Information sector, 20 of which are new.

NAICS divides the 1987 SIC Services division into eight new sectors. One of the new sectors is the Professional, Scientific and Technical Services sector, which comprises establishments engaged in activities where human capital is the major input. The industries within this sector are defined by the expertise and training of the service provider. The sector includes such industries as offices of lawyers; engineering services; environmental consulting services; advertising agencies; and translation and interpretation services. Forty-eight industries comprise this sector, 29 of which are recognized for the first time.

The new sector, Health Care and Social Assistance, recognizes the merging of the boundaries of health care and social assistance. The industries in

this new sector are arranged in an order that reflects the range and extent of health care and social assistance provided. Some new industries are family planning centers, out-patient mental health and substance abuse centers, HMO medical centers, diagnostic imaging centers, continuing care retirement communities, and homes for the elderly. This sector has 39 industries, 27 of which are new.

A new sector for Arts, Entertainment, and Recreation greatly expands the number of industries provided for these services. There are 25 industries in this sector, 19 of which are new.

Another new sector is Accommodation and Foodservices that combines eating and drinking places (formerly in Retail Trade) with accommodations (formerly in the Services division). There are 15 industries in this sector, 10 of which are new. Some new industries recognized in this sector are casino hotels, bed and breakfast inns, full-service restaurants, and limited-service restaurants.

Other new sectors that were created from industries in the 1987 SIC Services division are Real Estate and Rental and Leasing that has 24 industries, 15 of which are new; Administrative and Support, Waste Management and Remediation Services that has 43 industries, 29 of which are new; Educational Services that has 17 industries, 12 of which are new; and Other Services (except Public Administration) that has 52 industries, 19 of which are new.

Product Classification System

The July 26, 1994, **Federal Register** notice (p. 38095) specifies that market-oriented, or demand-based groupings of economic data are required for many purposes; some of these purposes may not be well served by a production-oriented industry classification system. The ECPC committed to a program that will provide improved data for purposes that require market-orient groupings.

The first part of that commitment was to expand the lists of commodities and services that would be available from the 1997 Economic Census. A Product Code Task Force was formed and charged with improving the basic lists of products and commodities and with constructing new detailed codes that will be compatible across U.S. statistical agencies and that will also mesh to the extent possible with international detailed commodity or product systems. In the manufacturing area, the investment goods product detail (1987 SIC major groups 35–38) has been revised to better compare to the international Harmonized System product detail. In addition, the Census Bureau and Bureau of Labor Statistics have developed a plan to provide more comparable product data from their statistical programs. In the nongoods producing industries, additional product detail has been added for certain industries, including professional, scientific, and technical services; software publishing; and communications.

The second part of the ECPC commitment was to develop a product classification system for use by all U.S. government statistical agencies in 2002. Preliminary plans are now being developed to begin the process of creating a product classification system. It is planned to develop this system in cooperation with INEGI and Statistics Canada.

OMB's Final Decisions

After taking into consideration comments submitted in response to the November 5, 1996, **Federal Register** notice, as well as benefits and costs, and after consultation with the ECPC, INEGI, and Statistics Canada, OMB has made the final determination of the scope and substance of NAICS United States. In general, OMB accepted the ECPC's final recommendations published in the November 5, 1996, **Federal Register** notice. However, in response to public comment and additional information gained in consultation with the ECPC, INEGI, and Statistics Canada, OMB made some changes to the ECPC's recommendations for NAICS United States.

OMB received 37 public responses and 6 responses from State government agencies to the November 5, 1996, **Federal Register** notice. Comments to OMB from these sources can be grouped into a few categories. Almost half the letters requested further changes to the NAICS United States structure, including title changes. OMB carefully considered these requests and any changes accepted are noted below. Seven of the letters specifically supported NAICS United States and thanked the ECPC for its work. Three of the letters objected to the reclassification of auxiliaries, which also is addressed below. The remainder of the letters requested clarification of industry content, discussed detailed implementation issues, or spoke of regulatory concerns. The ECPC is currently preparing a response for each of these letters.

In response to comments and consultation, OMB has made the following determinations:

Mining—NAICS United States 213112, Support Activities for Oil and Gas Field Exploration, and 213113, Other Oil and Gas Field Support Activities, have been combined and numbered and titled, 213112, Support Activities for Oil and Gas Field Operations. Since geophysical mapping and surveying has been moved to NAICS 54136, Geophysical Survey and Mapping Services, the remaining activities in the original NAICS United States 213112, Support Activities for Oil and Gas Field Exploration, are too small to support a separate industry. Because of the above change, the following industries have been renumbered: Support Activities for Coal Mining, is now 213113; Support Activities for Metal Mining is now 213114; and Support Activities for Non-Metallic Minerals (except Fuels) is now 213115.

Manufacturing—NAICS subsector 337 Furniture and Related Product Manufacturing has been revised. The new structure changes from an emphasis on furniture manufacture by type of material, i.e., wood, metal, and other materials, to one by type of furniture, i.e., household, office and other. A separate NAICS industry also was created for kitchen cabinet and countertop manufacturing. This change better represents the way the furniture industry is structured and is consistent with the production principle on which NAICS is based. The creation of many detailed furniture manufacturing NAICS industries for the three countries was not possible, however, because the internal structure of furniture manufacturing differs from country to country. For example, the production of institutional furniture (furniture for schools, libraries, etc.) combined with the production of household furniture takes place in a significant number of establishments in one country and does not in another; similarly, the combined production of custom architectural woodwork and millwork and of office furniture takes place in a significant number of establishments in one country and does not in another.

NAICS United States 321912, Hardwood Dimension Mills, and 321913, Softwood Cut Stock, Resawing Lumber, and Planing, are combined into NAICS United States 321912, Cut Stock, Resawing Lumber, and Planing. The processes used to produce the products of these industries are the same or similar, the major difference being the use of hardwood versus softwood. Therefore, the industries are combined. NAICS United States 339117, Eyeglass and Contact Lens Manufacturing, is combined with NAICS United States 339115, Ophthalmic Goods Manufacturing. There is no production

distinction between these two industries and thus they are combined.

NAICS United States 331421 has been renamed Copper Rolling, Drawing, and Extruding and NAICS United States 331422 has been renamed Copper Wire (except Mechanical) Drawing. This clarifies the fact that brass mills producing mechanical wire are included in 331421 and wire mills producing wire are classified in 331422. Other title changes in manufacturing are: 311225 is retitled Fats and Oils Refining and Blending; 325188 is retitled All Other Basic Inorganic Chemical Manufacturing; 325199 is retitled All Other Basic Organic Chemical Manufacturing; 325221 is retitled Cellulosic Organic Fiber Manufacturing; 32552 is retitled Adhesive Manufacturing; 32731 is retitled Cement Manufacturing; 336322 is retitled Other Motor Vehicle Electrical and Electronic Equipment Manufacturing; and 339911 is retitled Jewelry (except Costume) Manufacturing.

Retail—NAICS United States 453999, All Other Miscellaneous Store Retailers (except Tobacco Stores) is renumbered to 453998. There is no change in the title.

Transportation and Warehousing—NAICS 48121, Nonscheduled Chartered Air Transportation, and NAICS 48122, Nonscheduled Specialty Air Transportation, have been combined and numbered and titled, 48121, Nonscheduled Air Transportation. Since some of the typical activities performed by establishments providing a combination of specialty air transportation or flying services overlap with establishments providing nonscheduled chartered air transportation of passengers and/or cargo, the three countries agreed to combine these establishments into one NAICS industry. The U.S. national industries within NAICS 48121, Nonscheduled Air Transportation, are as follows: NAICS United States 481211, Nonscheduled Chartered Passenger Air Transportation; NAICS United States 481212, Nonscheduled Chartered Freight Air Transportation; and NAICS United States 481219, Other Nonscheduled Air Transportation.

The following NAICS industry groups and industries are retitled: 4852 is retitled Interurban and Rural Bus Transportation; 48521 is retitled Interurban and Rural Bus Transportation; 4854 is retitled School and Employee Bus Transportation; 48541 is retitled School and Employee Bus Transportation; NAICS United States 488112 is retitled and renumbered 488119, Other Airport Operations; 49311 is retitled General Warehousing and Storage Facilities; 49312 is retitled Refrigerated Warehousing and Storage Facilities; 49313 is retitled Farm Product Warehousing and Storage Facilities; and 49319 is retitled Other Warehousing and Storage Facilities.

Finance and Insurance—NAICS 52593 has been retitled Real Estate Investment Trusts.

Professional, Scientific, and Technical Services—NAICS United States 541199 has been retitled All Other Legal Services; NAICS 54143 has been retitled Graphic Design Services; and 54182 has been retitled Public Relations Agencies.

Management of Companies and Enterprises—NAICS United States 551113 has been renumbered 551114, Corporate, Subsidiary and Regional Managing Offices.

Administrative and Support Services—NAICS United States 561431 has been renumbered and retitled 561439, Other Business Service Centers (including Copy Shops) and NAICS United States 561432 has been renumbered 561431, Private Mail Centers.

Accommodation and Foodservices—NAICS 72233 has been retitled Mobile Foodservices.

Other Services (except Public Administration)—NAICS United States 811121 has been retitled Automotive Body, Paint, and Interior Repair and Maintenance and NAICS industry group 8122 has been retitled Death Care Services.

Auxiliaries—Three private sector commentors and one State agency objected to classifying auxiliary establishments (those establishments that primarily produce support services not intended for use outside the enterprise) based on their primary activity rather than maintaining the historic SIC treatment of classifying auxiliary establishments based on the industry classification of the establishments they primarily serve. Two State government agencies supported the change. Those who objected acknowledge that there are problems associated with the 1987 SIC classification of auxiliaries, but are concerned about the loss of employment in manufacturing industries if auxiliary establishments such as accounting offices, administrative and corporate offices, and warehouses are classified according to their primary activity.

NAICS, however, is based on the economic principle that establishments should be grouped together based on their production processes, i.e., units that use identical or similar production processes in producing a good or service should be grouped together. For example, classifying a data processing services establishment of an automobile producer that performs services for its automobile assembly plants in the automobile industry violates that principle. The data processing center's production process is much more like that of establishments in NAICS 51421, Data Processing Services, than those establishments in NAICS United States 336111, Automobile Manufacturing.

In addition, more and more of these auxiliary establishments are selling their services to establishments outside their enterprise. For example, the 1992 Economic Censuses reported that auxiliary establishments had more than $142 billion in outside sales, more than doubling the $64 billion reported in 1987. These sales are not reflected in the industries in which they occur, but rather in the industries that the auxiliary establishment primarily serves, thereby understating the receipts of many service industries. Therefore, NAICS will classify auxiliary establishments based on their primary activity.

To address the concern about the apparent loss of manufacturing employment, the Census Bureau will code auxiliary establishments for the 1997 Economic Censuses both by primary activity and by the industry of the establishments they primarily serve, thereby providing a link between the 1992 and 1997 data.

NAICS United States Implementation

The NAICS United States replacement of the SIC is effective January 1, 1997. The first data to be available on a NAICS United States basis will be from the 1997 Economic Censuses to be published in early 1999. For most programs, data will be introduced over several years. Data series may not always be revised for years before the respective program's implementation of NAICS United States.

INEGI, OMB, and Statistics Canada have put in place a process for ensuring that the implementation of NAICS is comparable across all three countries. Regularly scheduled meetings among the three countries will ensure that there is a smooth transition to NAICS in all three countries. In addition, the three countries plan to continually review and update NAICS to ensure that new activities are promptly recognized and to extend NAICS to the 5-digit industry level in those sectors where agreement is now at only the sector, subsector, or industry group level.

Time Series Continuity

The standard approach to preserving time series continuity after classification revisions is to create linkages where the series break. This is accomplished by producing the data series using both the old and new classifications for a given period of transition. With the dual classifications of data, the full impact of the revision can be assessed. Data producers then may measure the reallocation of the data at aggregate industry levels and develop a concordance between the new and old series for that given point in time. The concordance creates a crosswalk between the old and new classification systems. This link between the 1987 U.S. SIC and the 1997 NAICS United States will be developed by the statistical agencies in the U.S.

NAICS Nonstatistical Use

NAICS was designed, as was the SIC before it, solely for statistical purposes. Although it is expected that NAICS, like the SIC, will also be used for various nonstatistical purposes (e.g., administrative, regulatory, or taxation), the requirements of government agencies that use it for nonstatistical purposes have played no role in its development.

Consequently, as has been the case with the SIC (Statistical Policy Directive No. 8, Standard Industrial Classification of Establishments), NAICS shall not be used in any administrative, regulatory, or tax program unless the head of the agency administering that program has first determined that the use of such industry definitions is appropriate to the implementation of the program's objectives. If the terms, ''North American Industry Classification System,'' ''NAICS,'' or ''NAICS United States'' are to be used in the operative text of any law or regulation to define industry (or trade or commerce), language similar to the following should be used to assure sufficient flexibility: ''An industry or grouping of industries shall mean a North American Industry Classification System industry or grouping of industries as defined by the Office of Management and Budget subject to such modifications with respect to individual industries or groupings of industries as the Secretary (Administrator) may determine to be appropriate for the purpose of this Act (regulation).''

1997 NAICS United States Industry Structure and Relationship to 1987 SIC

Table 1 below presents the final decisions for the entire structure of the 1997 NAICS United States classification system including both 5-digit NAICS and 6-digit NAICS United States national detail industries. It shows the hierarchy and the coding system in 1997 NAICS United States sequence; it also relates the 1997 NAICS United States to the 1987 U.S. SIC.

Table 2 is in 1987 U.S. SIC sequence and relates the 1987 U.S. SIC industries to the 1997 NAICS United States including the 6-digit U.S. national detail industries. All OMB final changes to the structure of the 1997 NAICS United States based on public comment and consultation with the ECPC, INEGI, and Statistics Canada are included in Tables 1 and 2.

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1997 NAICS United States Structure, Including Relationship to 1987 U.S. SIC

Table 1 - 1997 NAICS United States Matched to 1987 U.S. SIC

1997 NAICS Code	1997 NAICS United States and U.S. Description	Status Code	1987 SIC Code	1987 U.S. SIC Description
11	Agriculture, Forestry, Fishing and Hunting			
111	Crop Production			
1111	Oilseed and Grain Farming			
11111	Soybean Farming	E	0116	Soybeans
11112	Oilseed (except Soybean) Farming	N	*0119	Cash Grains, NEC (oilseed, except soybean farming)
11113	Dry Pea and Bean Farming	N	*0119	Cash Grains, NEC (dry pea and bean farms)
11114	Wheat Farming	E	0111	Wheat
11115	Corn Farming	R	0115	Corn
			*0119	Cash Grains, NEC (popcorn farming)
11116	Rice Farming	E	0112	Rice
11119	Other Grain Farming			
111191	Oilseed and Grain Combination Farming	N	*0119	Cash Grains, NEC (oilseed and grain combination farms)
111199	All Other Grain Farming	R	*0119	Cash Grains, NEC (except popcorn, soybean, and dry pea and bean, and oilseed and grain combination farms)
1112	Vegetable and Melon Farming			
11121	Vegetable and Melon Farming			
111211	Potato Farming	E	0134	Irish Potatoes
111219	Other Vegetable (except Potato) and Melon Farming	R	0161	Vegetables and Melons
			*0139	Field Crops Except Cash Grains (sweet potatoes and yams)
1113	Fruit and Tree Nut Farming			
11131	Orange Groves	N	*0174	Citrus Fruits (orange groves and farms)
11132	Citrus (except Orange) Groves	R	*0174	Citrus Fruits (except, orange groves and farms)
11133	Noncitrus Fruit and Tree Nut Farming			
111331	Apple Orchards	N	*0175	Deciduous Tree Fruits (apple orchards and farms)
111332	Grape Vineyards	E	0172	Grapes
111333	Strawberry Farming	N	*0171	Berry Crops (strawberry farms)
111334	Berry (except Strawberry) Farming	R	*0171	Berry Crops (except strawberry farms)
111335	Tree Nut Farming	E	0173	Tree Nuts
111336	Fruit and Tree Nut Combination Farming	N	*0179	Fruits and Tree Nuts, NEC (combination farms)
111339	Other Noncitrus Fruit Farming	R	*0175	Deciduous Tree Fruits (except apple orchards and farms)

1114	Greenhouse, Nursery and Floriculture Production		
11141	Food Crops Grown Under Cover		
111411	Mushroom Production	N	*0179 Fruit and Tree Nuts, NEC (except combination farms)
111419	Other Food Crops Grown Under Cover	R	*0182 Food Crops Grown Under Cover (mushrooms, growing of) *0182 Food Crops Grown Under Cover (except mushroom, growing of)
11142	Nursery and Floriculture Production		
111421	Nursery and Tree Production	N	*0181 Ornamental Floriculture and Nursery Products (nursery farming) *0811 Timber Tracts (short rotation woody crops)
111422	Floriculture Production	N	*0181 Ornamental Floriculture and Nursery Products (floriculture farming)
1119	Other Crop Farming		
11191	Tobacco Farming	E	0132 Tobacco
11192	Cotton Farming	E	0131 Cotton
11193	Sugarcane Farming	N	*0133 Sugarcane and Sugar Beets (sugarcane farms)
11194	Hay Farming	N	*0139 Field Crops, Except Cash Grains, NEC (hay farms)
11199	All Other Crop Farming		
111991	Sugar Beet Farming	N	*0133 Sugarcane and Sugar Beets (sugar beet farms)
111992	Peanut Farming	N	*0139 Field Crops, Except Cash Grains, NEC (peanut farms)
111998	All Other Miscellaneous Crop Farming	R	*0139 Field Crops, Except Cash Grains, NEC (except peanut, sweet potato, yam and hay farms) 0191 General Farms, Primarily Crop *0831 Forest Products (maple sap, gathering of) *0919 Miscellaneous Marine Products (plant aquaculture) *2099 Food Preparations, NEC (reducing maple sap to maple syrup)
112	Animal Production		
1121	Cattle Ranching and Farming		
11211	Beef Cattle Ranching and Farming, including Feedlots		
112111	Beef Cattle Ranching and Farming	R	0212 Beef Cattle, Except Feedlots (cattle farms) *0241 Dairy Farms (dairy heifer replacement farms)
112112	Cattle Feedlots	E	0211 Beef Cattle Feedlots (cattle farms)
11212	Dairy Cattle and Milk Production	R	*0241 Dairy Farms
11213	Dual Purpose Cattle Ranching and Farming	L	
1122	Hog and Pig Farming		
11221	Hog and Pig Farming	E	0213 Hogs
1123	Poultry and Egg Production		
11231	Chicken Egg Production	E	0252 Chicken Eggs
11232	Broilers and Other Meat Type Chicken Production	E	0251 Broiler, Fryers, and Roaster Chickens
11233	Turkey Production	E	0253 Turkey and Turkey Eggs
11234	Poultry Hatcheries	E	0254 Poultry Hatcheries
11239	Other Poultry Production	E	0259 Poultry and Eggs, NEC
1124	Sheep and Goat Farming		

11241	Sheep Farming	N	*0214	Sheep and Goats (sheep farms)
11242	Goat Farming	N	*0214	Sheep and Goats (goat farms)
1125	Animal Aquaculture			
11251	Animal Aquaculture			
112511	Finfish Farming and Fish Hatcheries	N	*0273	Animal Aquaculture (finfish farms)
			*0921	Fish Hatcheries and Preserves (finfish hatcheries)
112512	Shellfish Farming	N	*0273	Animal Aquaculture (shellfish farms)
			*0921	Fish Hatcheries and Preserves (shellfish hatcheries)
112519	Other Animal Aquaculture	R	*0273	Animal Aquaculture (except finfish and shellfish)
1129	Other Animal Production			
11291	Apiculture	N	*0279	Animal Specialties, NEC (apiculture)
11292	Horse and Other Equine Production	E	0272	Horse and Other Equine
11293	Fur-Bearing Animal and Rabbit Production	E	0271	Fur-Bearing Animals and Rabbits
11299	All Other Animal Production	R	0219	General Livestock, Except Dairy and Poultry
			*0279	Animal Specialties, NEC (except apiculture)
			0291	General Farms, Primarily Livestock and Animal Specialties
113	Forestry and Logging			
1131	Timber Tract Operations			
11311	Timber Tract Operations	R	*0811	Timber Tracts (long term timber farms)
1132	Forest Nurseries and Gathering of Forest Products			
11321	Forest Nurseries and Gathering of Forest Products	E	*0831	Forest Nurseries and Gathering of Forest Products (forest products, except gathering of maple sap)
1133	Logging			
11331	Logging	E	2411	Logging
114	Fishing, Hunting and Trapping			
1141	Fishing			
11411	Fishing			
114111	Finfish Fishing	E	0912	Finfish
114112	Shellfish Fishing	E	0913	Shellfish
114119	Other Marine Fishing	R	*0919	Miscellaneous Marine Products (except plant aquaculture)
1142	Hunting and Trapping			
11421	Hunting and Trapping	E	0971	Hunting and Trapping, and Game Propagation
115	Support Activities for Agriculture and Forestry			
1151	Support Activities for Crop Production			
11511	Support Activities for Crop Production			
115111	Cotton Ginning	E	0724	Cotton Ginning
115112	Soil Preparation, Planting, and Cultivating	R	0711	Soil Preparation Services
			*0721	Crop Planting, Cultivating, and Protecting (other)

115113	Crop Harvesting, Primarily by Machine	E	0722	Crop Harvesting, Primarily by Machine
115114	Postharvest Crop Activities (except Cotton Ginning)	E	0723	Crop Preparation Services For Market, Except Cotton Ginning
115115	Farm Labor Contractors and Crew Leaders	E	0761	Farm Labor Contractors and Crew Leaders
115116	Farm Management Services	E	0762	Farm Management Services
1152	Support Activities for Animal Production			
11521	Support Activities for Animal Production	N	*0751	Livestock Services, Except Veterinary (except custom slaughtering)
			*0752	Animal Specialty Services, Except Veterinary (horses and equines services and animal production breeding)
			*7699	Repair Services, NEC (farriers)
1153	Support Activities for Forestry			
11531	Support Activities for Forestry	R	0851	Forestry Services
21	Mining			
211	Oil and Gas Extraction			
2111	Oil and Gas Extraction			
21111	Oil and Gas Extraction			
211111	Crude Petroleum and Natural Gas Extraction	E	1311	Crude Petroleum and Natural Gas
211112	Natural Gas Liquid Extraction	E	1321	Natural Gas Liquids
212	Mining (except Oil and Gas)			
2121	Coal Mining			
21211	Coal Mining			
212111	Bituminous Coal and Lignite Surface Mining	E	1221	Bituminous Coal and Lignite Surface Mining
212112	Bituminous Coal Underground Mining	E	1222	Bituminous Coal Underground Mining
212113	Anthracite Mining	E	1231	Anthracite Mining
2122	Metal Ore Mining			
21221	Iron Ore Mining	E	1011	Iron Ores
21222	Gold Ore and Silver Ore Mining			
212221	Gold Ore Mining	E	1041	Gold Ores
212222	Silver Ore Mining	E	1044	Silver Ores
21223	Copper, Nickel, Lead and Zinc Mining			
212231	Lead Ore and Zinc Ore Mining	E	1031	Lead and Zinc Ores
212234	Copper Ore and Nickel Ore Mining	R	1021	Copper Ores
			*1061	Ferroalloy Ores, Except Vanadium (nickel)
21229	Other Metal Ore Mining			
212291	Uranium-Radium-Vanadium Ore Mining	E	1094	Uranium-Radium-Vanadium Ores
212299	All Other Metal Ore Mining	R	*1061	Ferroalloy Ores, Except Vanadium (other ferroalloys except nickel)
			1099	Miscellaneous Metal Ores, NEC
2123	Non-Metallic Mineral Mining and Quarrying			

21231	Stone Mining and Quarrying		
212311	Dimension Stone Mining and Quarrying	E	1411 Dimension Stone
212312	Crushed and Broken Limestone Mining and Quarrying	E	1422 Crushed and Broken Limestone
212313	Crushed and Broken Granite Mining and Quarrying	E	1423 Crushed and Broken Granite
212319	Other Crushed and Broken Stone Mining and Quarrying	R	1429 Crushed and Broken Stone, NEC *1499 Miscellaneous Nonmetallic Minerals, Except Fuels (bituminous limestone and bituminous sandstone)
21232	Sand, Gravel, Clay, and Ceramic and Refractory Minerals Mining and Quarrying		
212321	Construction Sand and Gravel Mining	E	1442 Construction Sand and Gravel
212322	Industrial Sand Mining	E	1446 Industrial Sand
212324	Kaolin and Ball Clay Mining	E	1455 Kaolin and Ball Clay
212325	Clay and Ceramic and Refractory Minerals Mining	E	1459 Clay, Ceramic, and Refractory Minerals, NEC
21239	Other Non-Metallic Mineral Mining and Quarrying		
212391	Potash, Soda, and Borate Mineral Mining	E	1474 Potash, Soda, and Borate Minerals
212392	Phosphate Rock Mining	E	1475 Phosphate Rock
212393	Other Chemical and Fertilizer Mineral Mining	E	1479 Chemical and Fertilizer Mineral Mining, NEC
212399	All Other Non-Metallic Mineral Mining	R	*1499 Miscellaneous Nonmetallic Minerals, Except Fuels (except bituminous limestone and bituminous sandstone)
213	Support Activities for Mining		
2131	Support Activities for Mining		
21311	Support Activities for Mining		
213111	Drilling Oil and Gas Wells	E	1381 Drilling Oil and Gas Wells
213112	Support Activities for Oil and Gas Operations	R	*1382 Oil and Gas Field Exploration Services (except geophysical mapping and surveying and aerial geophysical exploration) 1389 Oil and Gas Field Services, NEC
213113	Support Activities for Coal Mining	E	1241 Coal Mining Services
213114	Support Activities for Metal Mining	R	*1081 Metal Mining Services (except geophysical surveying)
213115	Support Activities for Non-Metallic Minerals (except Fuels)	E	*1481 Nonmetallic Minerals Services, Except Fuels (except geophysical surveying)
22	Utilities		
221	Utilities		
2211	Electric Power Generation, Transmission and Distribution		
22111	Electric Power Generation		
221111	Hydroelectric Power Generation	N	*4911 Electric Services (hydroelectric power generation) *4931 Electric and Other Services Combined (hydroelectric power generation) *4939 Combination Utilities, NEC (hydroelectric power generation)

221112	Fossil Fuel Electric Power Generation	N	*4911	Electric Services (fossil fuel power generation)
			*4931	Electric and Other Services Combined (fossil fuel power generation)
			*4939	Combination Utilities, NEC (fossil fuel power generation)
221113	Nuclear Electric Power Generation	N	*4911	Electric Services (nuclear electric power generation)
			*4931	Electric and Other Services Combined (nuclear power generation)
			*4939	Combination Utilities, NEC (nuclear power generation)
221119	Other Electric Power Generation	N	*4911	Electric Services (other electric power generation)
			*4931	Electric and Other Services Combined (other electric power generation)
			*4939	Combination Utilities, NEC (other electric power generation)
22112	Electric Power Transmission, Control and Distribution			
221121	Electric Bulk Power Transmission and Control	N	*4911	Electric Services (electric power transmission and control)
			*4931	Electric and Other Services Combined (electric power transmission and control)
			*4939	Combination Utilities, NEC (electric power transmission and control)
221122	Electric Power Distribution	N	*4911	Electric Services (electric power distribution)
			*4931	Electric and Other Services Combined (electric power distribution)
			*4939	Combination Utilities, NEC (electric power distribution)
2212	Natural Gas Distribution			
22121	Natural Gas Distribution	R	*4923	Natural Gas Transmission and Distribution (distribution)
			4924	Natural Gas Distribution
			4925	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution (natural gas distribution)
			*4931	Electronic and Other Services Combined (natural gas distribution)
			4932	Gas and Other Services Combined (natural gas distribution)
			*4939	Combination Utilities, NEC (natural gas distribution)
2213	Water, Sewage and Other Systems			
22131	Water Supply and Irrigation Systems	R	4941	Water Supply
			4971	Irrigation Systems
22132	Sewage Treatment Facilities	E	4952	Sewerage Systems
22133	Steam and Air-Conditioning Supply	E	4961	Steam and Air-Conditioning Supply
23	Construction			
233	Building, Developing and General Contracting			
2331	Land Subdivision and Land Development			
23311	Land Subdivision and Land Development	E	6552	Land Subdividers and Developers, Except Cemeteries
2332	Residential Building Construction			
23321	Single Family Housing Construction	R	1521	General contractors-Single-Family Houses
			*1531	Operative Builders (single-family housing construction)

23322	Multifamily Housing Construction	R	*1522	General Contractors-Residential Building, Other Than Single-Family (except hotel and motel construction)
			*1531	Operative Builders (multi-family housing construction)
2333	Nonresidential Building Construction			
23331	Manufacturing and Industrial Building Construction	R	*1531	Operative Builders (manufacturing and light industrial building construction)
			*1541	General Contractors-Industrial Buildings and Warehouses (except warehouse construction)
23332	Commercial and Institutional Building Construction	R	*1522	General Contractors-Residential Building Other than Single-Family (hotel and motel construction)
			*1531	Operative Builders (commercial and institutional building construction)
			*1541	General Contractors-Industrial Buildings and Warehouses (warehouse construction)
			1542	General Contractor-Nonresidential Buildings, Other than Industrial Buildings and Warehouses
234	Heavy Construction			
2341	Highway, Street, Bridge and Tunnel Construction			
23411	Highway and Street Construction	E	1611	Highway and Street Construction, Except Elevated Highways
23412	Bridge and Tunnel Construction	E	1622	Bridge, Tunnel, and Elevated Highway Construction
2349	Other Heavy Construction			
23491	Water, Sewer, and Pipeline Construction	N	*1623	Water, Sewer, Pipeline, and Communications and Power Line Construction (water and sewer mains and pipelines construction)
23492	Power and Communication Transmission Line Construction	N	*1623	Water, Sewer, Pipelines, and Communications and Power Line Construction (communications and power line construction)
23493	Industrial Nonbuilding Structure Construction	N	*1629	Heavy Construction, NEC (industrial nonbuilding structures construction)
23499	All Other Heavy Construction	R	*1629	Heavy Construction, NEC (except industrial nonbuilding structures construction)
			*7353	Construction Equipment Rental and Leasing (with operator)
235	Special Trade Contractors			
2351	Plumbing, Heating and Air-Conditioning Contractors			
23511	Plumbing, Heating and Air-Conditioning Contractors	E	1711	Plumbing, Heating and Air-Conditioning
2352	Painting and Wall Covering Contractors			
23521	Painting and Wall Covering Contractors	R	1721	Painting and Paper Hanging
			*1799	Special Trade Contractors, NEC (paint and wallpaper, stripping and wallpaper removal contractors)
2353	Electrical Contractors			
23531	Electrical Contractors	R	*1731	Electrical Work (except burglar and fire alarm installation)
2354	Masonry, Drywall, Insulation, and Tile Contractors			
23541	Masonry and Stone Contractors	E	1741	Masonry, Stone Setting and Other Stone Work

23542	Drywall, Plastering, Acoustical and Insulation Contractors	R	1742	Plastering, Drywall, Acoustical, and Insulation Work
			*1743	Terrazzo, Tile, Marble and Mosaic work (fresco work)
			*1771	Concrete Work (stucco construction)
23543	Tile, Marble, Terrazzo and Mosaic Contractors	R	*1743	Terrazzo, Tile, Marble, and Mosaic Work (except fresco work)
2355	Carpentry and Floor Contractors			
23551	Carpentry Contractors	E	1751	Carpentry Work
23552	Floor Laying and Other Floor Contractors	E	1752	Floor Laying and Other Floor Work, NEC
2356	Roofing, Siding and Sheet Metal Contractors			
23561	Roofing, Siding and Sheet Metal Contractors	E	1761	Roofing, Siding, and Sheet Metal Work
2357	Concrete Contractors			
23571	Concrete Contractors	R	*1771	Concrete Work (except stucco construction)
2358	Water Well Drilling Contractors			
23581	Water Well Drilling Contractors	E	1781	Water Well Drilling
2359	Other Special Trade Contractors			
23591	Structural Steel Erection Contractors	E	1791	Structural Steel Erection
23592	Glass and Glazing Contractors	R	1793	Glass and Glazing Work
			*1799	Specialty Trade Contractors, NEC (tinting glass work)
23593	Excavation Contractors	E	1794	Excavation Work
23594	Wrecking and Demolition Contractors	E	1795	Wrecking and Demolition Work
23595	Building Equipment and Other Machinery Installation Contractors	E	1796	Installation of Erection of Building Equipment, NEC
23599	All Other Special Trade Contractors	R	*1799	Special Trade Contractors, NEC (except paint and wallpaper stripping, wall paper removal contractors, and tinting glass work)
31-33	Manufacturing			
311	Food Manufacturing			
3111	Animal Food Manufacturing			
31111	Animal Food Manufacturing			
311111	Dog and Cat Food Manufacturing	E	2047	Dog and Cat Food
311119	Other Animal Food Manufacturing	R	*2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (except slaughtering animals for pet food)
3112	Grain and Oilseed Milling			
31121	Flour Milling and Malt Manufacturing			
311211	Flour Milling	R	*2034	Dehydrated Fruits, Vegetables and Soup Mixes (vegetable flour)
			2041	Flour and Other Grain Mill Products
311212	Rice Milling	E	2044	Rice Milling
311213	Malt Manufacturing	E	2083	Malt
31122	Starch and Vegetable Fats and Oils Manufacturing			
311221	Wet Corn Milling	E	2046	Wet Corn Milling
311222	Soybean Processing	R	*2075	Soybean Oil Mills (soybean processing)

		R	*2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC (processing soybean oil from soybeans crushed in the same establishment)
311223	Other Oilseed Processing	N	*2074	Cottonseed Oil Mills (cottonseed processing)
		R	*2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, NEC (processing vegetable oils, except soybeans, from oilseeds crushed in the same establishment)
			*2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean (oilseed processing)
311225	Fats and Oils Refining and Blending	R	*2077	Animal and Marine Fats and Oil, NEC (vegetable oil foods)
			*2074	Cottonseed Oil Mills (processing purchased cottonseed oil)
			*2075	Soybean Oil Mills (processing purchased soybean oil)
			*2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean (processing purchased vegetable oils)
			*2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC (processing fats and oils from purchased fats and oils)
31123	Breakfast Cereal Manufacturing	R	*2043	Cereal Breakfast Foods (breakfast cereal)
3113	Sugar and Confectionery Product Manufacturing			
31131	Sugar Manufacturing			
311311	Sugarcane Mills	E	2061	Cane Sugar, Except Refining
311312	Cane Sugar Refining	E	2062	Cane Sugar Refining
311313	Beet Sugar Manufacturing	E	2063	Beet Sugar
31132	Chocolate and Confectionery Manufacturing from Cacao Beans	E	2066	Chocolate and Cocoa Products
31133	Confectionery Manufacturing from Purchased Chocolate	N	*2064	Candy and Other Confectionery Products (chocolate confectionery)
31134	Non-Chocolate Confectionery Manufacturing	N	*2064	Candy and Other Confectionery Products (non-chocolate confectionery)
			2067	Chewing Gum
			*2099	Food Preparations, NEC (marshmallow creme)
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing			
31141	Frozen Food Manufacturing			
311411	Frozen Fruit, Juice and Vegetable Manufacturing	E	2037	Frozen Fruits, Fruit Juices, and Vegetables
311412	Frozen Specialty Food Manufacturing	E	2038	Frozen Specialties, NEC
31142	Fruit and Vegetable Canning, Pickling and Drying			
311421	Fruit and Vegetable Canning	R	2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies
			*2035	Pickled Fruits and Vegetables, Vegetable Sauces, and Seasonings and Salad Dressings (pickled fruits and vegetables)
311422	Specialty Canning	R	*2032	Canned Specialties (except canned puddings)

311423	Dried and Dehydrated Food Manufacturing	R	*2034	Dried and Dehydrated Fruits, Vegetables and Soup Mixes (except vegetable flour)
			*2099	Food Preparation, NEC (bouillon)
3115	Dairy Product Manufacturing			
31151	Dairy Product (except Frozen) Manufacturing			
311511	Fluid Milk Manufacturing	E	2026	Fluid Milk
311512	Creamery Butter Manufacturing	E	2021	Creamery Butter
311513	Cheese Manufacturing	E	2022	Natural, Processed, and Imitation Cheese
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	E	2023	Dry, Condensed and Evaporated Dairy Products
31152	Ice Cream and Frozen Dessert Manufacturing	E	2024	Ice Cream and Frozen Desserts
3116	Meat Product Manufacturing			
31161	Animal Slaughtering and Processing			
311611	Animal (except Poultry) Slaughtering	R	*0751	Livestock Services, Except Veterinary (custom slaughtering)
			2011	Meat Packing Plants
			*2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (animal slaughtering for pet food)
311612	Meat Processed from Carcasses	R	2013	Sausages and Other Prepared Meats
			*5147	Meat and Meat Products (boxed beef)
311613	Rendering and Meat By-product Processing	N	*2077	Animal and Marine Fats and Oils (animal fats and oils)
311615	Poultry Processing	R	*2015	Poultry Slaughtering and Processing (poultry processing)
3117	Seafood Product Preparation and Packaging			
31171	Seafood Product Preparation and Packaging			
311711	Seafood Canning	R	*2077	Animal and Marine Fats and Oils (canned marine fats and oils)
			2091	Canned and Cured Fish and Seafood
311712	Fresh and Frozen Seafood Processing	R	*2077	Animal and Marine Fats and Oils (fresh and frozen marine fats and oils)
			2092	Prepared Fresh or Frozen Fish and Seafood
3118	Bakeries and Tortilla Manufacturing			
31181	Bread and Bakery Product Manufacturing			
311811	Retail Bakeries	N	*5461	Retail Bakeries (bread, cake and related products baked and sold on premise)
311812	Commercial Bakeries	R	2051	Bread and Other Bakery Products, Except Cookies and Crackers
			*2052	Cookies and Crackers (unleavened bread)
311813	Frozen Bakery Product Manufacturing	E	2053	Frozen Bakery Products, Except Bread
31182	Cookie, Cracker, and Pasta Manufacturing			
311821	Cookie and Cracker Manufacturing	R	*2052	Cookies and Crackers (except unleavened bread and pretzels)
311822	Flour Mixes and Dough Manufacturing from Purchased Flour	E	2045	Prepared Flour Mixes and Doughs
311823	Pasta Manufacturing	E	2098	Macaroni, Spaghetti, Vermicelli and Noodles
31183	Tortilla Manufacturing	N	*2099	Food Preparations, NEC (tortillas)

3119	Other Food Manufacturing			
31191	Snack Food Manufacturing			
311911	Roasted Nuts and Peanut Butter Manufacturing	R	2068	Salted and Roasted Nuts and Seeds
			*2099	Food Preparations, NEC (peanut butter)
311919	Other Snack Food Manufacturing	R	*2052	Cookies and Crackers (pretzels)
			2096	Potato Chips, Corn Chips, and Similar Snacks
31192	Coffee and Tea Manufacturing	N	*2043	Cereal Breakfast Foods (coffee substitute)
			*2095	Roasted Coffee (roasted coffee)
			*2099	Food Preparations, NEC (tea)
31193	Flavoring Syrup and Concentrate Manufacturing	R	*2087	Flavoring Extracts and Flavoring Syrups (flavoring syrup and concentrate)
31194	Seasoning and Dressing Manufacturing			
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing	N	*2035	Pickled Fruits and Vegetables, Vegetable Seasonings, and Sauces and Salad Dressings (sauces and salad dressing)
			*2099	Food Preparations, NEC (vinegar)
311942	Spice and Extract Manufacturing	N	*2087	Flavoring Extracts and Flavoring Syrups (flavoring extracts)
			*2095	Roasted Coffee (coffee extracts)
			*2099	Food Preparations, NEC (spices, dip mix, salad dressing mix, and seasoning mix)
			*2899	Chemical Preparations, NEC (table salt)
31199	All Other Food Manufacturing			
311991	Perishable Prepared Food Manufacturing	N	*2099	Food Preparations, NEC (perishable prepared food)
311999	All Other Miscellaneous Food Manufacturing	R	*2015	Poultry Slaughtering and Processing (egg processing)
			*2032	Canned Specialties (canned puddings)
			*2087	Flavoring Extracts and Flavoring Syrups (powered drink mix)
			*2099	Food Preparations, NEC (except bouillon, marshmallow creme, spices, extracts, peanut butter, perishable prepared foods, tortillas, tea, spices, dip mix, salad dressing mix, seasoning mix, and vinegar)
312	Beverage and Tobacco Product Manufacturing			
3121	Beverage Manufacturing			
31211	Soft Drink and Ice Manufacturing			
312111	Soft Drink Manufacturing	R	*2086	Bottled and Canned Soft Drinks and Carbonated Water (except bottled water)
312112	Bottled Water Manufacturing	N	*2086	Bottled and Canned Soft Drinks and Carbonated Water (bottled water)
312113	Ice Manufacturing	E	2097	Manufactured Ice
31212	Breweries	E	2082	Malt Beverages
31213	Wineries	E	2084	Wines, Brandy, and Brandy Spirits
31214	Distilleries	E	2085	Distilled and Blended Liquors

3122	Tobacco Manufacturing			
31221	Tobacco Stemming and Redrying	R	*2141	Tobacco Stemming and Redrying (redrying and stemming)
31222	Tobacco Product Manufacturing			
312221	Cigarette Manufacturing	E	2111	Cigarettes
312229	Other Tobacco Product Manufacturing	N	2121	Cigars
			2131	Chewing and Smoking Tobacco and Snuff
			*2141	Tobacco Stemming and Redrying (reconstituted tobacco)
313	Textile Mills			
3131	Fiber, Yarn, and Thread Mills			
31311	Fiber, Yarn, and Thread Mills			
313111	Yarn Spinning Mills	R	2281	Yarn Spinning Mills
			*2299	Textile Goods, NEC (yarn of flax, hemp, jute, and ramie)
313112	Yarn Texturing, Throwing and Twisting Mills	R	*2282	Yarn Texturing, Throwing, Winding Mills (except spooling purchased yarns)
313113	Thread Mills	R	*2284	Thread Mills (except finishing)
			*2299	Textile Goods, NEC (thread of hemp, linen, and ramie)
3132	Fabric Mills			
31321	Broadwoven Fabric Mills	N	2211	Broadwoven Fabric Mills, Cotton
			2221	Broadwoven Fabric Mills, Manmade Fiber and Silk
			*2231	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)(except wool finishing)
			*2299	Textile Goods, NEC (broadwoven fabrics of jute, linen, hemp, and ramie)
31322	Narrow Fabric Mills and Schiffli Machine Embroidery			
313221	Narrow Fabric Mills	R	2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk and Manmade Fiber
			*2299	Textile Goods, NEC (narrow woven fabric of jute, linen, hemp, and ramie)
313222	Schiffli Machine Embroidery	E	2397	Schiffli Machine Embroideries
31323	Nonwoven Fabric Mills	R	2297	Nonwoven Fabrics
			*2299	Textile Goods, NEC (nonwoven felt)
31324	Knit Fabric Mills			
313241	Weft Knit Fabric Mills	R	*2257	Weft Knit Fabric Mills (except finishing)
			*2259	Knitting Mills NEC (finished articles of weft knit fabric)
313249	Other Knit Fabric and Lace Mills	R	*2258	Lace and Warp Knit Fabric Mills (except finishing)
			*2259	Knitting Mills NEC (finished articles of warp knit fabric)
3133	Textile and Fabric Finishing and Fabric Coating Mills			
31331	Textile and Fabric Finishing Mills			

313311	Broadwoven Fabric Finishing Mills	N	*2231	Broadwoven Fabric Mills, Wool (wool broadwoven fabric finishing)
			2261	Finishers of Broadwoven Fabrics of Cotton
			2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk
			*2269	Finishers of Textiles, NEC (broadwoven fabric finishing)
			*5131	Piece Goods and Notions (broadwoven converters)
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills	N	*2231	Broadwoven Fabric Mills, Wool (wool finishing except broadwoven fabric)
			*2257	Weft Knit Fabric Mills (finishing)
			*2258	Lace and Warp Knit Fabric Mills (finishing)
			*2269	Finishers of Textiles, NEC (except broadwoven fabric finishing)
			*2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills (spooling purchased yarn)
			*2284	Thread Mills (thread finishing)
			*2299	Textile Goods, NEC (finishing hard fiber thread and yarn)
			*5131	Piece Goods and Notions (converters, except broadwoven)
31332	Fabric Coating Mills	R	2295	Coated Fabrics, Not Rubberized
			*3069	Fabricated Rubber Products, NEC (rubberized fabric)
314	Textile Product Mills			
3141	Textile Furnishings Mills			
31411	Carpet and Rug Mills	E	2273	Carpets and Rugs
31412	Curtain and Linen Mills			
314121	Curtain and Drapery Mills	R	2391	Curtains and Draperies
			*5714	Drapery, Curtain, and Upholstery Stores (custom drapes)
314129	Other Household Textile Product Mills	R	*2392	Housefurnishings, Except Curtains and Draperies (except mops and bags)
3149	Other Textile Product Mills			
31491	Textile Bag and Canvas Mills			
314911	Textile Bag Mills	R	*2392	Housefurnishings, Except Curtains and Draperies (blanket, laundry, and wardrobe bags)
			2393	Textile Bags
314912	Canvas and Related Product Mills	E	2394	Canvas and Related Products
31499	All Other Textile Product Mills			
314991	Rope, Cordage and Twine Mills	E	2298	Cordage and Twine
314992	Tire Cord and Tire Fabric Mills	E	2296	Tire Cord and Fabrics

314999	All Other Miscellaneous Textile Product Mills	R	*2299	Textile Goods, NEC (other textile products)
			*2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (except apparel contractors)
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (textile products except automotive and apparel trim and printing on apparel)
			*2399	Fabricated Textile Products, NEC (except apparel, automotive seat belts, and seat and tire covers)
315	Apparel Manufacturing			
3151	Apparel Knitting Mills			
31511	Hosiery and Sock Mills			
315111	Sheer Hosiery Mills	R	2251	Women's Full-Length and Knee-Length Hosiery, Except socks
			*2252	Hosiery, NEC (girls' hosiery)
315119	Other Hosiery and Sock Mills	R	*2252	Hosiery, NEC (socks)
31519	Other Apparel Knitting Mills			
315191	Outerwear Knitting Mills	R	2253	Knit Outerwear Mills
			*2259	Knitting Mills, NEC (gloves and mittens)
315192	Underwear and Nightwear Knitting Mills	R	2254	Knit Underwear and Nightwear Mills
			*2259	Knitting Mills, NEC (girdles)
3152	Cut and Sew Apparel Manufacturing			
31521	Cut and Sew Apparel Contractors			
315211	Men's and Boys' Cut and Sew Apparel Contractors	N	*2311	Men's and Boys' Suits, Coats, and Overcoats (contractors)
			*2321	Men's and Boys' Shirts, Except Work Shirts (contractors)
			*2322	Men's and Boys' Underwear and Nightwear (contractors)
			*2325	Men's and Boys' Trousers and Slacks (contractors)
			*2326	Men's and Boys' Work Clothing (contractors)
			*2329	Men's and Boys' Clothing, NEC (contractors)
			*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' contractors)
			*2361	Girls', Children's, and Infants' Dresses, Blouses and Shirts (boys' contractors)
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' contractors)

			*2384 Robes and Dressing Gowns (men's and boys' contractors)
			*2385 Waterproof Outerwear (men's and boys' contractors)
			*2389 Apparel and Accessories, NEC (contractors)
			*2395 Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (men's and boy's apparel contractors)
315212	Women's and Girls' Cut and Sew Apparel Contractors	N	*2331 Women's, Misses', and Juniors' Blouses and Shirts (contractors)
			*2335 Women's, Misses' and Juniors' Dresses (contractors)
			*2337 Women's, Misses', and Juniors' Suits, Skirts, and Coats (contractors)
			*2339 Women's, Misses', and Juniors' Outerwear, NEC (contractors)
			*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (contractors)
			*2342 Brassieres, Girdles, and Allied Garments (contractors)
			*2361 Girls', Children's, and Infants' Dresses, Blouses, and Shirts (girls' contractors)
			*2369 Girls', Children's, and Infants' Outerwear, NEC (girls' and infants' contractors)
			*2384 Robes and Dressing Gowns (women's, girls', and infants'
			*2385 Waterproof Outerwear (women's, girls', and infants' contractors)
			*2389 Apparel and Accessories, NEC (contractors)
			*2395 Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (women's and girls' apparel contractors)
31522	Men's and Boys' Cut and Sew Apparel Manufacturing		
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing	R	*2322 Men's and Boys' Underwear and Nightwear (except contractors)
			*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' except contractors)
			*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' robes except contractors)
			*2384 Robes and Dressing Gowns (men's except contractors)
315222	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing	R	*2311 Men's and Boys' Suits, Coats, and Overcoats (except contractors)

315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing	R	*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' suits and coats except contractors) *2385 Waterproof Outerwear (men's and boys' raincoats except contractors) *2321 Men's and Boys' Shirts, Except Work Shirts (except contractors)
315224	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing	R	*2361 Girls', Children's, and Infants' Dresses, Blouses, and Shirts (boys' shirts except contractors) *2325 Men's and Boys' Trousers and Slacks (except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (boys' trousers, slacks, and jeans except contractors)
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing	R	*2326 Men's and Boys' Work Clothing (except contractors)
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing	R	*2329 Men's and Boys' Clothing, NEC (men's and boys' other outerwear except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (boys' other outerwear except contractors) *2385 Waterproof Outerwear (except contractors)
31523	Women's and Girls' Cut and Sew Apparel Manufacturing		
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (women and girls' except contractors) *2342 Brassieres, Girdles, and Allied Garments (except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (girls' robes except contractors) *2384 Robes and Dressing Gowns (women's except contractors) *2389 Apparel and Accessories, NEC (garters and garter belts)
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing	R	*2331 Women's, Misses', and Juniors' Blouses and Shirts (except contractors) *2361 Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' blouses and shirts except contractors)
315233	Women's and Girls' Cut and Sew Dress Manufacturing	R	*2335 Women's, Misses', and Juniors' Dresses (except contractors) *2361 Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' dresses except contractors)
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing	R	*2337 Women's, Misses', and Juniors' Suits, Skirts, and Coats (except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (girls' suits, coats, jackets, and skirts except contractors) *2385 Waterproof Outerwear (women's and girls' raincoats except contractors)

315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing	R	*2339	Women's, Misses', and Juniors' Outerwear, NEC (except contractors)
			*2369	Girls', Children's, and Infants' Outerwear, NEC (girls' except contractors)
			*2385	Waterproof Outerwear (other women's and girls' outerwear except contractors)
31529	Other Cut and Sew Apparel Manufacturing			
315291	Infants' Cut and Sew Apparel Manufacturing	R	*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (infants' except contractors)
			*2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts (infants' except contractors)
			*2369	Girls', Children's, and Infants' Outerwear, NEC (infants' except contractors)
			*2385	Waterproof Outerwear (infants' outerwear except contractors)
315292	Fur and Leather Apparel Manufacturing	R	2371	Fur Goods
			2386	Leather and Sheep-lined Clothing
315299	All Other Cut and Sew Apparel Manufacturing	R	*2329	Men's and Boys' Outerwear, NEC (athletic uniforms except contractors)
			*2339	Women's, Misses', and Juniors' Outerwear, NEC (athletic uniforms except contractors)
			*2389	Apparel and Accessories, NEC (academic and clerical outerwear, except contractors)
3159	Apparel Accessories and Other Apparel Manufacturing			
31599	Apparel Accessories and Other Apparel Manufacturing			
315991	Hat, Cap and Millinery Manufacturing	E	2353	Hats, Caps, and Millinery
315992	Glove and Mitten Manufacturing	R	2381	Dress and Work Gloves, Except Knit and All-Leather
			3151	Leather Gloves and Mittens
315993	Men's and Boys' Neckwear Manufacturing	E	2323	Men's and Boys' Neckwear
315999	Other Apparel Accessories and Other Apparel Manufacturing	N	*2339	Women's, Misses', and Juniors' Outerwear, NEC (scarves)
			*2385	Waterproof Outerwear (aprons, bibs, and other miscellaneous waterproof items)
			2387	Apparel Belts
			*2389	Apparel and Accessories, NEC (handkerchiefs, arm bands, etc.)
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (apparel findings and trimming)
			*2399	Fabricated Textile Products, NEC (apparel and apparel accessories)
316	Leather and Allied Product Manufacturing			
3161	Leather and Hide Tanning and Finishing			

31611	Leather and Hide Tanning and Finishing	R	3111	Leather Tanning and Finishing
			*3999	Manufacturing Industries, NEC (fur dressing and finishing)
3162	Footwear Manufacturing			
31621	Footwear Manufacturing			
316211	Rubber and Plastics Footwear Manufacturing	E	3021	Rubber and Plastics Footwear
316212	House Slipper Manufacturing	E	3142	House Slippers
316213	Men's Footwear (except Athletic) Manufacturing	E	3143	Men's Footwear, Except Athletic
316214	Women's Footwear (except Athletic) Manufacturing	E	3144	Women's Footwear, Except Athletic
316219	Other Footwear Manufacturing	E	3149	Footwear Except Rubber, NEC
3169	Other Leather and Allied Product Manufacturing			
31699	Other Leather and Allied Product Manufacturing			
316991	Luggage Manufacturing	E	3161	Luggage
316992	Women's Handbag and Purse Manufacturing	E	3171	Women's Handbags and Purses
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing	E	3172	Personal Leather Goods, Except Women's Handbags and Purses
316999	All Other Leather Good Manufacturing	R	*3131	Boot and Shoe Cut Stock and Findings (except wood heels and metal buckles)
			3199	Leather Goods, NEC
321	Wood Product Manufacturing			
3211	Sawmills and Wood Preservation			
32111	Sawmills and Wood Preservation			
321113	Sawmills	R	*2421	Sawmills and Planing Mills, General
			*2429	Special Product Sawmills, NEC
321114	Wood Preservation	E	2491	Wood Preserving
3212	Veneer, Plywood and Engineered Wood Product Manufacturing			
32121	Veneer, Plywood, and Engineered Wood Product Manufacturing			
321211	Hardwood Veneer and Plywood Manufacturing	E	2435	Hardwood Veneer and Plywood
321212	Softwood Veneer and Plywood Manufacturing	E	2436	Softwood Veneer and Plywood
321213	Engineered Wood Member (except Truss) Manufacturing	R	*2439	Structural Wood Members, NEC (except trusses)
321214	Truss Manufacturing	N	*2439	Structural Wood Members, NEC (trusses)
321219	Reconstituted Wood Product Manufacturing	E	2493	Reconstituted Wood Products
3219	Other Wood Product Manufacturing			
32191	Millwork			
321911	Wood Window and Door Manufacturing	N	*2431	Millwork (wood windows and doors)

321912	Cut Stock, Resawing Lumber, and Planing	N	*2421 Sawmills and Planing Mills, General (lumber manufacturing from purchased lumber, softwood cut stock, wood lath, fence pickets, and planing mill products) *2426 Hardwood Dimension and Flooring Mills (except flooring) *2429 Special Product Sawmills, NEC (stave manufacturing from purchased lumber) *2439 Structural Wood Members, NEC (lumber member manufacturing from purchased lumber)
321918	Other Millwork (including Flooring)	R	*2426 Hardwood Dimension and Flooring Mills (hardwood flooring) *2421 Sawmills and Planing Mills, General (softwood flooring) *2431 Millwork (except wood doors and windows)
32192	Wood Container and Pallet Manufacturing	N	2441 Nailed and Lock Corner Wood Boxes and Shook 2448 Wood Pallets and Skids 2449 Wood Containers, NEC *2499 Wood Products, NEC (wood tubs and vats, jewelry and cigar boxes)
32199	All Other Wood Product Manufacturing		
321991	Manufactured Home (Mobile Home) Manufacturing	E	2451 Mobile Homes
321992	Prefabricated Wood Building Manufacturing	E	2452 Prefabricated Wood Buildings and Components
321999	All Other Miscellaneous Wood Product Manufacturing	R	*2426 Hardwood Dimension and Flooring Mills (wood stock and turnings) *2499 Wood Products, NEC (other wood products) *3131 Boot and Shoe Cut Stock and Findings (wood heels) *3999 Manufacturing Industries, NEC (burnt wood articles and other wood products) *2421 Sawmills and Planing Mills, General (kiln drying) *2429 Special Product Sawmills, NEC (excelsior and cooperage headings)
322	Paper Manufacturing		
3221	Pulp, Paper, and Paperboard Mills		
32211	Pulp Mills	R	*2611 Pulp Mills (pulp producing mills only)
32212	Paper Mills		
322121	Paper (except Newsprint) Mills	R	*2611 Pulp Mills (pulp mills producing paper) *2621 Paper Mills (except newsprint mills)
322122	Newsprint Mills	N	*2621 Paper Mills (newsprint mills)
32213	Paperboard Mills	R	*2611 Pulp Mills (pulp mills producing paperboard) 2631 Paperboard Mills
3222	Converted Paper Product Manufacturing		
32221	Paperboard Container Manufacturing		
322211	Corrugated and Solid Fiber Box Manufacturing	E	2653 Corrugated and Solid Fiber Boxes
322212	Folding Paperboard Box Manufacturing	E	2657 Folding Paperboard Boxes, Including Sanitary

322213	Setup Paperboard Box Manufacturing	E	2652 Setup Paperboard Boxes
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing	E	2655 Fiber Cans, Tubes, Drums, and Similar Products
322215	Non-Folding Sanitary Food Container Manufacturing	R	2656 Sanitary Food Containers, Except Folding *2679 Converted Paper and Paperboard Products, NEC (egg cartons and other containers from purchased paper)
32222	Paper Bag and Coated and Treated Paper Manufacturing		
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing	R	*2671 Packaging Paper and Plastics Film, Coated and Laminated (single-web paper, paper multiweb laminated rolls and sheets for packaging uses)
322222	Coated and Laminated Paper Manufacturing	R	2672 Coated and Laminated Paper, NEC *2679 Converted Paper and Paperboard Products, NEC (wallpaper and gift wrap paper)
322223	Plastics, Foil, and Coated Paper Bag Manufacturing	R	*2673 Plastics, Foil, and Coated Paper Bags (coated or multiweb laminated bags)
322224	Uncoated Paper and Multiwall Bag Manufacturing	E	2674 Uncoated Paper and Multiwall Bags
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses	N	*3497 Metal Foil and Leaf (laminated aluminum foil rolls and sheets for flexible packaging uses)
32223	Stationery Product Manufacturing		
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing	N	*2675 Die-Cut Paper and Paperboard and Cardboard (file folders, tabulating cards, and other paper and paperboard office supplies) *2679 Converted Paper and Paperboard Products, NEC (paper supplies for business machines and other paper office supplies)
322232	Envelope Manufacturing	E	2677 Envelopes
322233	Stationery, Tablet, and Related Product Manufacturing	E	2678 Stationery, Tablets, and Related Products
32229	Other Converted Paper Product Manufacturing		
322291	Sanitary Paper Product Manufacturing	E	2676 Sanitary Paper Products
322292	Surface-Coated Paperboard Manufacturing	N	*2675 Die-Cut Paper and Paperboard and Cardboard (pasted, lined, laminated, or surface-coated paperboard)
322298	All Other Converted Paper Product Manufacturing	R	*2675 Die-Cut Paper and Paperboard and Cardboard (die-cut paper and paperboard products, except office supplies) *2679 Converted Paper and Paperboard Products, NEC (other converted paper and paperboard products such as paper filters, crepe paper, and laminated and tiled wallboard)
323	Printing and Related Support Activities		
3231	Printing and Related Support Activities		
32311	Printing		

323110	Commercial Lithographic Printing	R	*2752 Commercial Printing, Lithographic (except quick printing) *2771 Greeting Cards (lithographic printing of greeting cards) *2782 Blankbooks, Loose-leaf Binders and Devices (lithographic printing of checkbooks) *3999 Manufacturing Industries, NEC (lithographic printing of eyeglass frames for the trade)
323111	Commercial Gravure Printing	R	2754 Commercial Printing, Gravure *2771 Greeting Cards (gravure printing of greeting cards) *2782 Blankbooks, Loose-leaf Binders and Devices (gravure printing of checkbooks) *3999 Manufacturing Industries, NEC (gravure printing of eyeglass frames for the trade)
323112	Commercial Flexographic Printing	N	*2759 Commercial Printing, NEC (flexographic printing) *2771 Greeting Cards (flexographic printing of greeting cards) *2782 Blankbooks, Loose-leaf Binders and Devices (flexographic printing of checkbooks) *3999 Manufacturing Industries, NEC (flexographic printing of eyeglass frames for the trade)
323113	Commercial Screen Printing	N	*2396 Automotive Trimmings, Apparel Findings, and Related Products (printing and embossing on fabric articles) *2759 Commercial Printing, NEC (screen printing) *2771 Greeting Cards (screen printing of greeting cards) *2782 Blankbooks, Loose-leaf Binders and Devices (screen printing of checkbooks) *3999 Manufacturing Industries, NEC (screen printing of eyeglass frames for the trade)
323114	Quick Printing	N	*2752 Commercial Printing, Lithographic (quick printing) *2759 Commercial Printing, NEC (quick printing)
323115	Digital Printing	N	*2759 Commercial Printing, NEC (digital printing, except quick printing)
323116	Manifold Business Form Printing	E	2761 Manifold Business Forms
323117	Book Printing	E	2732 Book Printing
323118	Blankbook, Loose-leaf Binder and Device Manufacturing	R	*2782 Blankbooks, Loose-leaf Binders and Devices (except checkbooks)
323119	Other Commercial Printing	R	*2759 Commercial Printing, NEC (other commercial printing except quick printing) *2771 Greeting Cards (other printing of greeting cards) *2782 Blankbooks, Loose-leaf Binders and Devices (other printing of checkbooks) *3999 Manufacturing Industries, NEC (other printing of eyeglass frames for the trade)

32312	Support Activities for Printing			
323121	Tradebinding and Related Work	E	2789	Bookbinding and Related Work
323122	Prepress Services	R	2791	Typesetting
			2796	Platemaking and Related Services
324	Petroleum and Coal Products Manufacturing			
3241	Petroleum and Coal Products Manufacturing			
32411	Petroleum Refineries	E	2911	Petroleum Refining
32412	Asphalt Paving, Roofing and Saturated Materials Manufacturing			
324121	Asphalt Paving Mixture and Block Manufacturing	E	2951	Asphalt Paving Mixtures and Blocks
324122	Asphalt Shingle and Coating Materials Manufacturing	E	2952	Asphalt Felts and Coatings
32419	Other Petroleum and Coal Products Manufacturing			
324191	Petroleum Lubricating Oil and Grease Manufacturing	E	2992	Lubricating Oils and Greases
324199	All Other Petroleum and Coal Products Manufacturing	R	2999	Products of Petroleum and Coal, NEC
			*3312	Blast Furnaces and Steel Mills (coke ovens)
325	Chemical Manufacturing			
3251	Basic Chemical Manufacturing			
32511	Petrochemical Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (aromatics)
			*2869	Industrial Organic Chemicals, NEC (aliphatics)
32512	Industrial Gas Manufacturing	R	2813	Industrial Gases
			*2869	Industrial Organic Chemicals, NEC (fluorocarbon gases)
32513	Dye and Pigment Manufacturing			
325131	Inorganic Dye and Pigment Manufacturing	N	*2816	Inorganic Pigments (except bone and lamp black)
			*2819	Industrial Inorganic Chemicals, NEC (inorganic dyes)
325132	Organic Dye and Pigment Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (organic dyes and pigments)
32518	Other Basic Inorganic Chemical Manufacturing			
325181	Alkalies and Chlorine Manufacturing	E	2812	Alkalies and Chlorine
325182	Carbon Black Manufacturing	R	*2816	Inorganic pigments (bone and lamp black)
			2895	Carbon Black
325188	All Other Basic Inorganic Chemical Manufacturing	R	*2819	Industrial Inorganic Chemicals, NEC (except activated carbon and charcoal, alumina, and inorganic industrial dyes)
			*2869	Industrial Organic Chemicals, NEC (carbon bisulfide)
32519	Other Basic Organic Chemical Manufacturing			
325191	Gum and Wood Chemical Manufacturing	E	2861	Gum and Wood Chemicals
325192	Cyclic Crude and Intermediate Manufacturing	R	*2865	Cyclic Organic Crudes and Intermediates and Organic Dyes and Pigments (except aromatics and organic dyes and pigments)

325193	Ethyl Alcohol Manufacturing	N	*2869	Industrial Organic Chemicals (ethyl alcohol)
325199	All Other Basic Organic Chemical Manufacturing	R	*2869	Industrial Organic Chemicals, NEC (except aliphatics, carbon bisulfide, ethyl alcohol, and fluorocarbon gases)
			*2899	Chemical and Chemical Preparations, NEC (fatty acids)
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing			
32521	Resin and Synthetic Rubber Manufacturing			
325211	Plastics Material and Resin Manufacturing	E	2821	Plastics Materials, Synthetic and Resins, and Nonvulcanizable Elastomers
325212	Synthetic Rubber Manufacturing	E	2822	Synthetic Rubber
32522	Artificial and Synthetic Fibers and Filaments Manufacturing			
325221	Cellulosic Organic Fiber Manufacturing	E	2823	Cellulosic Manmade Fibers
325222	Noncellulosic Organic Fiber Manufacturing	E	2824	Manmade Organic Fibers, Except Cellulosic
3253	Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing			
32531	Fertilizer Manufacturing			
325311	Nitrogenous Fertilizer Manufacturing	E	2873	Nitrogenous Fertilizers
325312	Phosphatic Fertilizer Manufacturing	E	2874	Phosphatic Fertilizers
325314	Fertilizer (Mixing Only) Manufacturing	E	2875	Fertilizers, Mixing Only
32532	Pesticide and Other Agricultural Chemical Manufacturing	E	2879	Pesticides and Agricultural Chemicals, NEC
3254	Pharmaceutical and Medicine Manufacturing			
32541	Pharmaceutical and Medicine Manufacturing			
325411	Medicinal and Botanical Manufacturing	E	2833	Medicinal Chemicals and Botanical Products
325412	Pharmaceutical Preparation Manufacturing	R	2834	Pharmaceutical Preparations
			*2835	In-Vitro and In-Vivo Diagnostic Substances (except in-vitro diagnostic)
325413	In-Vitro Diagnostic Substance Manufacturing	N	*2835	In-Vitro and In-Vivo Diagnostic Substances (in-vitro diagnostic substances)
325414	Biological Product (except Diagnostic) Manufacturing	E	2836	Biological Products, Except Diagnostic Substance
3255	Paint, Coating, Adhesive, and Sealant Manufacturing			
32551	Paint and Coating Manufacturing	R	2851	Paints, Varnishes, Lacquers, Enamels and Allied Products
			*2899	Chemicals and Chemical Preparations, NEC (frit)
32552	Adhesive Manufacturing	E	2891	Adhesives and Sealants
3256	Soap, Cleaning Compound and Toilet Preparation Manufacturing			
32561	Soap and Cleaning Compound Manufacturing			
325611	Soap and Other Detergent Manufacturing	R	2841	Soaps and Other Detergents, Except Specialty Cleaners
			*2844	Toilet Preparations (toothpaste)

325612	Polish and Other Sanitation Good Manufacturing	E	2842	Specialty Cleaning, Polishing, and Sanitary Preparations
325613	Surface Active Agent Manufacturing	E	2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants
32562	Toilet Preparation Manufacturing	R	*2844	Perfumes, Cosmetics, and Other Toilet Preparations (except toothpaste)
3259	Other Chemical Product Manufacturing			
32591	Printing Ink Manufacturing	E	2893	Printing Ink
32592	Explosives Manufacturing	E	2892	Explosives
32599	All Other Chemical Product Manufacturing			
325991	Custom Compounding of Purchased Resin	E	3087	Custom Compounding of Purchased Plastics Resin
325992	Photographic Film, Paper, Plate and Chemical Manufacturing	N	*3861	Photographic Equipment and Supplies (photographic films, paper, plates and chemicals)
325998	All Other Miscellaneous Chemical Product Manufacturing	R	*2819	Industrial Inorganic Chemicals, NEC (activated carbon and charcoal)
			*2899	Chemicals and Chemical Preparations, NEC (except frit and table salt)
			*3952	Lead Pencils and Art Goods (drawing inks and india ink)
			*3999	Manufacturing Industries, NEC (matches)
326	Plastics and Rubber Products Manufacturing			
3261	Plastics Product Manufacturing			
32611	Unsupported Plastics Film, Sheet and Bag Manufacturing			
326111	Unsupported Plastics Bag Manufacturing	N	*2673	Plastics, Foil, and Coated Paper Bags (plastics bags)
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing	N	*2671	Packaging Paper and Plastics Film, Coated, and Laminated (plastics packaging film and sheet)
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing	E	3081	Unsupported Plastics Film and Sheets
32612	Plastics Pipe, Pipe Fitting, and Unsupported Profile Shape Manufacturing			
326121	Unsupported Plastics Profile Shape Manufacturing	R	3082	Unsupported Plastics Profile Shapes
			*3089	Plastics Product, NEC (plastics sausage casings)
326122	Plastics Pipe and Pipe Fitting Manufacturing	R	3084	Plastics Pipe
			*3089	Plastics Products, NEC (pipe fittings)
32613	Laminated Plastics Plate, Sheet and Shape Manufacturing	E	3083	Laminated Plastics Plate, Sheet and Profile Shapes
32614	Polystyrene Foam Product Manufacturing	N	*3086	Plastics Foam Products (polystyrene foam products)
32615	Urethane and Other Foam Product (except Polystyrene) Manufacturing	N	*3086	Plastics Foam Products (urethane foam products)
32616	Plastics Bottle Manufacturing	E	3085	Plastics Bottles
32619	Other Plastics Product Manufacturing			
326191	Plastics Plumbing Fixture Manufacturing	E	3088	Plastics Plumbing Fixtures

326192	Resilient Floor Covering Manufacturing	R	*3069	Fabricated Rubber Products, NEC (rubber resilient floor coverings)
			3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC
326199	All Other Plastics Product Manufacturing	R	*3089	Plastics Products, NEC (except plastics pipe fittings and plastics sausage casings)
			*3999	Manufacturing Industries, NEC (plastics products such as combs, hair curlers, etc.)
3262	Rubber Product Manufacturing			
32621	Tire Manufacturing			
326211	Tire Manufacturing (except Retreading)	E	3011	Tires and Inner Tubes
326212	Tire Retreading	N	*7534	Tire Retreading and Repair Shops (rebuilding)
32622	Rubber and Plastics Hoses and Belting Manufacturing	E	3052	Rubber and Plastics Hose and Belting
32629	Other Rubber Product Manufacturing			
326291	Rubber Product Manufacturing for Mechanical Use	E	3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods
326299	All Other Rubber Product Manufacturing	R	*3069	Fabricated Rubber Products, NEC (except rubberized fabric and rubber resilient floor covering)
327	Nonmetallic Mineral Product Manufacturing			
3271	Clay Product and Refractory Manufacturing			
32711	Pottery, Ceramics, and Plumbing Fixture Manufacturing			
327111	Vitreous China Plumbing Fixture and China and Earthenware Fittings and Bathroom Accessories Manufacturing	E	3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing	N	3262	Vitreous China Table and Kitchen Articles
			3263	Fine Earthenware (Whiteware) Table and Kitchen Articles
			3269	Pottery Products, NEC
327113	Porcelain Electrical Supply Manufacturing	E	3264	Porcelain Electrical Supplies
32712	Clay Building Material and Refractories Manufacturing			
327121	Brick and Structural Clay Tile Manufacturing	E	3251	Brick and Structural Clay Tile
327122	Ceramic Wall and Floor Tile Manufacturing	E	3253	Ceramic Wall and Floor Tile
327123	Other Structural Clay Product Manufacturing	E	3259	Structural Clay Products, NEC
327124	Clay Refractory Manufacturing	E	3255	Clay Refractories
327125	Nonclay Refractory Manufacturing	E	3297	Nonclay Refractories
3272	Glass and Glass Product Manufacturing			
32721	Glass and Glass Product Manufacturing			
327211	Flat Glass Manufacturing	E	3211	Flat Glass
327212	Other Pressed and Blown Glass and Glassware Manufacturing	E	3229	Pressed and Blown Glass and Glassware, NEC
327213	Glass Container Manufacturing	E	3221	Glass Containers

327215	Glass Product Manufacturing Made of Purchased Glass	E	3231	Glass Products Made of Purchased Glass
3273	Cement and Concrete Product Manufacturing			
32731	Cement Manufacturing	E	3241	Cement, Hydraulic
32732	Ready-Mix Concrete Manufacturing	E	3273	Ready-Mixed Concrete
32733	Concrete Pipe, Brick and Block Manufacturing			
327331	Concrete Block and Brick Manufacturing	E	3271	Concrete Block and Brick
327332	Concrete Pipe Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete pipe)
32739	Other Concrete Product Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete products, except dry mix concrete and pipe)
3274	Lime, Gypsum and Gypsum Product Manufacturing			
32741	Lime Manufacturing	E	3274	Lime
32742	Gypsum and Gypsum Product Manufacturing	R	3275	Gypsum Products
			*3299	Nonmetallic Mineral Products, NEC (moldings, ornamental and architectural plaster work)
3279	Other Nonmetallic Mineral Product Manufacturing			
32791	Abrasive Product Manufacturing	R	*3291	Abrasive Products (except steel wool with or without soap)
32799	All Other Nonmetallic Mineral Product Manufacturing			
327991	Cut Stone and Stone Product Manufacturing	E	3281	Cut Stone and Stone Products
327992	Ground or Treated Mineral and Earth Manufacturing	E	3295	Minerals and Earths, Ground or Otherwise Treated
327993	Mineral Wool Manufacturing	E	3296	Mineral Wool
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	R	*3272	Concrete Products, Except Block and Brick (dry mixture concrete)
			*3292	Asbestos Products (except brake pads and linings)
			*3299	Nonmetallic Mineral Products, NEC (except moldings, ornamental and architectural plaster work)
331	Primary Metal Manufacturing			
3311	Iron and Steel Mills and Ferroalloy Manufacturing			
33111	Iron and Steel Mills and Ferroalloy Manufacturing			
331111	Iron and Steel Mills	N	*3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills (except coke ovens not integrated with steel mills)
			*3399	Primary Metal Products, NEC (ferrous powder, paste, flakes, etc.)
331112	Electrometallurgical Ferroalloy Product Manufacturing	R	*3313	Electrometallurgical Products, Except Steel (ferroalloys)
3312	Steel Product Manufacturing from Purchased Steel			
33121	Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel	E	3317	Steel Pipe and Tubes
33122	Rolling and Drawing of Purchased Steel			
331221	Cold-Rolled Steel Shape Manufacturing	E	3316	Cold-Rolled Steel Sheet, Strip and Bars
331222	Steel Wire Drawing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (steel wire drawing)

3313	Alumina and Aluminum Production and Processing			
33131	Alumina and Aluminum Production and Processing			
331311	Alumina Refining	N	*2819	Industrial Inorganic Chemicals, NEC (alumina)
331312	Primary Aluminum Production	E	3334	Primary Production of Aluminum
331314	Secondary Smelting and Alloying of Aluminum	N	*3341	Secondary Smelting and Refining of Nonferrous Metals (aluminum)
			*3399	Primary Metal Products, NEC (aluminum powder, paste, flakes, etc.)
331315	Aluminum Sheet, Plate and Foil Manufacturing	E	3353	Aluminum Sheet, Plate, and Foil
331316	Aluminum Extruded Product Manufacturing	E	3354	Aluminum Extruded Products
331319	Other Aluminum Rolling and Drawing	R	3355	Aluminum Rolling and Drawing, NEC
			*3357	Drawing and Insulating of Nonferrous Wire (aluminum wire drawing)
3314	Nonferrous Metal (except Aluminum) Production and Processing			
33141	Nonferrous Metal (except Aluminum) Smelting and Refining			
331411	Primary Smelting and Refining of Copper	E	3331	Primary Smelting and Refining of Copper
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)	E	3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum
33142	Copper Rolling, Drawing, Extruding, and Alloying			
331421	Copper Rolling, Drawing and Extruding	E	3351	Rolling, Drawing, and Extruding of Copper
331422	Copper Wire (except Mechanical) Drawing	N	*3357	Drawing and Insulating of Nonferrous Wire (copper wire drawing)
331423	Secondary Smelting, Refining, and Alloying of Copper	R	*3341	Secondary Smelting and Refining of Nonferrous Metals (copper)
			*3399	Primary Metal Products, NEC (copper powders, flakes, paste, etc.)
33149	Nonferrous Metals (except Copper and Aluminum) Rolling, Drawing, Extruding and Alloying			
331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing and Extruding	R	3356	Rolling, Drawing and Extruding of Nonferrous Metals, Except Copper and Aluminum
			*3357	Drawing and Insulating of Nonferrous Wire (wire drawing except copper or aluminum)
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	N	*3313	Electrometallurgical Products, Except Steel (except copper and aluminum)
			*3341	Secondary Smelting and Reining of Nonferrous Metals (except copper and aluminum)
			*3399	Primary Metal Products, NEC (except copper and aluminum)
3315	Foundries			
33151	Ferrous Metal Foundries			
331511	Iron Foundries	R	3321	Gray and Ductile Iron Foundries

			3322	Malleable Iron Foundries
331512	Steel Investment Foundries	E	3324	Steel Investment Foundries
331513	Steel Foundries, (except Investment)	E	3325	Steel Foundries, NEC
33152	Nonferrous Metal Foundries			
331521	Aluminum Die-Castings	E	3363	Aluminum Die-Castings
331522	Nonferrous (except Aluminum) Die-Castings	E	3364	Nonferrous Die-Castings, Except Aluminum
331524	Aluminum Foundries	E	3365	Aluminum Foundries
331525	Copper Foundries	E	3366	Copper Foundries
331528	Other Nonferrous Foundries	E	3369	Nonferrous Foundries, Except Aluminum and Copper
332	Fabricated Metal Product Manufacturing			
3321	Forging and Stamping			
33211	Forging and Stamping			
332111	Iron and Steel Forging	E	3462	Iron and Steel Forgings
332112	Nonferrous Forging	E	3463	Nonferrous Forgings
332114	Custom Roll Forming	N	*3449	Miscellaneous Structural Metal Work (custom roll forming)
332115	Crown and Closure Manufacturing	E	3466	Crowns and Closures
332116	Metal Stamping	N	*3469	Metal Stampings, NEC (except kitchen utensils, pots and pans for cooking and coins)
332117	Powder Metallurgy Part Manufacturing	N	*3499	Fabricated Metal Products, NEC (powder metallurgy)
3322	Cutlery and Hand Tool Manufacturing			
33221	Cutlery and Hand Tool Manufacturing			
332211	Cutlery and Flatware (except Precious) Manufacturing	N	3421	Cutlery
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (cutlery and flatware except precious)
332212	Hand and Edge Tool Manufacturing	R	3423	Hand and Edge Tools, Except Machine Tools and Handsaws
			*3523	Farm Machinery and Equipment (hand hair clippers for animals)
			*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (nonpowered lawnmowers)
			*3545	Cutting Tools, Machine Tools Accessories, and Machinist Precision Measuring Devices (precision measuring devices)
			*3799	Transportation Equipment, NEC (wheelbarrows)
			*3999	Manufacturing Industries, NEC (tape measures)
332213	Saw Blade and Handsaw Manufacturing	E	3425	Saw Blades and Handsaws
332214	Kitchen Utensil, Pot and Pan Manufacturing	N	*3469	Metal Stampings, NEC (kitchen utensils, pots, and pans for cooking)
3323	Architectural and Structural Metals Manufacturing			
33231	Plate Work and Fabricated Structural Product Manufacturing			

332311	Prefabricated Metal Building and Component Manufacturing	E	3448	Prefabricated Metal Buildings and Components
332312	Fabricated Structural Metal Manufacturing	R	3441	Fabricated Structural Metal
			*3449	Miscellaneous Structural Metal Work (fabricated bar joists and concrete reinforcing bars)
332313	Plate Work Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (fabricated plate work and metal weldments)
33232	Ornamental and Architectural Metal Products Manufacturing			
332321	Metal Window and Door Manufacturing	R	3442	Metal Doors, Sash, Frames, Molding and Trim
			*3449	Miscellaneous Structural Metal Work (curtain wall)
332322	Sheet Metal Work Manufacturing	R	*3444	Sheet Metal Work (ducts, flumes, flooring, siding, dampers, etc.)
332323	Ornamental and Architectural Metal Work Manufacturing	R	3446	Architectural and Ornamental Metal Work
			*3449	Miscellaneous Structural Metal Work (metal plaster bases)
			*3523	Farm Machinery and Equipment (corrals, stalls, and holding gates)
3324	Boiler, Tank, and Shipping Container Manufacturing			
33241	Power Boiler and Heat Exchanger Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (power boilers and heat exchangers)
33242	Metal Tank (Heavy Gauge) Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (heavy gauge tanks)
33243	Metal Can, Box, and Other Metal Container (Light Gauge) Manufacturing			
332431	Metal Can Manufacturing	E	3411	Metal Cans
332439	Other Metal Container Manufacturing	R	3412	Metal Shipping Barrels, Drums, Kegs, and Pails
			*3429	Hardware, NEC (vacuum and insulated bottles, jugs, and chests)
			*3444	Sheet Metal Work (metal bins and vats)
			*3499	Fabricated Metal Products, NEC (metal boxes)
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (metal air cargo containers)
3325	Hardware Manufacturing			
33251	Hardware Manufacturing	R	*3429	Hardware, NEC (hardware, except hose nozzles, and vacuum and insulated bottles, jugs and chests)
			*3499	Fabricated Metal Products, NEC (safe and vault locks)
3326	Spring and Wire Product Manufacturing			
33261	Spring and Wire Product Manufacturing			
332611	Steel Spring (except Wire) Manufacturing	E	3493	Steel Springs, Except Wire
332612	Wire Spring Manufacturing	R	*3495	Wire Springs (except watch and clock springs)
332618	Other Fabricated Wire Product Manufacturing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (nails, spikes, paper clips and wire not made in wiredrawing plants)
			*3399	Primary Metal Products, NEC (nonferrous nails, brads, staples, etc.)

3327	Machine Shops, Turned Product, and Screw, Nut and Bolt Manufacturing		3496	Miscellaneous Fabricated Wire Products
33271	Machine Shops	N	*3599	Industrial and Commercial Machinery and Equipment, NEC (machine shops)
33272	Turned Product and Screw, Nut and Bolt Manufacturing			
332721	Precision Turned Product Manufacturing	E	3451	Screw Machine Products
332722	Bolt, Nut, Screw, Rivet and Washer Manufacturing	E	3452	Bolts, Nuts, Screws, Rivets, and Washers
3328	Coating, Engraving, Heat Treating and Allied Activities			
33281	Coating, Engraving, Heat Treating, and Allied Activities			
332811	Metal Heat Treating	E	3398	Metal Heat Treating
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers	R	*3479	Coating, Engraving, and Allied Services, NEC (except jewelry, silverware, and flatware engraving and etching)
332813	Electroplating, Plating, Polishing, Anodizing and Coloring	R	*3399	Primary Metal Products, NEC (laminating steel)
			3471	Electroplating, Plating, Polishing, Anodizing, and Coloring
3329	Other Fabricated Metal Product Manufacturing			
33291	Metal Valve Manufacturing			
332911	Industrial Valve Manufacturing	E	3491	Industrial Valves
332912	Fluid Power Valve and Hose Fitting Manufacturing	R	3492	Fluid Power Valves and Hose Fittings
			*3728	Aircraft Parts and Auxiliary Equipment, NEC (fluid power aircraft subassemblies)
332913	Plumbing Fixture Fitting and Trim Manufacturing	R	*3432	Plumbing Fixture Fittings and Trim (except shower rods)
332919	Other Metal Valve and Pipe Fitting Manufacturing	R	*3429	Hardware, NEC (hose nozzles)
			*3494	Valves and Pipe Fittings, NEC (except metal pipe hangers and supports)
			*3499	Fabricated Metal Products, NEC (metal aerosol valves)
33299	All Other Fabricated Metal Product Manufacturing			
332991	Ball and Roller Bearing Manufacturing	E	3562	Ball and Roller Bearings
332992	Small Arms Ammunition Manufacturing	E	3482	Small Arms Ammunition
332993	Ammunition (except Small Arms) Manufacturing	E	3483	Ammunition, Except for Small Arms
332994	Small Arms Manufacturing	E	3484	Small Arms
332995	Other Ordnance and Accessories Manufacturing	E	3489	Ordnance and Accessories, NEC
332996	Fabricated Pipe and Pipe Fitting Manufacturing	E	3498	Fabricated Pipe and Pipe Fittings
332997	Industrial Pattern Manufacturing	E	3543	Industrial Patterns
332998	Enameled Iron and Metal Sanitary Ware Manufacturing	E	3431	Enameled Iron and Metal Sanitary Ware
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	R	*3291	Abrasive Products (steel wool with or without soap)
			*3432	Plumbing Fixture Fittings and Trim (metal shower rods)
			*3494	Valves and Pipe Fittings, NEC (metal pipe hangers and supports)

			*3497 Metal Foil and Leaf (foil and foil containers)
			*3499 Fabricated Metal Products, NEC (other metal products)
			*3537 Industrial Trucks, Tractors, Trailers, and Stackers (metal pallets)
			*3599 Industrial and Commercial Machinery and Equipment, NEC (flexible metal hose)
			*3999 Manufacturing Industries, NEC (other miscellaneous metal products, such as combs, hair curlers, etc.)
333	Machinery Manufacturing		
3331	Agriculture, Construction, and Mining Machinery Manufacturing		
33311	Agricultural Implement Manufacturing		
333111	Farm Machinery and Equipment Manufacturing	R	*3523 Farm Machinery and Equipment (except corrals, stalls, holding gates, hand clippers for animals, and farm conveyors/elevators)
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing	R	*3524 Lawn and Garden Tractors and Home Lawn and Garden Equipment (except nonpowered lawnmowers)
33312	Construction Machinery Manufacturing	R	*3531 Construction Machinery and Equipment (except railway track maintenance equipment; winches, aerial work platforms; and automotive wreckers hoists)
33313	Mining and Oil and Gas Field Machinery Manufacturing		
333131	Mining Machinery and Equipment Manufacturing	E	3532 Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment
333132	Oil and Gas Field Machinery and Equipment Manufacturing	E	3533 Oil and Gas Field Machinery and Equipment
3332	Industrial Machinery Manufacturing		
33321	Sawmill and Woodworking Machinery Manufacturing	E	3553 Woodworking Machinery
33322	Rubber and Plastics Industry Machinery Manufacturing	N	*3559 Special Industry Machinery, NEC (rubber and plastics manufacturing machinery)
33329	Other Industrial Machinery Manufacturing		
333291	Paper Industry Machinery Manufacturing	E	3554 Paper Industries Machinery
333292	Textile Machinery Manufacturing	E	3552 Textile Machinery
333293	Printing Machinery and Equipment Manufacturing	E	3555 Printing Trades Machinery and Equipment
333294	Food Product Machinery Manufacturing	E	3556 Food Products Machinery
333295	Semiconductor Machinery Manufacturing	N	*3559 Special Industry Machinery, NEC (semiconductor machinery manufacturing)
333298	All Other Industrial Machinery Manufacturing	R	*3559 Special Industry Machinery, NEC (except rubber and plastics manufacturing machinery, semiconductor manufacturing machinery, and automotive maintenance equipment)
			*3639 Household Appliances, NEC (household sewing machines)
3333	Commercial and Service Industry Machinery Manufacturing		
33331	Commercial and Service Industry Machinery Manufacturing		

333311	Automatic Vending Machine Manufacturing	E	3581	Automatic Vending Machines
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing	E	3582	Commercial Laundry, Drycleaning and Pressing Machines
333313	Office Machinery Manufacturing	N	*3578	Calculating and Accounting Machinery, Except Electronic Computers (except point of sales terminals and funds transfer devices)
			*3579	Office Machines, NEC (except timeclocks, time stamps, pencil sharpeners, stapling machines, etc.)
333314	Optical Instrument and Lens Manufacturing	E	3827	Optical Instruments and Lenses
333315	Photographic and Photocopying Equipment Manufacturing	N	*3861	Photographic Equipment and Supplies (except photographic film, paper, plates and chemicals)
333319	Other Commercial and Service Industry Machinery Manufacturing	R	*3559	Special Industry Machinery, NEC (automotive maintenance equipment)
			3589	Service Industry Machinery, NEC
			*3599	Industrial and Commercial Machinery and Equipment, NEC (carnival amusement park equipment)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (electronic teaching machines and flight simulators)
3334	Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing			
33341	Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing			
333411	Air Purification Equipment Manufacturing	N	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (air purification equipment)
333412	Industrial and Commercial Fan and Blower Manufacturing	R	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (fans and blowers)
333414	Heating Equipment (except Electric and Warm Air Furnaces) Manufacturing	R	3433	Heating Equipment, Except Electric and Warm Air Furnaces
			*3634	Electric Housewares and Fans (wall and baseboard heating units for permanent installation)
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	R	*3443	Fabricated Plate Work (Boiler Shops) (metal cooling towers)
			*3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (except motor vehicle air-conditioning)
3335	Metalworking Machinery Manufacturing			
33351	Metalworking Machinery Manufacturing			
333511	Industrial Mold Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (industrial molds)
333512	Machine Tool (Metal Cutting Types) Manufacturing	E	3541	Machine Tools, Metal Cutting Type

333513	Machine Tool (Metal Forming Types) Manufacturing	E	3542	Machine Tools, Metal Forming Type
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (except molds)
333515	Cutting Tool and Machine Tool Accessory Manufacturing	R	*3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (except precision measuring devices)
333516	Rolling Mill Machinery and Equipment Manufacturing	E	3547	Rolling Mill Machinery and Equipment
333518	Other Metalworking Machinery Manufacturing	E	3549	Metalworking Machinery, NEC
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing			
33361	Engine, Turbine and Power Transmission Equipment Manufacturing			
333611	Turbine and Turbine Generator Set Unit Manufacturing	E	3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing	E	3566	Speed Changers, Industrial High-Speed Drives, and Gears
333613	Mechanical Power Transmission Equipment Manufacturing	E	3568	Mechanical Power Transmission Equipment, NEC
333618	Other Engine Equipment Manufacturing	R	*3519	Internal Combustion Engines, NEC (except stationary engine radiators)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (outboard electric motors)
3339	Other General Purpose Machinery Manufacturing			
33391	Pump and Compressor Manufacturing			
333911	Pump and Pumping Equipment Manufacturing	R	3561	Pumps and Pumping Equipment
			*3743	Railroad Equipment (locomotive fuel lubricating or cooling medium pumps)
333912	Air and Gas Compressor Manufacturing	E	3563	Air and Gas Compressors
333913	Measuring and Dispensing Pump Manufacturing	E	3586	Measuring and Dispensing Pumps
33392	Material Handling Equipment Manufacturing			
333921	Elevator and Moving Stairway Manufacturing	E	3534	Elevators and Moving Stairways
333922	Conveyor and Conveying Equipment Manufacturing	R	*3523	Farm Machinery and Equipment (farm conveyors and elevators)
			3535	Conveyors and Conveying Equipment
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing	R	3536	Overhead Traveling Cranes, Hoists, and Monorail Systems
			*3531	Construction Machinery and Equipment (winches, aerial work platforms, and automobile wrecker hoists)
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing	R	*3537	Industrial Trucks, Tractors, Trailers, and Stackers (except metal pallets and metal air cargo containers)
33399	All Other General Purpose Machinery Manufacturing			
333991	Power-Driven Hand Tool Manufacturing	E	3546	Power-Driven Handtools

333992	Welding and Soldering Equipment Manufacturing	R	*3548	Electric and Gas Welding and Soldering Equipment (except transformers for arc-welding)
333993	Packaging Machinery Manufacturing	E	3565	Packaging Machinery
333994	Industrial Process Furnace and Oven Manufacturing	E	3567	Industrial Process Furnaces and Ovens
333995	Fluid Power Cylinder and Actuator Manufacturing	E	3593	Fluid Power Cylinders and Actuators
333996	Fluid Power Pump and Motor Manufacturing	E	3594	Fluid Power Pumps and Motors
333997	Scale and Balance (except Laboratory) Manufacturing	E	3596	Scales and Balances, Except Laboratory
333999	All Other General Purpose Machinery Manufacturing	R	*3599	Industrial and Commercial Machinery and Equipment, NEC (other industrial and commercial machinery and equipment)
			3569	General Industrial Machinery and Equipment, NEC
334	Computer and Electronic Product Manufacturing			
3341	Computer and Peripheral Equipment Manufacturing			
33411	Computer and Peripheral Equipment Manufacturing			
334111	Electronic Computer Manufacturing	E	3571	Electronic Computers
334112	Computer Storage Device Manufacturing	E	3572	Computer Storage Devices
334113	Computer Terminal Manufacturing	E	3575	Computer Terminals
334119	Other Computer Peripheral Equipment Manufacturing	R	3577	Computer Peripheral Equipment, NEC
			*3578	Calculating and Accounting Machines, Except Electronic Computers (point of sale terminals and fund transfer devices)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (bar code scanners)
3342	Communications Equipment Manufacturing			
33421	Telephone Apparatus Manufacturing	R	*3661	Telephone and Telegraph Apparatus (except telephone transformers and consumer external modems)
33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	R	3663	Radio and Television Broadcasting and Communication Equipment
			*3679	Electronic Components, NEC (communication equipment)
33429	Other Communications Equipment Manufacturing	E	3669	Communications Equipment, NEC
3343	Audio and Video Equipment Manufacturing			
33431	Audio and Video Equipment Manufacturing	E	3651	Household Audio and Video Equipment
3344	Semiconductor and Other Electronic Component Manufacturing			
33441	Semiconductor and Other Electronic Component Manufacturing			
334411	Electron Tube Manufacturing	E	3671	Electron Tubes
334412	Printed Circuit Board Manufacturing	E	3672	Printed Circuit Boards
334413	Semiconductor and Related Device Manufacturing	E	3674	Semiconductors and Related Devices
334414	Electronic Capacitor Manufacturing	E	3675	Electronic Capacitors
334415	Electronic Resistor Manufacturing	E	3676	Electronic Resistors

334416	Electronic Coil, Transformer, and Other Inductor Manufacturing	R	*3661	Telephone and Telegraph Apparatus (telephone transformers)
			3677	Electronic Coils, Transformers, and Other Inductors
			*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (portable instrument transformers)
334417	Electronic Connector Manufacturing	E	3678	Electronic Connectors
334418	Printed Circuit/Electronics Assembly Manufacturing	N	*3679	Electronic Components, NEC (printed circuit/electronic assembly manufacturing)
			*3661	Telephone and Telegraph Apparatus (consumer external modems)
334419	Other Electronic Component Manufacturing	R	*3679	Electronic Components, NEC (other electronic components)
3345	Navigational, Measuring, Medical, and Control Instruments Manufacturing			
33451	Navigational, Measuring, Medical, and Control Instruments Manufacturing			
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	R	*3842	Orthopedic, Prosthetic and Surgical Appliances and Supplies (electronic hearing aids)
			*3845	Electromedical and Electrotherapeutic Apparatus (other electromedical and electrotherapeutic apparatus)
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	E	3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments
334512	Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use	E	3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables	E	3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products
334514	Totalizing Fluid Meter and Counting Device Manufacturing	E	3824	Totalizing Fluid Meters and Counting Devices
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals	R	*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (except portable instrument transformers)
334516	Analytical Laboratory Instrument Manufacturing	E	3826	Laboratory Analytical Instruments
334517	Irradiation Apparatus Manufacturing	R	3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus
			*3845	Electromedical and Electrotherapeutic Apparatus (CT and CAT Scanners)
334518	Watch, Clock, and Part Manufacturing	R	*3495	Wire Springs (clock and watch springs)
			*3579	Office Machines, NEC (time clocks and other time recording devices)
			3873	Watches, Clocks, Clockwork Operated Devices, and Parts
334519	Other Measuring and Controlling Device Manufacturing	R	*3829	Measuring and Controlling Devices, NEC (except medical thermometers)

3346	Manufacturing and Reproducing Magnetic and Optical Media			
33461	Manufacturing and Reproducing Magnetic and Optical Media			
334611	Software Reproducing	N	*7372	Prepackaged Software (reproduction of software)
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing	N	*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (reproduction of all other media except video)
			*7819	Services Allied to Motion Picture Production (reproduction of video)
334613	Magnetic and Optical Recording Media Manufacturing	E	3695	Magnetic and Optical Recording Media
335	Electrical Equipment, Appliance and Component Manufacturing			
3351	Electric Lighting Equipment Manufacturing			
33511	Electric Lamp Bulb and Part Manufacturing	E	3641	Electric Lamp Bulbs and Tubes
33512	Lighting Fixture Manufacturing			
335121	Residential Electric Lighting Fixture Manufacturing	E	3645	Residential Electric Lighting Fixtures
			*3999	Manufacturing Industries, NEC (lamp shades of paper or textile)
335122	Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing	E	3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures
335129	Other Lighting Equipment Manufacturing	R	3648	Lighting Equipment, NEC
			*3699	Electrical Machinery, Equipment, and Supplies, NEC (Christmas tree lighting sets and electric insect lamps)
3352	Household Appliance Manufacturing			
33521	Small Electrical Appliance Manufacturing			
335211	Electric Housewares and Household Fan Manufacturing	R	*3634	Electric Housewares and Fans (except wall and baseboard heating units for permanent installation)
335212	Household Vacuum Cleaner Manufacturing	R	3635	Household Vacuum Cleaners
			*3639	Household Appliances, NEC (floor waxing and floor polishing machines)
33522	Major Appliance Manufacturing			
335221	Household Cooking Appliance Manufacturing	E	3631	Household Cooking Equipment
335222	Household Refrigerator and Home Freezer Manufacturing	E	3632	Household Refrigerators and Home and Farm Freezers
335224	Household Laundry Equipment Manufacturing	E	3633	Household Laundry Equipment
335228	Other Major Household Appliance Manufacturing	R	*3639	Household Appliances, NEC (except floor waxing and floor polishing machines, and household sewing machines)
3353	Electrical Equipment Manufacturing			
33531	Electrical Equipment Manufacturing			
335311	Power, Distribution and Specialty Transformer Manufacturing	R	*3548	Electric and Gas Welding and Soldering Equipment (transformers for arc-welders)

335312	Motor and Generator Manufacturing	R	3612	Power, Distribution, and Speciality Transformers
			3621	Motors and Generators
			*7694	Armature Rewinding Shops (remanufacturing)
335313	Switchgear and Switchboard Apparatus Manufacturing	E	3613	Switchgear and Switchboard Apparatus
335314	Relay and Industrial Control Manufacturing	E	3625	Relays and Industrial Controls
3359	Other Electrical Equipment and Component Manufacturing			
33591	Battery Manufacturing			
335911	Storage Battery Manufacturing	E	3691	Storage Batteries
335912	Dry and Wet Primary Battery Manufacturing	E	3692	Primary Batteries, Dry and Wet
33592	Communication and Energy Wire and Cable Manufacturing			
335921	Fiber Optic Cable Manufacturing	N	*3357	Drawing and Insulating of Nonferrous Wire (fiber optic cable-insulating only)
335929	Other Communication and Energy Wire Manufacturing	N	*3357	Drawing and Insulating of Nonferrous Wire (communication and energy wire, except fiber optic-insulating only)
33593	Wiring Device Manufacturing			
335931	Current-Carrying Wiring Device Manufacturing	E	3643	Current-Carrying Wiring Devices
335932	Noncurrent-Carrying Wiring Device Manufacturing	E	3644	Noncurrent-Carrying Wiring Devices
33599	All Other Electrical Equipment and Component Manufacturing			
335991	Carbon and Graphite Product Manufacturing	E	3624	Carbon and Graphite Products
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing	R	3629	Electrical Industrial Apparatus, NEC
			*3699	Electrical Machinery, Equipment, and Supplies, NEC (other electrical industrial apparatus)
336	Transportation Equipment Manufacturing			
3361	Motor Vehicle Manufacturing			
33611	Automobile and Light Duty Motor Vehicle Manufacturing			
336111	Automobile Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (automobiles)
336112	Light Truck and Utility Vehicle Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (light trucks and utility vehicles)
33612	Heavy Duty Truck Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (heavy duty trucks)
3362	Motor Vehicle Body and Trailer Manufacturing			
33621	Motor Vehicle Body and Trailer Manufacturing			
336211	Motor Vehicle Body Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (kit car and other passenger car bodies)
			3713	Truck and Bus Bodies
			*3714	Motor Vehicle Parts and Accessories (dumptruck lifting mechanisms and fifth wheels)

336212	Truck Trailer Manufacturing	E	3715	Truck Trailers
336213	Motor Home Manufacturing	E	3716	Motor Homes
336214	Travel Trailer and Camper Manufacturing	R	3792	Travel Trailers and Campers
			*3799	Transportation Equipment, NEC (automobile, boat, utility and light truck trailers)
3363	Motor Vehicle Parts Manufacturing			
33631	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing			
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing	E	3592	Carburetors, Pistons, Piston Rings, and Valves
336312	Gasoline Engine and Engine Parts Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (gasoline engines and engine parts including rebuilt)
33632	Motor Vehicle Electrical and Electronic Equipment Manufacturing			
336321	Vehicular Lighting Equipment Manufacturing	E	3647	Vehicular Lighting Equipment
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing	R	*3679	Electronic Components, NEC (electronic control modules for motor vehicles)
			3694	Electrical Equipment for Internal Combustion Engines
			*3714	Motor Vehicle Parts and Accessories (wiring harness sets, other than ignition; block heaters and battery heaters; instrument board assemblies; permanent defrosters; windshield washer-wiper mechanisms; cruise control mechanisms; and other electrical equipment for internal combustion engines)
33633	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (steering and suspension parts)
33634	Motor Vehicle Brake System Manufacturing	N	*3292	Asbestos Products (asbestos brake linings and pads)
			*3714	Motor Vehicle Parts and Accessories (brake and brake systems, including assemblies)
33635	Motor Vehicle Transmission and Power Train Parts Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (transmissions and power train parts, including rebuilding)
33636	Motor Vehicle Fabric Accessories and Seat Manufacturing	N	*2396	Automotive Trimmings, Apparel Findings, and Related Products (textile motor vehicle trimming)
			*2399	Fabricated Textile Products, NEC (seat belts, and seat and tire covers)
			*2531	Public Building and Related Furniture (seats for motor vehicles)
33637	Motor Vehicle Metal Stamping	E	3465	Automotive Stampings
33639	Other Motor Vehicle Parts Manufacturing			
336391	Motor Vehicle Air-Conditioning Manufacturing	N	*3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (motor vehicle air-conditioning)
336399	All Other Motor Vehicle Parts Manufacturing	R	*3519	Internal Combustion Engines, NEC (stationary engine radiators)

			*3599	Industrial and Commercial Machinery and Equipment, NEC (gasoline, oil and intake filters for internal combustion engines, except for motor vehicles)
			*3714	Motor Vehicle Parts and Accessories (except truck and bus bodies, trailers, engine and engine parts, motor vehicle electrical and electronic equipment, motor vehicle steering and suspension components, motor vehicle brake systems, and motor vehicle transmission and power train parts)
3364	Aerospace Product and Parts Manufacturing			
33641	Aerospace Product and Parts Manufacturing			
336411	Aircraft Manufacturing	E	3721	Aircraft
336412	Aircraft Engine and Engine Parts Manufacturing	E	3724	Aircraft Engines and Engine Parts
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing	R	*3728	Aircraft Parts and Auxiliary Equipment, NEC (except fluid power aircraft subassemblies)
336414	Guided Missile and Space Vehicle Manufacturing	E	3761	Guided Missiles and Space Vehicles
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing	E	3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing	E	3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment
3365	Railroad Rolling Stock Manufacturing			
33651	Railroad Rolling Stock Manufacturing	R	*3531	Construction Machinery and Equipment (railway track maintenance equipment)
			*3743	Railroad Equipment (except locomotive fuel lubricating or cooling medium pumps)
3366	Ship and Boat Building			
33661	Ship and Boat Building			
336611	Ship Building and Repairing	E	3731	Ship Building and Repairing
336612	Boat Building	R	*3732	Boat Building and Repairing (boat building)
3369	Other Transportation Equipment Manufacturing			
33699	Other Transportation Equipment Manufacturing			
336991	Motorcycle, Bicycle and Parts Manufacturing	R	*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (metal tricycles)
			3751	Motorcycles, Bicycles and Parts
336992	Military Armored Vehicle, Tank and Tank Component Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (military armored vehicles)
			3795	Tanks and Tank Components
336999	All Other Transportation Equipment Manufacturing	R	*3799	Transportation Equipment, NEC (except automobile, boat, utility light truck trailers, and wheelbarrows)
337	Furniture and Related Product Manufacturing			

3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing			
33711	Wood Kitchen Cabinet and Counter Top Manufacturing	R	2434	Wood Kitchen Cabinets
			*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (counter tops)
			*5712	Furniture Stores (custom wood cabinets)
33712	Household and Institutional Furniture Manufacturing			
337121	Upholstered Household Furniture Manufacturing	R	2512	Wood Household Furniture, Upholstered
			*2515	Mattress, Foundations, and Convertible Beds (convertible sofas)
			*5712	Furniture (custom made upholstered household furniture except cabinets)
337122	Nonupholstered Wood Household Furniture Manufacturing	E	2511	Wood Household Furniture, Except Upholstered
			*5712	Furniture Stores (custom made wood household furniture except cabinets)
337124	Metal Household Furniture Manufacturing	E	2514	Metal Household Furniture
337125	Household Furniture (except Wood and Metal) Manufacturing	E	2519	Household Furniture, NEC
337127	Institutional Furniture Manufacturing	R	*2531	Public Building and Related Furniture (furniture made for public buildings)
			*2599	Furniture and Fixtures, NEC (except hospital beds)
			*3952	Lead Pencils, Crayons, and Artist's Materials (drafting tables and boards)
			*3999	Manufacturing Industries, NEC (beauty and barber chairs)
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing	E	2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets
3372	Office Furniture (including Fixtures) Manufacturing			
33721	Office Furniture (including Fixtures) Manufacturing			
337211	Wood Office Furniture Manufacturing	E	2521	Wood Office Furniture
337212	Custom Architectural Woodwork and Millwork Manufacturing	N	*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (architectural woodwork, millwork, and fixtures)
337214	Nonwood Office Furniture Manufacturing	E	2522	Office Furniture, Except Wood
337215	Showcase, Partition, Shelving, and Locker Manufacturing	N	2542	Office and Store Fixtures, Partitions, Shelving and Lockers, Except Wood
			*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (except counter tops, custom architectural woodwork, millwork and fixtures)
			*2426	Hardwood Dimension and Flooring Mills (wood furniture frames)
			*3499	Fabricated Metal Products, NEC (metal furniture frames)
3379	Other Furniture Related Product Manufacturing			

33791	Mattress Manufacturing	R	*2515	Mattresses, Foundations and Convertible Beds (mattresses and foundations)
33792	Blind and Shade Manufacturing	E	2591	Drapery Hardware and Window Blinds and Shades
339	Miscellaneous Manufacturing			
3391	Medical Equipment and Supplies Manufacturing			
33911	Medical Equipment and Supplies Manufacturing			
339111	Laboratory Apparatus and Furniture Manufacturing		*3829	Measuring and Controlling Devices, NEC (medical thermometers)
339112	Surgical and Medical Instrument Manufacturing	R	3841	Surgical and Medical Instruments and Apparatus
			*3829	Measuring and Controlling Devices, NEC (medical thermometers)
339113	Surgical Appliance and Supplies Manufacturing	R	*2599	Furniture and Fixtures, NEC (hospital beds)
			*3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies (except electronic hearing aids)
339114	Dental Equipment and Supplies Manufacturing	E	3843	Dental Equipment and Supplies
339115	Ophthalmic Goods Manufacturing	R	3851	Opthalmic Goods
			*5995	Optical Goods Stores (optical laboratories grinding of lenses to prescription)
339116	Dental Laboratories	E	8072	Dental Laboratories
3399	Other Miscellaneous Manufacturing			
33991	Jewelry and Silverware Manufacturing			
339911	Jewelry (except Costume) Manufacturing	R	*3469	Metal Stamping, NEC (stamping coins)
			*3479	Coating, Engraving, and Allied Services, NEC (jewelry engraving and etching, including precious metal)
			3911	Jewelry, Precious Metal
339912	Silverware and Plated Ware Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (silver and plated ware engraving and etching)
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (except nonprecious metal cutlery and flatware)
339913	Jewelers' Material and Lapidary Work Manufacturing	E	3915	Jewelers' Findings and Materials, and Lapidary Work
339914	Costume Jewelry and Novelty Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (costume jewelry engraving and etching)
			*3499	Fabricated Metal Products, NEC (trophies of nonprecious metals)
			3961	Costume Jewelry and Costume Novelties, Except Precious Metal
33992	Sporting and Athletic Goods Manufacturing	E	3949	Sporting and Athletic Goods, NEC
33993	Doll, Toy, and Game Manufacturing			
339931	Doll and Stuffed Toy Manufacturing	E	3942	Dolls and Stuffed Toys
339932	Game, Toy, and Children's Vehicle Manufacturing	R	*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (except metal tricycles)
33994	Office Supplies (except Paper) Manufacturing			
339941	Pen and Mechanical Pencil Manufacturing	E	3951	Pens, Mechanical Pencils, and Parts
339942	Lead Pencil and Art Good Manufacturing	R	*2531	Public Buildings and Related Furniture (blackboards)

			*3579	Office Machines, NEC (pencil sharpeners, staplers and other office equipment)
			*3952	Lead Pencils, Crayons, and Artists' Materials (except drawing and india ink, and drafting tables and boards)
339943	Marking Device Manufacturing	E	3953	Marking Devices
339944	Carbon Paper and Inked Ribbon Manufacturing	E	3955	Carbon Paper and Inked Ribbons
33995	Sign Manufacturing	E	3993	Signs and Advertising Specialties
33999	All Other Miscellaneous Manufacturing			
339991	Gasket, Packing, and Sealing Device Manufacturing	E	3053	Gaskets, Packing, and Sealing Devices
339992	Musical Instrument Manufacturing	E	3931	Musical Instruments
339993	Fastener, Button, Needle and Pin Manufacturing	R	3965	Fasteners, Buttons, Needles, and Pins
			*3131	Boat and Shoe Cut Stock and Findings (metal buckles)
339994	Broom, Brush and Mop Manufacturing	R	3991	Brooms and Brushes
			*2392	Housefurnishings, Except Curtains and Draperies (mops, floor and dust)
339995	Burial Casket Manufacturing	E	3995	Burial Caskets
339999	All Other Miscellaneous Manufacturing	R	*2499	Wood Products, NEC (mirror and picture frames)
			*3999	Manufacturing Industries, NEC (other miscellaneous products not specially provided for previously)
42	Wholesale Trade			
421	Wholesale Trade, Durable Goods			
4211	Motor Vehicle and Motor Vehicle Part and Supplies Wholesalers			
42111	Automobile and Other Motor Vehicle Wholesalers	E	5012	Automobiles and Other Motor Vehicles
42112	Motor Vehicle Supplies and New Part Wholesalers	R	*5013	Motor Vehicle Supplies and New Parts (except parts sold via retail methods)
42113	Tire and Tube Wholesalers	R	*5014	Tires and Tubes (except tires sold via retail method)
42114	Motor Vehicle Part (Used) Wholesalers	E	5015	Motor Vehicle Parts, Used
4212	Furniture and Home Furnishing Wholesalers			
42121	Furniture Wholesalers	R	*5021	Furniture (except furniture sold via retail method)
42122	Home Furnishing Wholesalers	R	*5023	Homefurnishings (except homefurnishings sold via retail method)
4213	Lumber and Other Construction Materials Wholesalers			
42131	Lumber, Plywood, Millwork and Wood Panel Wholesalers	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (except construction materials sold via retail method)
			*5211	Lumber and Other Building Materials Dealers - Retail (construction materials sold by establishments "known as retail in the trade" selling via wholesale method)
42132	Brick, Stone and Related Construction Material Wholesalers	R	*5032	Brick, Stone, and Related Construction Materials (except construction materials sold via retail method)
42133	Roofing, Siding and Insulation Material Wholesalers	E	5033	Roofing, Siding, and Insulation Materials
42139	Other Construction Material Wholesalers	R	*5039	Construction Materials, NEC (sold via wholesale method)

4214	Professional and Commercial Equipment and Supplies Wholesalers			
42141	Photographic Equipment and Supplies Wholesalers	E	5043	Photographic Equipment and Supplies
42142	Office Equipment Wholesalers	E	5044	Office Equipment
42143	Computer and Computer Peripheral Equipment and Software Wholesalers	R	*5045	Computers and Computer Peripherals Equipment and Software (except computers, equipment, and software sold via retail method)
42144	Other Commercial Equipment Wholesalers	E	5046	Commercial Equipment, NEC
42145	Medical, Dental and Hospital Equipment and Supplies Wholesalers	R	*5047	Medical, Dental and Hospital Equipment and Supplies (except medical, dental, and hospital equipment and supplies sold via retail method)
42146	Ophthalmic Goods Wholesalers	E	5048	Ophthalmic Goods
42149	Other Professional Equipment and Supplies Wholesalers	R	*5049	Professional Equipment and Supplies, NEC (except religious and school supplies sold via retail method)
4215	Metal and Mineral (except Petroleum) Wholesalers			
42151	Metal Service Centers and Offices	E	5051	Metals Service Centers and Offices
42152	Coal and Other Mineral and Ore Wholesalers	E	5052	Coal and Other Mineral and Ores
4216	Electrical Goods Wholesalers			
42161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Material Wholesalers	R	*5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials (except electrical supplies sold via retail method)
42162	Electrical Appliance, Television and Radio Set Wholesalers	E	5064	Electrical Appliances, Television and Radio Sets
42169	Other Electronic Parts and Equipment Wholesalers	E	5065	Electronic Parts and Equipment, NEC
4217	Hardware, and Plumbing and Heating Equipment and Supplies Wholesalers			
42171	Hardware Wholesalers	E	5072	Hardware
42172	Plumbing and Heating Equipment and Supplies (Hydronics) Wholesalers	R	*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (except plumbing equipment sold via retail method)
42173	Warm Air Heating and Air-Conditioning Equipment and Supplies Wholesalers	E	5075	Warm Air Heating and Air-Conditioning Equipment and Supplies
42174	Refrigeration Equipment and Supplies Wholesalers	E	5078	Refrigeration Equipment and Supplies
4218	Machinery, Equipment and Supplies Wholesalers			
42181	Construction and Mining (except Petroleum) Machinery and Equipment Wholesalers	E	5082	Construction and Mining (Except Petroleum) Machinery and Equipment
42182	Farm and Garden Machinery and Equipment Wholesalers	R	*5083	Farm and Garden Machinery and Equipment (except lawn and garden equipment sold via retail method)
42183	Industrial Machinery and Equipment Wholesalers	R	5084	Industrial Machinery and Equipment
			*5085	Industrial Supplies (fluid power accessories)
42184	Industrial Supplies Wholesalers	R	*5085	Industrial Supplies (except fluid power accessories)

42185	Service Establishment Equipment and Supplies Wholesalers	R	*5087	Service Establishment Equipment and Supplies (except sales of the service establishment equipment and supplies sold via retail method.
42186	Transportation Equipment and Supplies (except Motor Vehicle) Wholesalers	E	5088	Transportation Equipment and Supplies, Except Motor Vehicles
4219	Miscellaneous Durable Goods Wholesalers			
42191	Sporting and Recreational Goods and Supplies Wholesalers	E	5091	Sporting and Recreational Goods and Supplies
42192	Toy and Hobby Goods and Supplies Wholesalers	E	5092	Toys and Hobby Goods and Supplies
42193	Recyclable Material Wholesalers	E	5093	Scrap and Waste Materials
42194	Jewelry, Watch, Precious Stone and Precious Metal Wholesalers	E	5094	Jewelry, Watches, Precious Stones, and Precious Metals
42199	Other Miscellaneous Durable Goods Wholesalers	R	5099	Durable Goods, NEC
			*7822	Motion Picture and Video Tape Distribution (prerecorded video tapes - distribution)
422	Wholesale Trade, Nondurable Goods			
4221	Paper and Paper Product Wholesalers			
42211	Printing and Writing Paper Wholesalers	E	5111	Printing and Writing Paper
42212	Stationary and Office Supplies Wholesalers	R	*5112	Stationery and Office Supplies (except stationary and office supplies sold via retail method)
42213	Industrial and Personal Service Paper Wholesalers	E	5113	Industrial and Personal Service Paper
4222	Drug, Drug Proprietaries and Druggists' Sundries Wholesalers			
42221	Drug, Drug Proprietaries and Druggists' Sundries Wholesalers	E	5122	Drugs, Drug Proprietaries, and Druggists' Sundries
4223	Apparel, Piece Goods, and Notions Wholesalers			
42231	Piece Goods, Notions and Other Dry Goods Wholesalers	R	*5131	Piece Goods, Notions, and Other Dry Goods (except piece goods converters)
42232	Men's and Boys' Clothing and Furnishings Wholesalers	E	5136	Men's and Boys' Clothing and Furnishings
42233	Women's, Children's, and Infants' and Accessories Wholesalers	E	5137	Women's, Children's, and Infants' Clothing and Accessories
42234	Footwear Wholesalers	E	5139	Footwear
4224	Grocery and Related Product Wholesalers			
42241	General Line Grocery Wholesalers	E	5141	Groceries, General Line
42242	Packaged Frozen Food Wholesalers	E	5142	Packaged Frozen Foods
42243	Dairy Product (except Dried or Canned) Wholesalers	E	5143	Dairy Products, Except Dried or Canned
42244	Poultry and Poultry Product Wholesalers	E	5144	Poultry and Poultry Products
42245	Confectionery Wholesalers	E	5145	Confectionery
42246	Fish and Seafood Wholesalers	E	5146	Fish and Seafoods
42247	Meat and Meat Product Wholesalers	R	*5147	Meats and Meat Products (except boxed beef)
42248	Fresh Fruit and Vegetable Wholesalers	E	5148	Fresh Fruits and Vegetables

42249	Other Grocery and Related Products Wholesalers	E	5149	Groceries and Related Products, NEC
4225	Farm Product Raw Material Wholesalers			
42251	Grain and Field Bean Wholesalers	E	5153	Grain and Field Beans
42252	Livestock Wholesalers	E	5154	Livestock
42259	Other Farm Product Raw Material Wholesalers	E	5159	Farm-Product Raw Materials, NEC
4226	Chemical and Allied Products Wholesalers			
42261	Plastics Materials and Basic Forms and Shapes Wholesalers	E	5162	Plastics Materials and Basic Forms and Shapes
42269	Other Chemical and Allied Products Wholesalers	E	5169	Chemicals and Allied Products, NEC
4227	Petroleum and Petroleum Products Wholesalers			
42271	Petroleum Bulk Stations and Terminals	R	*5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method)
42272	Petroleum and Petroleum Products (except Bulk Stations and Terminals) Wholesalers	E	5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals
4228	Beer, Wine, and Distilled Alcoholic Beverage Wholesalers			
42281	Beer and Ale Wholesalers	E	5181	Beer and Ale
42282	Wine and Distilled Alcoholic Beverage Wholesalers	E	5182	Wine and Distilled Alcoholic Beverages
4229	Miscellaneous Nondurable Goods Wholesalers			
42291	Farm Supplies Wholesalers	R	*5191	Farm Supplies (except lawn and garden supplies sold via retail method)
42292	Book, Periodical and Newspaper Wholesalers	E	5192	Books, Periodicals, and Newspapers
42293	Flower, Nursery Stock and Florists' Supplies Wholesalers	E	*5193	Flowers, Nursery Stock, and Florists' Supplies (except nursery stock sold via retail method)
42294	Tobacco and Tobacco Product Wholesalers	E	5194	Tobacco and Tobacco Products
42295	Paint, Varnish and Supplies Wholesalers	R	*5198	Paints, Varnishes, and Supplies (except paints, etc. sold via retail method)
			*5231	Paint, Glass and Wallpaper Stores (sold via wholesale method)
42299	Other Miscellaneous Nondurable Goods Wholesalers	R	*5199	Nondurable Goods, NEC (except specialty advertising)
44-45	Retail Trade			
441	Motor Vehicle and Parts Dealers			
4411	Automobile Dealers			
44111	New Car Dealers	E	5511	Motor Vehicle Dealers (New and Used)
44112	Used Car Dealers	E	5521	Motor Vehicle Dealers (Used Only)
4412	Other Motor Vehicle Dealers			
44121	Recreational Vehicle Dealers	E	5561	Recreational Vehicle Dealers
44122	Motorcycle, Boat and Other Motor Vehicle Dealers			
441221	Motorcycle Dealers	E	5571	Motorcycle Dealers
441222	Boat Dealers	E	5551	Boat Dealers
441229	All Other Motor Vehicle Dealers	E	5599	Automotive Dealers, NEC
4413	Automotive Parts, Accessories and Tire Stores			

44131	Automotive Parts and Accessories Stores	N	*5013	Motor Vehicle Supplies and New Parts (Wholesale) (auto parts sold via retail method)
			*5731	Radio, Television, and Consumer Electronics Stores (automobile radios)
			*5531	Auto and Home Supply Stores (except tires and tubes)
44132	Tire Dealers	N	*5014	Tires and Tubes (Wholesale) (tires and tubes sold via retail method)
			*5531	Auto and Home Supply Stores (tires and tubes)
442	Furniture and Home Furnishings Stores			
4421	Furniture Stores			
44211	Furniture Stores	R	*5021	Furniture (Wholesale) (sold via the retail method)
			*5712	Furniture Stores (except custom furniture and cabinets)
4422	Home Furnishings Stores			
44221	Floor Covering Stores	R	*5023	Homefurnishings (Wholesale) (floor covering sold via retail method)
			5713	Floor Coverings Stores
44229	Other Home Furnishings Stores			
442291	Window Treatment Stores	N	*5714	Drapery, Curtain, and Upholstery Stores (drapery and curtain stores)
			*5719	Miscellaneous Homefurnishings Stores (blinds and shades)
442299	All Other Home Furnishings Stores	R	*5719	Miscellaneous Homefurnishings Stores (except pottery and crafts made and sold on site and frame shops, and window furnishings)
443	Electronics and Appliance Stores			
4431	Electronics and Appliance Stores			
44311	Appliance, Television and Other Electronics Stores			
443111	Household Appliance Stores	R	5722	Household Appliance Stores
			*5999	Miscellaneous Retail Stores, NEC (personal appliance stores)
			*7623	Refrigeration and Air-Conditioning Service and Repair Shops (sales location providing supporting refrigerator repair services as major source of receipts)
			*7629	Electrical and Electronic Repair Shops, NEC (Services) (Sales location providing supporting appliance repair services as major source of receipts)
443112	Radio, Television and Other Electronics Stores	R	*5731	Radio, Television, and Consumer Electronics Stores (except auto radios)
			*5999	Miscellaneous Retail Stores, NEC (typewriters and telephones)
			*7622	Radio and Television Repair Shops (sales locations providing supporting repair services as major source of receipts)
44312	Computer and Software Stores	R	*5045	Computers and Computer Peripheral Equipment and Software (sold via retail method)

			*7378 Computer Maintenance and Repair (sales locations providing supporting repair services as major source of receipts)`
			5734 Computer and Computer Software Stores
44313	Camera and Photographic Supplies Stores	E	5946 Camera and Photographic Supply Stores
444	Building Material and Garden Equipment and Supplies Dealers		
4441	Building Material and Supplies Dealers		
44411	Home Centers	N	*5211 Lumber and Other Building Materials Dealers (home center stores)
44412	Paint and Wallpaper Stores	R	*5198 Paints, Varnishes, and Supplies (sold via retail method)
			*5231 Paint, Glass, and Wallpaper Stores (paint and wallpaper)
44413	Hardware Stores	E	5251 Hardware Stores
44419	Other Building Material Dealers	R	*5031 Lumber, Plywood, Millwork, and Wood Panels (Wholesale) (sold via retail method)
			*5032 Brick, Stone, and Related Construction Materials (Wholesale) (sold via retail method)
			*5039 Construction Materials, NEC (Wholesale) (glass sold via retail method)
			*5063 Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials (Wholesale) (sold via retail method)
			*5074 Plumbing and Heating Equipment and Supplies (Hydronics) (sold via retail method)
			*5211 Lumber and Other Building Materials Dealers (except home centers)
			*5231 Paint, Glass, and Wallpaper Stores (glass)
4442	Lawn and Garden Equipment and Supplies Stores		
44421	Outdoor Power Equipment Stores	N	*5083 Farm and Garden Machinery and Equipment (Wholesale) (sold via retail method)
			*5261 Retail Nurseries, Lawn and Garden Supply Stores (outdoor power equipment)
44422	Nursery and Garden Centers	R	*5191 Farm Supplies (sold via retail method)
			*5193 Flowers, Nursery Stock, and Florists' Supplies (sold via retail method)
			*5261 Retail Nurseries, Lawn and Garden Supply Stores (except outdoor power equipment and cut Christmas trees)
445	Food and Beverage Stores		
4451	Grocery Stores		
44511	Supermarkets and Other Grocery (except Convenience) Stores	N	*5411 Grocery Stores (except convenience stores and grocery stores with substantial general merchandise)
44512	Convenience Stores	N	*5411 Grocery Stores (convenience stores without gas)
4452	Specialty Food Stores		
44521	Meat Markets	R	*5421 Meat and Fish (Seafood) Markets, Including Freezer Provisioners (meat except freezer provisioners)

			*5499	Miscellaneous Food Stores (poultry and poultry products)
44522	Fish and Seafood Markets	N	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (seafood)
44523	Fruit and Vegetable Markets	E	5431	Fruit and Vegetable Markets
44529	Other Specialty Food Stores			
445291	Baked Goods Stores	R	*5461	Retail Bakeries (selling only)
445292	Confectionery and Nut Stores	E	5441	Candy, Nut and Confectionery Stores
445299	All Other Specialty Food Stores	R	*5499	Miscellaneous Food Stores (except food supplements, poultry stores, and stores with food for immediate consumption)
			5451	Dairy Products Stores
4453	Beer, Wine and Liquor Stores			
44531	Beer, Wine and Liquor Stores	E	5921	Liquor Stores
446	Health and Personal Care Stores			
4461	Health and Personal Care Stores			
44611	Pharmacies and Drug Stores	E	5912	Drug Stores and Proprietary Stores
44612	Cosmetics, Beauty Supplies and Perfume Stores	N	*5087	Service Establishment Equipment and Supplies (beauty and barber supplies sold via retail method)
			*5999	Miscellaneous Retail Stores, NEC (cosmetics and perfumes)
44613	Optical Goods Stores	R	*5995	Optical Goods Stores (except labs grinding prescription lenses)
44619	Other Health and Personal Care Stores			
446191	Food (Health) Supplement Stores	N	*5499	Miscellaneous Food Stores (food supplements)
446199	All Other Health and Personal Care Stores	N	*5047	Medical, Dental, and Hospital Equipment and Supplies (sold via retail method)
			*5999	Miscellaneous Retail Stores, NEC (hearing aids and artificial limbs)
447	Gasoline Stations			
4471	Gasoline Stations			
44711	Gasoline Stations with Convenience Stores	N	*5541	Gasoline Service Station (gasoline station with convenience store)
			*5411	Grocery Stores (convenience store with gas)
44719	Other Gasoline Stations	N	*5541	Gasoline Service Station (gasoline station without convenience store)
448	Clothing and Clothing Accessories Stores			
4481	Clothing Stores			
44811	Men's Clothing Stores	R	*5611	Men's and Boys' Clothing and Accessory Stores (clothing stores)
44812	Women's Clothing Stores	E	5621	Women's Clothing Stores
44813	Children's and Infants' Clothing Stores	E	5641	Children's and Infants' Wear Stores
44814	Family Clothing Stores	E	5651	Family Clothing Stores
44815	Clothing Accessories Stores	N	*5611	Men's and Boys' Clothing and Accessory Stores (accessories)
			*5632	Women's Accessory and Specialty Stores (accessories)
			*5699	Miscellaneous Apparel and Accessory Stores (accessories)

44819	Other Clothing Stores	R	*5699	Miscellaneous Apparel and Accessory Stores (miscellaneous apparel)
			*5632	Women's Accessory and Specialty Stores (specialty stores)
4482	Shoe Stores			
44821	Shoe Stores	E	5661	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores			
44831	Jewelry Stores	R	*5999	Miscellaneous Retailer, NEC (rough gems)
			5944	Jewelry Stores
44832	Luggage and Leather Goods Stores	E	5948	Luggage and Leather Goods Stores
451	Sporting Goods, Hobby, Book and Music Stores			
4511	Sporting Goods, Hobby and Musical Instrument Stores			
45111	Sporting Goods Stores	R	*7699	Repair Shops and Related Services, NEC (bicycle sales locations providing supporting repair services as major source of receipts)
			5941	Sporting Goods Stores and Bicycle Shops
45112	Hobby, Toy and Game Stores	E	5945	Hobby, Toy, and Game Stores
45113	Sewing, Needlework and Piece Goods Stores	R	*5714	Drapery, Curtain, and Upholstery Stores (upholstery materials)
			5949	Sewing, Needlework, and Piece Goods Stores
45114	Musical Instrument and Supplies Stores	E	5736	Musical Instruments Stores
4512	Book, Periodical and Music Stores			
45121	Book Stores and News Dealers			
451211	Book Stores	E	5942	Book Stores
451212	News Dealers and Newsstands	E	5994	News Dealers and Newsstands
45122	Prerecorded Tape, Compact Disc and Record Stores	E	5735	Record and Prerecorded Tape Stores
452	General Merchandise Stores			
4521	Department Stores			
45211	Department Stores	E	5311	Department Stores
4529	Other General Merchandise Stores			
45291	Warehouse Clubs and Superstores	N	*5399	Miscellaneous General Merchandise Stores (warehouse clubs and supermarket/general merchandise combination)
			*5411	Grocery Stores (grocery stores and supermarkets selling substantial amounts of nonfood items)
45299	All Other General Merchandise Stores	R	*5399	Miscellaneous General Merchandise Stores (except warehouse club and supermarket/general merchandise combination)
			5331	Variety Stores
453	Miscellaneous Store Retailers			
4531	Florists			
45311	Florists	E	5992	Florists
4532	Office Supplies, Stationery and Gift Stores			
45321	Office Supplies and Stationery Stores	R	*5049	Professional Equipment and Supplies, NEC (school and church supplies sold via retail method)
			*5112	Stationery and Office Supplies (sold via retail method)

			5943	Stationery Stores
45322	Gift, Novelty and Souvenir Stores	E	5947	Gift, Novelty, and Souvenir Shops
4533	Used Merchandise Stores			
45331	Used Merchandise Stores	R	*5932	Used Merchandise Stores (except pawn shops)
4539	Other Miscellaneous Store Retailers			
45391	Pet and Pet Supplies Stores	N	*5999	Miscellaneous Retail Stores, NEC (pet and pet supplies)
45392	Art Dealers	N	*5999	Miscellaneous Retail Stores, NEC (art dealer)
45393	Manufactured (Mobile) Home Dealers	E	5271	Mobile Home Dealers
45399	All Other Miscellaneous Store Retailers			
453991	Tobacco Stores	E	5993	Tobacco Stores and Stands
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	R	*5999	Miscellaneous Retail Stores, NEC (except art, pet and pet supplies, hearing aids, artificial limbs, cosmetics, telephones, typewriters, personal appliances and rough gems)
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (cut Christmas trees)
454	Nonstore Retailers			
4541	Electronic Shopping and Mail-Order Houses			
45411	Electronic Shopping and Mail-Order Houses	E	5961	Catalog and Mail-Order Houses
4542	Vending Machine Operators			
45421	Vending Machine Operators	E	5962	Automatic Merchandise Machine Operators
4543	Direct Selling Establishments			
45431	Fuel Dealers			
454311	Heating Oil Dealers	R	*5171	Petroleum Bulk Stations and Terminals (heating oil sold to final consumer)
			5983	Fuel Oil Dealers
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	R	*5171	Petroleum Bulk Stations and Terminals (LP gas sold to final consumer)
			5984	Liquefied Petroleum Gas (Bottled Gas) Dealers
454319	Other Fuel Dealers	E	5989	Fuel Dealers, NEC
45439	Other Direct Selling Establishments	R	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (freezer provisioners)
			*5963	Direct Selling Establishments (except mobile food services)
48-49 Transportation and Warehousing				
481	Air Transportation			
4811	Scheduled Air Transportation			
48111	Scheduled Air Transportation			
481111	Scheduled Passenger Air Transportation	N	*4512	Air Transportation, Scheduled (passenger)
481112	Scheduled Freight Air Transportation	N	*4512	Air Transportation, Scheduled (freight)
4812	Nonscheduled Air Transportation			
48121	Nonscheduled Air Transportation			
481211	Nonscheduled Chartered Passenger Air Transportation	N	*4522	Air Transportation, Nonscheduled (passenger)

481212	Nonscheduled Chartered Freight Air Transportation	N	*4522	Air Transportation, Nonscheduled (freight)
481219	Other Nonscheduled Air Transportation	N		Establishments that use general purpose aircraft to provide a variety of specialized flying services, such as the following:
			*0721	Crop Planting, Cultivating, and Protecting (crop dusting)
			*7319	Advertising, NEC (aerial advertising)
			*7335	Commercial Photography (aerial photography)
482	Rail Transportation			
4821	Rail Transportation			
48211	Rail Transportation			
482111	Line-Haul Railroads	E	4011	Railroads, Line-Haul Operating
482112	Short Line Railroads	N	*4013	Railroad Switching and Terminal Establishments (belt line and logging railroads)
483	Water Transportation			
4831	Deep Sea, Coastal and Great Lakes Water Transportation			
48311	Deep Sea, Coastal and Great Lakes Water Transportation			
483111	Deep Sea Freight Transportation	E	4412	Deep Sea Foreign Transportation of Freight
483112	Deep Sea Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (deep sea activities)
483113	Coastal and Great Lakes Freight Transportation	R	4424	Deep Sea Domestic Transportation of Freight
			4432	Freight Transportation on the Great Lakes - St. Lawrence Seaway
			*4492	Towing and Tugboat Services (coastal barge operations)
483114	Coastal and Great Lakes Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (coastal activities)
			*4482	Ferries (coastal and Great Lakes)
4832	Inland Water Transportation			
48321	Inland Water Transportation			
483211	Inland Water Freight Transportation	R	4449	Water Transportation of Freight, NEC
			*4492	Towing and Tugboat Services (inland barge operations)
483212	Inland Water Passenger Transportation	R	*4482	Ferries (inland)
			*4489	Water Transportation of Passengers, NEC (water taxi)
484	Truck Transportation			
4841	General Freight Trucking			
48411	General Freight Trucking, Local	N	*4212	Local Trucking without Storage (general freight)
			*4214	Local Trucking with Storage (general freight)
48412	General Freight Trucking, Long-Distance			
484121	General Freight Trucking, Long-Distance, Truckload	N	*4213	Trucking, Except Local (general freight, truckload)
484122	General Freight Trucking, Long-Distance, Less Than Truckload	N	*4213	Trucking, Except Local (general freight, less than truckload)
4842	Specialized Freight Trucking			
48421	Used Household and Office Goods Moving	N	*4212	Local Trucking Without Storage (household goods moving)
			*4213	Trucking, Except Local (household goods moving)

			*4214	Local Trucking With Storage (household goods moving)
48422	Specialized Freight (except Used Goods) Trucking, Local	N	*4212	Local Trucking without Storage (specialized freight)
			*4214	Local Trucking with Storage (specialized freight)
48423	Specialized Freight (except Used Goods) Trucking, Long-Distance	N	*4213	Trucking, Except Local (specialized freight)
485	Transit and Ground Passenger Transportation			
4851	Urban Transit Systems			
48511	Urban Transit Systems			
485111	Mixed Mode Transit Systems	N	*4111	Local and Suburban Transit (mixed mode)
485112	Commuter Rail Systems	N	*4111	Local and Suburban Transit (commuter rail)
485113	Bus and Motor Vehicle Transit Systems	N	*4111	Local and Suburban Transit (bus and motor vehicle)
485119	Other Urban Transit Systems	N	*4111	Local and Suburban Transit (other than mixed mode, commuter rail, and bus and motor vehicle)
4852	Interurban and Rural Bus Transportation			
48521	Interurban and Rural Bus Transportation	E	4131	Intercity and Rural Bus Transportation
4853	Taxi and Limousine Service			
48531	Taxi Service	E	4121	Taxicabs
48532	Limousine Service	N	*4119	Local Passenger Transportation, NEC (limousine rental with driver and automobile rental with driver)
4854	School and Employee Bus Transportation			
48541	School and Employee Bus Transportation	R	4151	School Buses
			*4119	Local Passenger Transportation, NEC (employee transportation)
4855	Charter Bus Industry			
48551	Charter Bus Industry	R	4141	Local Charter Bus Service
			4142	Bus Charter Services, Except Local
4859	Other Transit and Ground Passenger Transportation			
48599	Other Transit and Ground Passenger Transportation			
485991	Special Needs Transportation	N	*4119	Local Passenger Transportation, NEC (special needs transportation)
485999	All Other Transit and Ground Passenger Transportation	R	*4111	Local and Suburban Transit (airport transportation service)
			*4119	Local Passenger Transportation, NEC (hearse rental with driver and carpool and vanpool operation)
486	Pipeline Transportation			
4861	Pipeline Transportation of Crude Oil			
48611	Pipeline Transportation of Crude Oil	E	4612	Crude Petroleum Pipelines
4862	Pipeline Transportation of Natural Gas			
48621	Pipeline Transportation of Natural Gas	R	4922	Natural Gas Transmission
			*4923	Natural Gas Transmission and Distribution (transmission)
4869	Other Pipeline Transportation			
48691	Pipeline Transportation of Refined	E	4613	Refined Petroleum Pipelines

	Petroleum Products			
48699	All Other Pipeline Transportation	E	4619	Pipelines, NEC
487	Scenic and Sightseeing Transportation			
4871	Scenic and Sightseeing Transportation, Land			
48711	Scenic and Sightseeing Transportation, Land	N	*4119	Local Passenger Transportation, NEC (sightseeing buses and cable and cog railways, except scenic)
			*4789	Transportation Services, NEC (horse-drawn cabs and carriages)
			*7999	Amusement and Recreation Services, NEC (scenic transport operations, land)
4872	Scenic and Sightseeing Transportation, Water			
48721	Scenic and Sightseeing Transportation, Water	N	*4489	Water Transportation of Passengers, NEC (airboats, excursion boats, and sightseeing boats)
			*7999	Amusement and Recreation Services, NEC (charter fishing)
4879	Scenic and Sightseeing Transportation, Other			
48799	Scenic and Sightseeing Transportation, Other	N	*4522	Air Transportation, Non-Scheduled (sightseeing planes)
			*7999	Amusement and Recreation Services, NEC (aerial tramways, scenic and amusement)
488	Support Activities for Transportation			
4881	Support Activities for Air Transportation			
48811	Airport Operations			
488111	Air Traffic Control	N	*4581	Airports, Flying Fields, and Airport Terminal Services (private air traffic control)
			*9621	Regulation and Administration of Transportation Programs (government air traffic control)
488119	Other Airport Operations	N	*4581	Airports, Flying Fields, and Airport Terminal Services (airfreight handling at airports, hangar operations, airport terminal services, aircraft storage, airports, and flying fields)
			*4959	Sanitary Services, NEC (vacuuming of runways)
48819	Other Support Activities for Air Transportation	N	*4581	Airports, Flying Fields, and Airport Terminal Services (aircraft servicing and repairing)
4882	Support Activities for Rail Transportation			
48821	Support Activities for Rail Transportation	R	*4013	Railroad Switching and Terminal Establishments (all but short line railroads)
			*4741	Rental of Railroad Cars (grain leveling in railroad cars, grain trimming for railroad equipment, precooling of fruits and vegetables in connection with transportation, and railroad car cleaning, icing, ventilating, and heating)
			*4789	Transportation Services, NEC (car loading and unloading; cleaning of railroad ballasts; dining, parlor, sleeping, and other car operations; and railroad maintenance)
4883	Support Activities for Water Transportation			

48831	Port and Harbor Operations	N	*4491	Marine Cargo Handling (dock and pier operations)
			*4499	Water Transportation Services, NEC (lighthouse operations)
48832	Marine Cargo Handling	R	*4491	Marine Cargo Handling (all but dock and pier operations)
48833	Navigational Services to Shipping	N	*4492	Towing and Tugboat Services (all but barge operations)
			*4499	Water Transportation Services, NEC (piloting vessels in and out of harbors and marine salvage)
48839	Other Support Activities for Water Transportation	R	*4499	Water Transportation Services, NEC (all but lighthouse operations, piloting vessels in and out of harbors, boat and ship rental, and marine salvage)
			*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (marine cargo checkers)
			*7699	Repair Shops and Related Services, NEC (ship scaling)
4884	Support Activities for Road Transportation			
48841	Motor Vehicle Towing	N	*7549	Automotive Services, Except Repair and Carwashes (towing)
48849	Other Support Activities for Road Transportation	R	4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation
			4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation
			*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (all but marine cargo checkers)
4885	Freight Transportation Arrangement			
48851	Freight Transportation Arrangement	R	*4731	Arrangement of Transportation of Freight and Cargo (except freight rate auditors and tariff consultants)
4889	Other Support Activities for Transportation			
48899	Other Support Activities for Transportation			
488991	Packing and Crating	E	4783	Packing and Crating
488999	All Other Support Activities for Transportation	R	*4729	Arrangement of Passenger Transportation, NEC (arrangement of carpools and vanpools)
			*4789	Transportation Services, NEC (pipeline terminals and stockyards for transportation)
491	Postal Service			
4911	Postal Service			
49111	Postal Service	E	4311	United States Postal Service
492	Couriers and Messengers			
4921	Couriers			
49211	Couriers	R	*4215	Courier Services, Except by Air (hub and spoke intercity delivery)
			4513	Air Courier Services
4922	Local Messengers and Local Delivery			
49221	Local Messengers and Local Delivery	N	*4215	Courier Services, Except by Air (local delivery)
493	Warehousing and Storage Facilities			

4931	Warehousing and Storage Facilities			
49311	General Warehousing and Storage Facilities	R	*4225	General Warehousing and Storage (all but self-storage miniwarehouse warehousing)
			*4226	Special Warehousing and Storage, NEC (warehousing in foreign trade zones)
49312	Refrigerated Warehousing and Storage Facilities	R	4222	Refrigerated Warehousing and Storage
			*4226	Special Warehousing and Storage, NEC (fur storage)
49313	Farm Product Warehousing and Storage Facilities	E	4221	Farm Product Warehousing and Storage
49319	Other Warehousing and Storage Facilities	R	*4226	Special Warehousing and Storage, NEC (all but fur storage and warehousing in foreign trade zones)
51	Information			
511	Publishing Industries			
5111	Newspaper, Periodical, Book and Database Publishers			
51111	Newspaper Publishers	E	2711	Newspapers: Publishing or Publishing and Printing
51112	Periodical Publishers	E	2721	Periodicals: Publishing or Publishing and Printing
51113	Book Publishers	R	*2731	Books: Publishing or Publishing and Printing (except music books)
51114	Database and Directory Publishers	N	*2741	Miscellaneous Publishing (database publishers)
51119	Other Publishers			
511191	Greeting Card Publishers	R	*2771	Greeting Cards (publishing greeting cards)
511199	All Other Publishers	R	*2741	Miscellaneous Publishing (except database and sheet music publishing)
5112	Software Publishers			
51121	Software Publishers	R	*7372	Prepackaged Software (software publishing)
512	Motion Picture and Sound Recording Industries			
5121	Motion Picture and Video Industries			
51211	Motion Picture and Video Production	E	7812	Motion Picture and Video Tape Production
51212	Motion Picture and Video Distribution	R	*7822	Motion Picture and Video Tape Distribution (except video tape and cassette wholesalers)
			*7829	Services Allied to Motion Picture Distribution (film libraries)
51213	Motion Picture and Video Exhibition			
512131	Motion Picture Theaters, Except Drive-Ins.	E	7832	Motion Picture Theaters, Except Drive-In
512132	Drive-In Motion Picture Theaters	E	7833	Drive-In Motion Picture Theaters
51219	Post Production and Other Motion Picture and Video Industries			
512191	Teleproduction and Other Post-Production Services	N	*7819	Services Allied to Motion Picture Production (teleproduction and post-production services)

512199	Other Motion Picture and Video Industries	N	*7819	Services Allied to Motion Picture Production (except casting bureaus, wardrobe and equipment rental, talent payment services, teleproduction and other post-production services, reproduction of videos, and film distributors and other related motion picture production services)
			*7829	Services Allied to Motion Picture Distribution (except film libraries)
5122	Sound Recording Industries			
51221	Record Production	N	*8999	Services, NEC (record production)
51222	Integrated Record Production/Distribution	N	*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (integrated record companies, except duplication only)
51223	Music Publishers	N	*2731	Books: Publishing or Publishing and Printing (music books)
			*2741	Miscellaneous Publishing (sheet music publishing)
			*8999	Services, NEC (music publishing)
51224	Sound Recording Studios	N	*7389	Business Services, NEC (recording studios)
51229	Other Sound Recording Industries	N	*7389	Business Services, NEC (audio taping services)
			*7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (producers of radio programs)
513	Broadcasting and Telecommunications			
5131	Radio and Television Broadcasting			
51311	Radio Broadcasting			
513111	Radio Networks	N	*4832	Radio Broadcasting Stations (networks)
513112	Radio Stations	N	*4832	Radio Broadcasting Stations (except networks)
51312	Television Broadcasting	N	4833	Television Broadcasting Stations
5132	Cable Networks and Program Distribution			
51321	Cable Networks	N	*4841	Cable and Other Pay Television Services (cable networks)
51322	Cable and Other Program Distribution	N	*4841	Cable and Other Pay Television Services (except cable networks)
5133	Telecommunications			
51331	Wired Telecommunications Carriers	N	*4813	Telephone Communications, Except Radiotelephone (except resellers)
			4822	Telegraph and Other Message Communications
51332	Wireless Telecommunications Carriers (except Satellite)			
513321	Paging	N	*4812	Radiotelephone Communications (paging carriers)
513322	Cellular and Other Wireless Telecommunications	N	*4812	Radiotelephone Communications (cellular carriers)
			*4899	Communications Services, NEC (radio dispatch)
51333	Telecommunications Resellers	N	*4812	Radio Communications (paging and cellular resellers)
			*4813	Telephone Communications, Except Radiotelephone (resellers)
51334	Satellite Telecommunications	N	*4899	Communications Services, NEC (satellite communications)
51339	Other Telecommunications	N	*4899	Communications Services, NEC (except radio dispatch, satellite communications)
514	Information Services and Data Processing Services			

5141	Information Services			
51411	News Syndicates	E	7383	News Syndicates
51412	Libraries and Archives	E	8231	Libraries
51419	Other Information Services			
514191	On-Line Information Services	E	7375	Information Retrieval Services
514199	All Other Information Services	N	*8999	Services, NEC (miscellaneous information providers)
5142	Data Processing Services			
51421	Data Processing Services	E	7374	Computer Processing and Data Preparation and Processing Services
52	Finance and Insurance			
521	Monetary Authorities - Central Bank			
5211	Monetary Authorities - Central Bank			
52111	Monetary Authorities - Central Bank	E	6011	Federal Reserve Banks
522	Credit Intermediation and Related Activities			
5221	Depository Credit Intermediation			
52211	Commercial Banking	R	*6021	National Commercial Banks (banking)
			*6022	State Commercial Banks (banking)
			6029	Commercial Banks, NEC
			*6081	Branches and Agencies of Foreign Banks (banking)
52212	Savings Institutions	R	6035	Savings Institutions, Federally Chartered
			6036	Savings Institutions, Not Federally Chartered
52213	Credit Unions	R	6061	Credit Unions, Federally Chartered
			6062	Credit Unions, Not Federally Chartered
52219	Other Depository Credit Intermediation	N	*6022	State Commercial Banks (private and industrial banking)
5222	Non-Depository Credit Intermediation			
52221	Credit Card Issuing	N	*6021	National Commercial Banks (credit card issuing)
			*6022	State Commercial Banks (credit card issuing)
			*6141	Personal Credit Institutions (credit card issuing)
52222	Sales Financing	N	*6141	Personal Credit Institutions (installment sales finance)
			*6153	Short-Term Business Credit Institutions, Except Agricultural (business sales finance).
			*6159	Miscellaneous Business Credit Institutions (finance leasing)
52229	Other Non-Depository Credit Intermediation			
522291	Consumer Lending	R	*6141	Personal Credit Institutions (except installment sales finance and credit card issuing)
522292	Real Estate Credit	R	*6162	Mortgage Bankers and Loan Correspondents (mortgage bankers and originators)
522293	International Trade Financing	N	*6081	Branches and Agencies of Foreign Banks (international trade financing)
			6082	Foreign Trade and International Banking Institutions
			*6111	Federal and Federally-Sponsored Credit Agencies (trade banks)

			*6159	Miscellaneous Business Credit Institutions (trade banks)
522294	Secondary Market Financing	N	*6111	Federal and Federally Sponsored Credit Agencies (except trade banks)
522298	All Other Non-Depository Credit Intermediation	N	*5932	Used Merchandise Stores (pawnshops)
			*6081	Branches and Agencies of Foreign Banks (agencies)
			*6111	Federal and Federally-Sponsored Credit Agencies (except trade banks and secondary market financing)
			*6153	Short-Term Business Credit Institutions, Except Agricultural (except credit card service and business sales finance)
			*6159	Miscellaneous Business Credit Institutions (except trade banks and finance leasing)
5223	Activities Related to Credit Intermediation			
52231	Mortgage and Other Loan Brokers	E	6163	Loan Brokers
52232	Financial Transactions Processing, Reserve, and Clearing House Activities	N	6019	Central Reserve Depository Institutions, NEC
			*6099	Functions Related to Depository Banking, NEC (electronic funds transfer networks and clearing house associations)
			*6153	Short-Term Business Credit Institutions, Except Agricultural (credit card service)
			*7389	Business Services, NEC (credit card service)
52239	Other Activities Related to Credit Intermediation	N	*6099	Functions Related to Depository Banking, NEC (except money orders, electronic funds transfer networks and clearing houses, foreign currency exchanges, escrow and fiduciary agencies and deposit brokers)
			*6162	Mortgage Bankers and Loan Correspondents (mortgage servicing)
523	Securities, Commodity Contracts and Other Intermediation and Related Activities			
5231	Securities and Commodity Contracts Intermediation and Brokerage			
52311	Investment Banking and Securities Dealing	N	*6211	Security Brokers, Dealers, and Flotation Companies (securities dealers and underwriters)
52312	Securities Brokerage	N	*6211	Security Brokers, Dealers, and Flotation Companies (security brokers)
52313	Commodity Contracts Dealing	N	*6099	Functions Related to depository Banking, NEC (foreign currency exchange)
			*6799	Investors, NEC (commodity contract trading companies)
			*6221	Commodity Contracts Brokers and Dealers (commodity dealers)
52314	Commodity Brokerage	N	*6221	Commodity Contracts Brokers and Dealers (commodity brokers)
5232	Securities and Commodity Exchanges			
52321	Securities and Commodity Exchanges	E	6231	Security and Commodity Exchanges
5239	Other Financial Investment Activities			

52391	Miscellaneous Intermediation	N	*6211	Securities Brokers, Dealers and Flotation Companies (except securities and commodity dealers)
			*6799	Investors, NEC (venture capital companies)
52392	Portfolio Management	N	*6282	Investment Advice (portfolio managers)
			*6371	Pension, Health, and Welfare Funds (managers)
			*6733	Trust, Except Educational, Religious, and Charitable (managers)
			*6799	Investors, NEC (pool operators)
52393	Investment Advice	R	*6282	Investment Advice (except portfolio managers)
52399	All Other Financial Investment Activities			
523991	Trust, Fiduciary and Custody Activities	N	*6021	National Commercial Banks (trust services)
			*6022	State Commercial Banks (trust services)
			6091	Nondeposit Trust Facilities
			*6099	Functions Related to Depository Banking, NEC (escrow and fiduciary agencies)
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (securities custodians)
			*6733	Trusts, Except Educational, Religious, and Charitable (administrators of private estates)
523999	Miscellaneous Financial Investment Activities	R	*6099	Functions Related to Depository Banking, NEC (deposit brokers)
			*6211	Security Brokers, Dealers, and Flotation Companies (other except security and commodity)
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (except security custodians)
			*6799	Investors, NEC (except pool operators and venture capital companies)
			*6792	Oil Royalty Traders (investors on own account)
524	Insurance Carriers and Related Activities			
5241	Insurance Carriers			
52411	Direct Life, Health and Medical Insurance Carriers			
524113	Direct Life Insurance Carriers	R	*6311	Life Insurance (life insurers-direct)
524114	Direct Health and Medical Insurance Carriers	R	*6324	Hospital and Medical Service Plans (health and medical insurers-direct)
			*6321	Accident and Health Insurance (health and medical insurers-direct)
52412	Direct Insurance (except Life, Health, and Medical) Carriers			
524126	Direct Property and Casualty Insurance Carriers	R	*6331	Fire, Marine, and Casualty Insurance (fire, marine, and casualty insurers-direct)
			*6351	Surety Insurance (financial responsibility insurers-direct)
524127	Direct Title Insurance Carriers	R	*6361	Title Insurance (title insurers-direct)
524128	Other Direct Insurance (except Life, Health and Medical) Carriers	E	6399	Insurance Carriers, NEC

52413	Reinsurance Carriers	N	*6311 Life Insurance (reinsurers) *6321 Accident and Health Insurance (reinsurers) *6324 Hospital and Medical Service Plans (reinsurers) *6331 Fire, Marine, and Casualty Insurance (reinsurers) *6351 Surety Insurance (reinsurers) *6361 Title Insurance (reinsurers)
5242	Agencies, Brokerages and Other Insurance Related Activities		
52421	Insurance Agencies and Brokerages	R	*6411 Insurance Agents, Brokers and Service (insurance agents and brokers)
52429	Other Insurance Related Activities		
524291	Claims Adjusters	N	*6411 Insurance Agents, Brokers and Service (insurance claims adjusters)
524292	Third Party Administration for Insurance and Pension Funds	N	*6371 Pension, Health, and Welfare Funds (administrators) *6411 Insurance Agents, Brokers and Service (processors)
524298	All Other Insurance Related Activities	N	*6411 Insurance Agents, Brokers and Service (except processors, agents and brokers, and claims adjusters)
525	Funds, Trusts and Other Financial Vehicles (U.S. Only)		
5251	Insurance and Employee Benefit Funds		
52511	Pension Funds	N	*6371 Pension, Health, and Welfare Funds (pension funds)
52512	Health and Welfare Funds	N	*6371 Pension, Health, and Welfare Funds (health and welfare funds)
52519	Other Insurance Funds	N	*6321 Accident and Health Insurance (self insurers) *6324 Hospital and Medical Service Plans (self insurers) *6331 Fire, Marine, and Casualty Insurance (self insurers) *6733 Trusts, Except Educational, Religious, and Charitable (vacation funds for employees)
5259	Other Investment Pools and Funds		
52591	Open-End Investment Funds	E	6722 Management Investment Offices, Open-End
52592	Trusts, Estates, and Agency Accounts	N	*6733 Trusts, Except Educational, Religious, and Charitable (personal trusts, estates, and agency accounts)
52593	Real Estate Investment Trusts	E	6798 Real Estate Investment Trusts
52599	Other Financial Vehicles	E	6726 Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices
53	Real Estate and Rental and Leasing		
531	Real Estate		
5311	Lessors of Real Estate		
53111	Lessors of Residential Buildings and Dwellings	R	6513 Operators of Apartment Buildings 6514 Operators of Dwellings Other Than Apartment Buildings
53112	Lessors of Nonresidential Buildings (except Miniwarehouses)	N	*6512 Operators of Nonresidential Buildings (other except stadium and arena owners)
53113	Lessors of Miniwarehouses and Self Storage Units	E	*4225 General Warehousing and Storage (miniwarehouses and self-storage units)

53119	Lessors of Other Real Estate Property	R	6515	Operators of Residential Mobile Home Sites
			6517	Lessors of Railroad Property
			6519	Lessors of Real Property, NEC
5312	Offices of Real Estate Agents and Brokers			
53121	Offices of Real Estate Agents and Brokers	N	*6531	Real Estate Agents Managers (agents and brokers)
5313	Activities Related to Real Estate			
53131	Real Estate Property Managers			
531311	Residential Property Managers	N	*6531	Real Estate Agents and Managers (managers-residential, real estate)
531312	Nonresidential Property Managers	N	*6531	Real Estate Agents and Managers (managers-nonresidential, real estate)
53132	Offices of Real Estate Appraisers	N	*6531	Real Estate Agents and Managers (appraisers)
53139	Other Activities Related to Real Estate	N	*6531	Real Estate Agents and Managers (except real estate managers, condominium management, cemetery management, agents and brokers, and appraisers)
532	Rental and Leasing Services			
5321	Automotive Equipment Rental and Leasing			
53211	Passenger Car Rental and Leasing			
532111	Passenger Car Rental	E	7514	Passenger Car Rental
532112	Passenger Car Leasing	E	7515	Passenger Car Leasing
53212	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	N	7513	Truck Rental and Leasing Without Drivers
			7519	Utility Trailers and Recreational Vehicle Rental
5322	Consumer Goods Rental			
53221	Consumer Electronics and Appliances Rental	N	*7359	Equipment Rental and Leasing, NEC (appliances, TV, VCR, and electronic equipment rental)
53222	Formal Wear and Costume Rental	N	*7299	Miscellaneous Personal Services, NEC (formal wear and costume rental)
			*7819	Services Allied to Motion Picture Production (wardrobe rental for motion picture film production)
53223	Video Tape and Disc Rental	E	7841	Video Tape Rental
53229	Other Consumer Goods Rental			
532291	Home Health Equipment Rental	N	*7352	Medical Equipment Rental and Leasing (home health furniture and equipment rental and leasing)
532292	Recreational Goods Rental	N	*7999	Amusement and Recreation Services, NEC (canoe, pleasure boats, bicycles, motorcycles, moped, go carts, etc. rental)
532299	All Other Consumer Goods Rental	R	*7359	Equipment Rental and Leasing, NEC (except transportation equipment, industrial equipment, and consumer electronics, appliances and home and garden equipment)
5323	General Rental Centers			
53231	General Rental Centers	N	*7359	Equipment Rental and Leasing, NEC (general rental centers)

5324	Commercial and Industrial Machinery and Equipment Rental and Leasing			
53241	Construction, Transportation, Mining and Forestry Machinery and Equipment Rental and Leasing			
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	N	*4499	Water Transportation Services, NEC (boat and ship rental, commercial)
			*4741	Rental of Railroad Cars (rental of railroad cars)
			*7359	Equipment Rental and Leasing, NEC (airplane rental and leasing)
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	R	*7353	Heavy Construction Equipment Rental and Leasing (without operators)
			*7359	Equipment Rental and Leasing, NEC (oil field and well drilling equipment)
53242	Office Machinery and Equipment Rental and Leasing	N	*7359	Equipment Rental and Leasing (office machine rental and leasing)
			7377	Computer Rental and Leasing
53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	N	*7352	Medical Equipment Rental and Leasing (medical machinery and equipment)
			*7359	Equipment Rental and Leasing, NEC (industrial truck and equipment rental and leasing)
			*7819	Services Allied to Motion Picture Production (motion picture equipment rental)
			*7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (theatrical equipment rental)
533	Owners and Lessors of Other Non-Financial Assets			
5331	Owners and Lessors of Other Non-Financial Assets			
53311	Owners and Lessors of Other Non-Financial Assets	R	*6792	Oil Royalty Traders (except investors on own account)
			6794	Patent Owners and Lessors
54	Professional, Scientific and Technical Services			
541	Professional, Scientific and Technical Services			
5411	Legal Services			
54111	Offices of Lawyers	E	8111	Legal Services
54112	Offices of Notaries	L		Null Set for U.S.
54119	Other Legal Services			
541191	Title Abstract and Settlement Offices	E	6541	Title Abstract Offices
541199	All Other Legal Services	N	*7389	Business Services, NEC (process services, patent agents, notaries public, paralegal services)
5412	Accounting, Tax Preparation, Bookkeeping and Payroll Services			
54121	Accounting, Tax Preparation, Bookkeeping and Payroll Services			
541211	Offices of Certified Public Accountants	N	*8721	Accounting, Auditing, and Bookkeeping Services (auditing accountants)

541213	Tax Preparation Services	E	7291	Tax Return Preparation Services
541214	Payroll Services	N	*7819	Services Allied to Motion Picture Production (talent payment services)
			*8721	Accounting, Auditing, and Bookkeeping Services (payroll services)
541219	Other Accounting Services	N	*8721	Accounting, Auditing, and Bookkeeping Services (other accounting services)
5413	Architectural, Engineering and Related Services			
54131	Architectural Services	E	8712	Architectural Services
54132	Landscape Architectural Services	R	*0781	Landscape Counseling and Planning (except horticultural consulting)
54133	Engineering Services	E	8711	Engineering Services
54134	Drafting Services	N	*7389	Business Services, NEC (drafting service)
54135	Building Inspection Services	N	*7389	Business Services, NEC (home and building inspection services)
54136	Geophysical Surveying and Mapping Services	N	*8713	Surveying Services (geophysical surveying)
			*1081	Metal Mining Services (geophysical surveying)
			*1382	Oil and Gas Field Exploration Services (geophysical surveying and mapping)
			*1481	Nonmetallic Minerals Services, Except Fuels (geophysical surveying)
54137	Surveying and Mapping (except Geophysical) Services	N	*7389	Business Services, NEC (map making services)
			*8713	Surveying Services (except geophysical surveying)
54138	Testing Laboratories	R	*8734	Testing Laboratories (except veterinary testing laboratories)
5414	Specialized Design Services			
54141	Interior Design Services	N	*7389	Business Services, NEC (interior design)
54142	Industrial Design Services	N	*7389	Business Services, NEC (industrial design)
54143	Graphic Design Services	R	7336	Commercial Art and Graphic Design
			*8099	Health and Allied Services, NEC (medical artists)
54149	Other Specialized Design Services	N	*7389	Business Services, NEC (fashion, furniture, and other design services)
5415	Computer Systems Design and Related Services			
54151	Computer Systems Design and Related Services			
541511	Custom Computer Programming Services	E	7371	Computer Programming Services
541512	Computer Systems Design Services	N	7373	Computer Integrated Systems Design
			*7379	Computer Related Services, NEC (computer systems consultants)
541513	Computer Facilities Management Services	E	7376	Computer Facilities Management Services
541519	Other Computer Related Services	R	*7379	Computer Related Services, NEC (except computer systems consultants)
5416	Management, Scientific and Technical Consulting Services			
54161	Management Consulting Services			

541611	Administrative Management and General Management Consulting Services	N	*8742	Management Consulting Services (administrative management and general management consulting)
541612	Human Resources and Executive Search Consulting Services	N	*8742	Management Consulting Services (human resources and personnel management consulting)
			*7361	Employment Agencies (executive placement services)
			*8999	Services, NEC (actuarial consulting)
541613	Marketing Consulting Services	N	*8742	Management Consulting Services (marketing consulting)
541614	Process, Physical, Distribution and Logistics Consulting Services	N	*8742	Management Consulting Services (manufacturing management, physical distribution, and site location consulting)
541618	Other Management Consulting Services	N	*4731	Arrangement of Transportation of Freight and Cargo (freight rate-auditors and tariff consulting)
			*8748	Business Consulting Services, NEC (safety consulting)
54162	Environmental Consulting Services	N	*8999	Services, NEC (environmental consultants)
54169	Other Scientific and Technical Consulting Services	N	*0781	Landscape Counseling and Planning (horticulture consulting)
			*8748	Business Consulting Services, NEC (agriculture, economic, radio, and traffic consultants)
			*8999	Services, NEC (nuclear consultants, geologists, and physicists)
5417	Scientific Research and Development Services			
54171	Research and Development in the Physical Sciences and Engineering Sciences	N	*8731	Commercial Physical and Biological Research (physical and engineering sciences)
			*8733	Noncommercial Research Organizations (physical and engineering services)
54172	Research and Development in the Life Sciences	N	*8731	Commercial Physical and Biological Research (life sciences)
			*8733	Noncommercial Research Organizations (life sciences)
54173	Research and Development in the Social Sciences and Humanities	N	*8732	Commercial Economic, Sociological, and Educational Research (social sciences and humanities)
			*8733	Noncommercial Research Organizations (social sciences and humanities)
5418	Advertising and Related Services			
54181	Advertising Agencies	E	7311	Advertising Agencies
54182	Public Relations Agencies	E	8743	Public Relations Services
54183	Media Buying Agencies	N	*7319	Advertising, NEC (media buying services)
54184	Media Representatives	E	7313	Radio, Television, and Publishers' Advertising Representatives
54185	Display Advertising	N	7312	Outdoor Advertising Services
			*7319	Advertising, NEC (display advertising, except outdoor)
54186	Direct Mail Advertising	E	7331	Direct Mail Advertising Services
54187	Advertising Material Distribution Services	N	*7319	Advertising, NEC (advertising materials distributor)
54189	Other Services Related to Advertising	N	*7319	Advertising, NEC (except media buying, display advertising, except outdoor; and advertising material distributors)
			*5199	Nondurable Goods, NEC (advertising specialities goods distributors)

			*7389	Business Services, NEC (sign painting and other advertising related business services)
5419	Other Professional, Scientific and Technical Services			
54191	Marketing Research and Public Opinion Polling	N	*8732	Commercial Economic, Sociological, and Educational Research (market research and opinion research)
54192	Photographic Services			
541921	Photography Studios, Portrait	E	7221	Photographic Studios, Portrait
541922	Commercial Photography	R	*7335	Commercial Photography (except when combined with a variety of aircraft based services)
			*8099	Health and Allied Services, NEC (medical photography)
54193	Translation and Interpretation Services	N	*7389	Business Services, NEC (translation and interpretation services)
54194	Veterinary Services	R	0741	Veterinary Services for Livestock
			0742	Veterinary Services for Animal Specialties
			*8734	Testing Laboratories (veterinary testing laboratories)
54199	All Other Professional, Scientific and Technical Services	N	*7389	Business Services (appraisers, except insurance and real estate, and miscellaneous professional, scientific, and technical services)
55	Management of Companies and Enterprises			
551	Management of Companies and Enterprises			
5511	Management of Companies and Enterprises			
55111	Management of Companies and Enterprises			
551111	Offices of Bank Holding Companies	E	6712	Offices of Bank Holding Companies
551112	Offices of Other Holding Companies	E	6719	Offices of Holding Companies, NEC
551114	Corporate, Subsidiary and Regional Managing Offices	N		These establishments were included as auxiliaries in the 1987 Standard Industrial Classification
56	Administrative and Support, Waste Management and Remediation Services			
561	Administrative and Support Services			
5611	Office Administrative Services			
56111	Office Administrative Services	R	*8741	Management Services (except construction management)
5612	Facilities Support Services			
56121	Facilities Support Services	E	8744	Facilities Support Management Services
5613	Employment Services			
56131	Employment Placement Agencies	R	*7361	Employment Agencies (except executive placing services)
			*7819	Services Allied to Motion Pictures Production(casting bureaus)
			*7922	Theatrical Producers and Miscellaneous Theatrical Services (casting agencies)
56132	Temporary Help Services	N	*7363	Help Supply Services (except employee leasing service)
56133	Employee Leasing Services	N	*7363	Help Supply Services (except temporary help service)

5614	Business Support Services			
56141	Document Preparation Services	N	*7338	Secretarial and Court Reporting (except court reporting)
56142	Telephone Call Centers			
561421	Telephone Answering Services	N	*7389	Business Services, NEC (telephone answering)
561422	Telemarketing Bureaus	N	*7389	Business Services, NEC (telemarketing bureaus and telephone soliciting)
56143	Business Service Centers			
561431	Private Mail Centers	N	*7389	Business Services, NEC (private mail centers and mail box rental)
561439	Other Business Service Centers (including Copy Shops)	R	7334	Photocopying and Duplicating Services
			*7389	Business Services, NEC (business service centers, except private mail centers and mail box rental)
56144	Collection Agencies	R	*7322	Adjustment and Collection Services (except adjustment bureaus)
56145	Credit Bureaus	E	7323	Credit Reporting Services
56149	Other Business Support Services			
561491	Repossession Services	N	*7322	Adjustment and Collection (adjustment bureaus)
			*7389	Business Services, NEC (recovery and repossession services)
561492	Court Reporting and Stenotype Services	N	*7338	Secretarial and Court Reporting (except secretarial)
561499	All Other Business Support Services	N	*7389	Business Services, NEC (business support services except telephone answering, telemarketing bureaus, private mail centers and repossession services)
5615	Travel Arrangement and Reservation Services			
56151	Travel Agencies	E	4724	Travel Agencies
56152	Tour Operators	E	4725	Tour Operators
56159	Other Travel Arrangement and Reservation Services			
561591	Convention and Visitors Bureaus	N	*7389	Business Services, NEC (convention and visitors bureaus, tourist information bureaus)
561599	All Other Travel Arrangement and Reservation Services	N	*4729	Arrangement of Passenger Transportation, NEC (except arrangement of vanpools and carpools)
			*7389	Business Services, NEC (reservation systems: hotel & restaurants)
			*7999	Amusement and Recreation Services, NEC (ticket agencies)
			*8699	Membership Organizations, NEC (motor clubs)
5616	Investigation and Security Services			
56161	Investigation, Guard and Armored Car Services			
561611	Investigation Services	N	*7381	Detective, Guard, and Armored Car Services (detective services)
561612	Security Guards and Patrol Services	N	*7381	Detective, Guard, and Armored Car Services (guard services)
561613	Armored Car Services	N	*7381	Detective, Guard, and Armored Car Services (armored car services)
56162	Security Systems Services			
561621	Security Systems Services (except Locksmiths)	R	7382	Security Systems Services

			*1731	Electrical Work (burglar and fire alarm installation)
561622	Locksmiths	N	*7699	Repair Shops and Related Services, NEC (locksmith shops)
5617	Services to Buildings and Dwellings			
56171	Exterminating and Pest Control Services	R	*4959	Sanitary Services, NEC (mosquito eradication)
			*7342	Disinfecting and Pest Control Services (exterminating and pest control)
56172	Janitorial Services	R	*7342	Disinfecting and Pest Control Services (except exterminating)
			7349	Building Cleaning and Maintenance Services, NEC
			*4581	Airports, Flying Fields, and Airport Terminal Services (airplane cleaning and janitorial services)
56173	Landscaping Services	R	0782	Lawn and Garden Services
			0783	Ornamental Shrub and Tree Services
56174	Carpet and Upholstery Cleaning Services	E	7217	Carpet and Upholstery Cleaning
56179	Other Services to Buildings and Dwellings	N	*7389	Business Services, NEC (swimming pool cleaning and maintenance)
			*7699	Repair Shops and Related Services, NEC (furnace, duct, chimney, gutter, and drain cleaning services)
5619	Other Support Services			
56191	Packaging and Labeling Services	N	*7389	Business Services, NEC (packaging and labeling services)
56192	Convention and Trade Show Organizers	N	*7389	Business Services, NEC (convention and trade show services)
56199	All Other Support Services	N	*7389	Business Services, NEC (other support services except packaging and labeling, convention and trade shows services, convention and visiter bureaus, tourist information bureaus)
562	Waste Management and Remediation Services			
5621	Waste Collection			
56211	Waste Collection			
562111	Solid Waste Collection	N	*4212	Local Trucking Without Storage (solid waste collection without disposal)
			*4953	Refuse Systems (solid waste collection)
562112	Hazardous Waste Collection	N	*4212	Local Trucking Without Storage (hazardous waste collection without disposal)
			*4953	Refuse Systems (hazardous waste collection)
562119	Other Waste Collection	N	*4212	Local Trucking Without Storage (other waste collection without disposal)
			*4953	Refuse Systems (other waste collection when combined with disposal)
5622	Waste Treatment and Disposal			
56221	Waste Treatment and Disposal			
562211	Hazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (hazardous waste treatment and disposal)
562212	Solid Waste Landfill	N	*4953	Refuse Systems (solid waste landfills)
562213	Solid Waste Combustors and Incinerators	N	*4953	Refuse Systems (solid waste combustors and incinerators)

562219	Other Nonhazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (other nonhazardous waste treatment and disposal)
5629	Remediation and Other Waste Management Services			
56291	Remediation Services	N	*1799	Special Trade Contractors, NEC (asbestos abatement and lead paint removal contractors)
			*4959	Sanitary Services, NEC (remediation services)
56292	Materials Recovery Facilities	N	*4953	Refuse Systems (materials recovery facilities)
56299	All Other Waste Management Services			
562991	Septic Tank and Related Services	N	*7359	Equipment Rental and Leasing, NEC (portable toilet rental)
			*7699	Repair Shops and Related Services, NEC (cesspool cleaning, sewer cleaning and rodding)
562998	All Other Miscellaneous Waste Management Services	R	*4959	Sanitary Services, NEC (all but remediation services, malaria control, mosquito eradication, snowplowing, street sweeping, and airport runway vacuuming)
61	Educational Services			
611	Educational Services			
6111	Elementary and Secondary Schools			
61111	Elementary and Secondary Schools	E	8211	Elementary and Secondary Schools
6112	Junior Colleges			
61121	Junior Colleges	E	8222	Junior Colleges and Technical Institutes
6113	Colleges, Universities and Professional Schools			
61131	Colleges, Universities and Professional Schools	E	8221	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training			
61141	Business and Secretarial Schools	E	8244	Business and Secretarial Schools
61142	Computer Training	R	*8243	Data Processing Schools (except computer repair training)
61143	Professional and Management Development Training	N	*8299	Schools and Educational Services, NEC (professional and management development training)
6115	Technical and Trade Schools			
61151	Technical and Trade Schools			
611511	Cosmetology and Barber Schools	N	*7231	Beauty Shops (beauty and cosmetology schools)
			*7241	Barber Shops (barber colleges)
611512	Flight Training	N	*8249	Vocational Schools, NEC (aviation schools, excluding flying instruction)
			*8299	Schools and Educational Services, NEC (flying instruction)
611513	Apprenticeship Training	N	*8249	Vocational Schools, NEC (vocational apprenticeship training)
611519	Other Technical and Trade Schools	N	*8249	Vocational Schools, NEC (except aviation and flight training and apprenticeship training)
			*8243	Data Processing Schools (computer repair training)
6116	Other Schools and Instruction			
61161	Fine Arts Schools	N	*8299	Schools and Educational Services, NEC (art, drama, and music schools)

			*7911	Dance Studios, Schools, and Halls (dance instructors, and professional and other dance schools)
61162	Sports and Recreation Instruction	N	*7999	Amusement and Recreation Services, NEC (baseball, basketball, bowling, gymnastic, judo, karate, parachute, scuba and skin diving, skating, ski, swimming, tennis, and other sports instruction; and sports instructional schools and camps)
61163	Language Schools	N	*8299	Schools and Educational Services, NEC (language schools)
61169	All Other Schools and Instruction			
611691	Exam Preparation and Tutoring	N	*8299	Schools and Educational Services, NEC (exam preparation and tutoring)
611692	Automobile Driving Schools	N	*8299	Schools and Educational Services, NEC (automobile driving instruction)
611699	All Other Miscellaneous Schools and Instruction	N	*8299	Schools and Educational Services, NEC (except professional and management training, aviation and flight training, fine arts schools, language schools, exam preparation and tutoring, automobile driving schools, and educational support services)
6117	Educational Support Services			
61171	Educational Support Services	N	*8299	Schools and Educational Services NEC (except instruction)
			*8748	Business Consulting Services, NEC (educational test development and evaluation services, educational testing services, and educational consultants)
62	Health Care and Social Assistance			
621	Ambulatory Health Care Services			
6211	Offices of Physicians			
62111	Offices of Physicians			
621111	Offices of Physicians (except Mental Health Specialists)	N	*8011	Offices and Clinics of Doctors of Medicine (except mental health specialists)
			*8031	Offices and Clinics of Doctors of Osteopathy (except mental health specialists)
621112	Offices of Physicians, Mental Health Specialists	N	*8011	Offices and Clinics of Doctors of Medicine (mental health specialists)
			*8031	Offices and Clinics of Doctors of Osteopathy (mental health specialists)
6212	Offices of Dentists			
62121	Offices of Dentists	E	8021	Offices and Clinics of Dentists
6213	Offices of Other Health Practitioners			
62131	Offices of Chiropractors	E	8041	Offices and Clinics of Chiropractors
62132	Offices of Optometrists	E	8042	Offices and Clinics of Optometrists
62133	Offices of Mental Health Practitioners (except Physicians)	N	*8049	Offices and Clinics of Health Practitioners, NEC (mental health practitioners except physicians)

62134	Offices of Physical, Occupational and Speech Therapists and Audiologists	N	*8049	Offices and Clinics of Health Practitioners, NEC (physical, occupational, speech therapists, and audiologists)
62139	Offices of All Other Health Practitioners			
621391	Offices of Podiatrists	E	8043	Offices and Clinics of Podiatrists
621399	Offices of All Other Miscellaneous Health Practitioners	N	*8049	Offices and Clinics of Health Practitioners, NEC (except mental health practitioners, physical, occupational, speech therapists, and audiologists)
6214	Outpatient Care Centers			
62141	Family Planning Centers	N	*8093	Speciality Outpatient Facilities, NEC (family planning centers)
			*8099	Health and Allied Services, NEC (childbirth preparation)
62142	Outpatient Mental Health and Substance Abuse Centers	N	*8093	Specialty Outpatient Facilities, NEC (mental health facilities)
62149	Other Outpatient Care Centers			
621491	HMO Medical Centers	N	*8011	Offices and Clinics of Doctors of Medicine (HMO Medical Centers)
621492	Kidney Dialysis Centers	E	8092	Kidney Dialysis Centers
621493	Freestanding Ambulatory Surgical and Emergency Centers	N	*8011	Offices and Clinics of Doctors of Medicine (surgical and emergency centers)
621498	All Other Outpatient Care Centers	N	*8093	Specialty Outpatient Facilities, NEC (except family planning and mental health centers)
6215	Medical and Diagnostic Laboratories			
62151	Medical and Diagnostic Laboratories			
621511	Medical Laboratories	R	*8071	Medical Laboratories (except diagnostic imaging centers)
621512	Diagnostic Imaging Centers	N	*8071	Medical Laboratories (diagnostic imaging centers)
6216	Home Health Care Services			
62161	Home Health Care Services	E	8082	Home Health Care Services (home health agencies)
6219	Other Ambulatory Health Care Services			
62191	Ambulance Services	N	*4119	Local Passenger Transportation, NEC (land ambulance)
			*4522	Air Transportation, Nonscheduled (air ambulance)
62199	All Other Ambulatory Health Care Services			
621991	Blood and Organ Banks	N	*8099	Health and Allied Services, NEC (blood and organ banks)
621999	All Other Miscellaneous Ambulatory Health Care Services	N	*8099	Health and Allied Services, NEC (except blood and organ banks, medical artists, medical photography, and childbirth preparation classes)
622	Hospitals			
6221	General Medical and Surgical Hospitals			
62211	General Medical and Surgical Hospitals	R	8062	General Medical and Surgical Hospitals
			*8069	Specialty Hospitals, Except Psychiatric (childrens' hospitals)
6222	Psychiatric and Substance Abuse Hospitals			
62221	Psychiatric and Substance Abuse Hospitals	R	8063	Psychiatric Hospitals
			*8069	Specialty Hospitals, Except Psychiatric (substance abuse hospitals)

6223	Specialty (except Psychiatric and Substance Abuse) Hospitals			
62231	Specialty (except Psychiatric and Substance Abuse) Hospitals	R	*8069	Specialty Hospitals, Except Psychiatric (except childrens' and substance abuse hospitals)
623	Nursing and Residential Care Facilities			
6231	Nursing Care Facilities			
62311	Nursing Care Facilities	N	*8051	Skilled Nursing Care Facilities (except continuing care retirement communities)
			*8052	Intermediate Care Facilities (except continuing care retirement communities and mental retardation facilities)
			*8059	Nursing and Personal Care Facilities, NEC (except continuing care retirement communities)
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities			
62321	Residential Mental Retardation Facilities	N	*8052	Intermediate Care Facilities (mental retardation facilities)
62322	Residential Mental Health and Substance Abuse Facilities	N	*8361	Residential Care (mental health and substance abuse facilities)
6233	Community Care Facilities for the Elderly			
62331	Community Care Facilities for the Elderly			
623311	Continuing Care Retirement Communities	N	*8051	Skilled Nursing Care Facilities (continuing care retirement communities)
			*8052	Intermediate Care Facilities (continuing care retirement communities)
			*8059	Nursing and Personal Care Facilities, NEC (continuing care retirement communities)
623312	Homes for the Elderly	N	*8361	Residential Care (homes for the elderly)
6239	Other Residential Care Facilities			
62399	Other Residential Care Facilities	N	*8361	Residential Care (except mental health and substance abuse facilities, homes for the elderly)
624	Social Assistance			
6241	Individual and Family Services			
62411	Child and Youth Services	N	*8322	Individual and Family Social Services (child and youth services)
			*8641	Civic, Social, and Fraternal Organizations (youth development organizations)
62412	Services for the Elderly and Persons with Disabilities	N	*8322	Individual and Family Social Services (services for the elderly and disabled)
62419	Other Individual and Family Services	N	*8322	Individual and Family Social Services (except services for children, youth, elderly, disabled; food, housing, emergency and relief)
6242	Community Food and Housing, and Emergency and Other Relief Services			
62421	Community Food Services	N	*8322	Individual and Family Social Services (food services)

62422	Community Housing Services			
624221	Temporary Shelters	N	*8322	Individual and Family Social Services (temporary shelter)
624229	Other Community Housing Services	N	*8322	Individual and Family Social Services (housing services except temporary shelter)
62423	Emergency and Other Relief Services	N	*8322	Individual and Family Social Services (emergency and relief services)
6243	Vocational Rehabilitation Services			
62431	Vocational Rehabilitation Services	E	8331	Job Training and Vocational Rehabilitation Services
6244	Child Day Care Services			
62441	Child Day Care Services	R	8351	Child Day Care Services
			*7299	Miscellaneous Personal Services, NEC (babysitting)
71	Arts, Entertainment and Recreation			
711	Performing Arts, Spectator Sports and Related Industries			
7111	Performing Arts Companies			
71111	Theater Companies and Dinner Theaters	N	*5812	Eating Places (dinner theaters)
			*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theater companies, opera companies)
71112	Dance Companies	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (ballet and dance companies)
71113	Musical Groups and Artists	N	*7929	Bands, Orchestras, Actors, and Entertainment Groups (musical groups and artists and orchestras)
71119	Other Performing Arts Companies	N	*7929	Bands, Orchestras, Actors, and Entertainment Groups, (except musical groups, artists, actors, and actresses)
			*7999	Amusement and Recreation Services, NEC (circus companies)
7112	Spectator Sports			
71121	Spectator Sports			
711211	Sports Teams and Clubs	N	*7941	Professional Sports Clubs and Promoters (professional sports clubs)
711212	Race Tracks	N	*7948	Racing, Including Track Operations (track operations)
711219	Other Spectator Sports	N	*7941	Professional Sports Clubs and Promoters (except sports clubs, stadium operators, sports promoters and agents)
			*7948	Racing, Including Track Operations (except track operators)
			*7999	Amusement and Recreation Services, NEC (professional athletes)
7113	Promoters of Performing Arts, Sports and Similar Events			
71131	Promoters of Performing Arts, Sports and Similar Events with Facilities	N	*6512	Operators of Nonresidential Buildings (stadium and arena owners)
			*7922	Theatrical Procedures (Except Motion Pictures) and Miscellaneous Theatrical Services (theater operators)
			*7941	Professional Sports Clubs and Promoters (stadium operators)

71132	Promoters of Performing Arts, Sports and Similar Events without Facilities	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical promoters)
			*7941	Professional Sports Clubs and Promoters (sports promoters)
7114	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures			
71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	N	*7389	Business Services, NEC (agents and brokers for authors and artists)
			*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical agents)
			*7941	Professional Sports Clubs and Promoters (sports agents)
7115	Independent Artists, Writers, and Performers			
71151	Independent Artists, Writers, and Performers	N	*7819	Services Allied to Motion Picture Production (film directors and related motion picture production services, independent)
			*7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Services (actors and actresses)
			*8999	Services, NEC (authors, artists, and related technical services independent)
712	Museums, Historical Sites and Similar Institutions			
7121	Museums, Historical Sites and Similar Institutions			
71211	Museums	R	*8412	Museums and Art Galleries (except historic and heritage sites)
71212	Historical Sites	N	*8412	Museums and Art Galleries (historic and heritage sites)
71213	Zoos and Botanical Gardens	R	*8422	Arboreta and Botanical and Zoological Gardens (except nature parks and reserves)
71219	Nature Parks and Other Similar Institutions	N	*7999	Amusement and Recreation Services, NEC (caverns and miscellaneous commercial parks)
			*8422	Arboreta and Botanical and Zoological Gardens (nature parks and reserves)
713	Amusement, Gambling and Recreation Industries			
7131	Amusement Parks and Arcades			
71311	Amusement and Theme Parks	E	7996	Amusement Parks
71312	Amusement Arcades	R	*7993	Coin-Operated Amusement Devices (amusement arcades)
7132	Gambling Industries			
71321	Casinos (except Casino Hotels)	N	*7999	Amusement and Recreation Services, NEC (casinos, except hotel casinos)
71329	Other Gambling Industries	N	*7993	Coin-Operated Amusement Devices (slot machine operators)
			*7999	Amusement and Recreation Services, NEC (lottery, bingo, bookie, and other gambling operations)
7139	Other Amusement and Recreation Industries			
71391	Golf Courses and Country Clubs	N	7992	Public Golf Courses
			*7997	Membership Sports and Recreation Clubs (golf clubs)
71392	Skiing Facilities	N	*7999	Amusement and Recreation Services, NEC (skiing facilities)

71393	Marinas	E	4493	Marinas
71394	Fitness and Recreational Sports Centers	N	7991	Physical Fitness Facilities
			*7997	Membership Sports and Recreation Clubs (recreation clubs with facilities)
			*7999	Amusement and Recreation Services, NEC (nonmembership recreation facilities)
71395	Bowling Centers	E	7933	Bowling Centers
71399	All Other Amusement and Recreation Industries	N	*7911	Dance Studios, Schools, and Halls (except instruction)
			*7993	Amusement and Recreation Services, NEC (except amusement arcades and slot machine operators)
			*7997	Membership Sports and Recreation Clubs (recreation clubs without facilities)
			*7999	Amusement and Recreation Services, NEC (except circuses, professionals, athletes, caverns and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities, sports instruction, sports equipment rental, ticket agencies, and amusement or scenic transport operations)
72	Accommodation and Foodservices			
721	Accommodation			
7211	Traveler Accommodation			
72111	Hotels (except Casino Hotels) and Motels	R	*7011	Hotels and Motels (hotels and motels, except casino hotels)
			*7041	Organization Hotels and Lodging Houses, on Membership Basis (hotels)
72112	Casino Hotels	N	*7011	Hotels and Motels (casino hotels)
72119	Other Traveler Accommodation			
721191	Bed and Breakfast Inns	N	*7011	Hotels and Motels (bed and breakfast inns)
721199	All Other Traveler Accommodation	N	*7011	Hotels and Motels (except hotels, motels and bed and breakfast inns)
7212	RV (Recreational Vehicle) Parks and Recreational Camps			
72121	RV (Recreational Vehicle) Parks and Recreational Camps			
721211	RV (Recreational Vehicle) Parks and Campgrounds	E	7033	Recreational Vehicle Parks and Campgrounds
721214	Recreational and Vacation Camps	E	7032	Sporting and Recreational Camps
7213	Rooming and Boarding Houses			
72131	Rooming and Boarding Houses	R	7021	Rooming and Boarding Houses
			*7041	Organization Hotels and Lodging Houses, on Membership Basis (except hotels)
722	Foodservices and Drinking Places			
7221	Full-Service Restaurants			
72211	Full-Service Restaurants	N	*5812	Eating Places (full-service restaurants)
7222	Limited-Service Eating Places			

72221	Limited-Service Eating Places			
722211	Limited-Service Restaurants	N	*5812	Eating Places (limited-service restaurants)
			*5499	Miscellaneous Food Stores (coffee shops making and serving food and beverages for immediate consumption)
722212	Cafeterias	N	*5812	Eating Places (cafeterias)
722213	Snack and Nonalcoholic Beverage Bars	N	*5812	Eating Places (snack and nonalcoholic beverage bars)
			*5461	Retail Bakeries (snacks)
7223	Special Foodservices			
72231	Foodservice Contractors	N	*5812	Eating Places (food service contractors)
72232	Caterers	N	*5812	Eating Places (caterers)
72233	Mobile Foodservices	N	*5963	Direct Selling Establishments (mobile food wagons)
7224	Drinking Places (Alcoholic Beverages)			
72241	Drinking Places (Alcoholic Beverages)	E	5813	Drinking Places (alcoholic beverages)
81	Other Services (except Public Administration)			
811	Repair and Maintenance			
8111	Automotive Repair and Maintenance			
81111	Automotive Mechanical and Electrical Repair and Maintenance			
811111	General Automotive Repair	E	7538	General Automotive Repair Shops
811112	Automotive Exhaust System Repair	E	7533	Automotive Exhaust System Repair Shops
811113	Automotive Transmission Repair	E	7537	Automotive Transmission Repair Shops
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	E	7539	Automotive Repair Shops, NEC
81112	Automotive Body, Paint, Interior and Glass Repair			
811121	Automotive Body, Paint and Interior Repair and Maintenance	E	7532	Top, Body, and Upholstery Repair Shops and Paint Shops
811122	Automotive Glass Replacement Shops	E	7536	Automotive Glass Replacement Shops
81119	Other Automotive Repair and Maintenance			
811191	Automotive Oil Change and Lubrication Shops	N	*7549	Automotive Services, Except Repair and Carwashes (lubricating service, automotive)
811192	Car Washes	E	7542	Carwashes
811198	All Other Automotive Repair and Maintenance	R	*7534	Tire Retreading and Repair Shops (repair)
			*7549	Automotive Services, Except Repair and Carwashes (except lubricating and towing)
8112	Electronic and Precision Equipment Repair and Maintenance			
81121	Electronic and Precision Equipment Repair and Maintenance			
811211	Consumer Electronics Repair and Maintenance	N	*7622	Radio and Television Repair Shops (stereo, TV, VCR, and radio)

			*7629	Electrical and Electronic Repair Shops, NEC (consumer equipment except computer, TV, stereo, VCR, and radio)
811212	Computer and Office Machine Repair and Maintenance	N	*7378	Computer Maintenance and Repair (except sales location, providing supporting repair services as major source of revenue)
			*7629	Electrical and Electronic Repair Shops, NEC (business and office machine repair, electrical)
			*7699	Repair Shops and Related Services, NEC (typewriter repair)
811213	Communication Equipment Repair and Maintenance	N	*7622	Radio and Television Repair Shops (telecommunication equipment repair)
			*7629	Electrical and Electronic Repair Shops, NEC (telephone set repair)
811219	Other Electronic and Precision Equipment Repair and Maintenance	N	*7629	Electrical and Electronic Repair Shops, NEC (electrical measuring instrument repair and calibration, medical equipment repair, electrical)
			*7699	Repair Shops and Related Services, NEC (dental instrument repair, laboratory instrument repair, medical equipment and other electronic and precision equipment repair, except typewriters)
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance			
81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	R	*7699	Repair Shops and Related Services, NEC (other non-automotive transportation equipment and industrial machines and equipment)
			*7623	Refrigerator and Air-Conditioning Service and Repair Shops (commercial refrigerator equipment repair)
			*7694	Armature Rewinding Shops (repair)
8114	Personal and Household Goods Repair and Maintenance			
81141	Home and Garden Equipment and Appliance Repair and Maintenance			
811411	Home and Garden Equipment Repair and Maintenance	N	*7699	Repair Shops and Related Services, NEC (lawnmower repair shops, sharpening and repairing knives, saws and tools)
811412	Appliance Repair and Maintenance	N	*7623	Refrigeration and Air-Conditioning Service and Repair Shops (except commercial)
			*7629	Electrical and Electronic Repair Shops, NEC (appliance repair, electrical; washing machine repair; electric razor repair)
			*7699	Repairs Shops and Related Services, NEC (gas appliance repair service, sewing machine repair, stove repair shops, and other non-electrical appliance)
81142	Reupholstery and Furniture Repair	E	7641	Reupholstery and Furniture Repair
81143	Footwear and Leather Goods Repair	R	7251	Shoe Repair and Shoeshine Parlors
			*7699	Repair Shops and Related Services (leather goods repair shops, luggage repair shops, pocketbook repair shops)
81149	Other Personal and Household Goods Repair and Maintenance	N	*3732	Boat Building and Repairing (pleasure boat repair)

			*7219	Laundry and Garment Services, NEC (alteration and repair)
			7631	Watch, Clock, and Jewelry Repair
			7692	Welding Repair
			*7699	Repair Shops and Related Services, NEC (except industrial, electronic, home and garden, appliance, and leather goods)
812	Personal and Laundry Services			
8121	Personal Care Services			
81211	Hair, Nail, and Skin Care Services			
812111	Barber Shops	R	*7241	Barber Shops (except barber colleges)
812112	Beauty Salons	R	*7231	Beauty Shops (except beauty and cosmetology schools and manicure and pedicure salons)
812113	Nail Salons	N	*7231	Beauty Shops (manicure and pedicure salons)
81219	Other Personal Care Services			
812191	Diet and Weight Reducing Centers	N	*7299	Miscellaneous Personal Services, NEC (diet and weight reducing services)
812199	Other Personal Care Services	N	*7299	Miscellaneous Personal Services, NEC, (personal care services)
8122	Death Care Services			
81221	Funeral Homes	R	*7261	Funeral Services and Crematories (funeral homes and services)
81222	Cemeteries and Crematories	R	*6531	Real Estate Agents and Managers (cemetery management)
			6553	Cemetery Subdividers and Developers
			*7261	Funeral Services and Crematories (except funeral homes)
8123	Laundry Services			
81231	Coin-Operated Laundries and Drycleaners	E	7215	Coin-Operated Laundry and Drycleaning
81232	Drycleaning and Laundry Services (except Coin-Operated)			
812321	Laundries, Family and Commercial	E	7211	Power Laundries, Family and Commercial
812322	Drycleaning Plants	E	7216	Drycleaning Plants, Except Rug Cleaning
81233	Linen and Uniform Supply			
812331	Linen Supply	R	7213	Linen Supply
			*7219	Laundry and Garment Services, NEC, (diaper service)
812332	Industrial Launderers	E	7218	Industrial Launderers
81239	Other Laundry Services			
812391	Garment Pressing, and Agents for Laundries	E	7212	Garment Pressing and Agents for Laundries
812399	All Other Laundry Services	R	*7219	Laundry and Garment Services, NEC (except diaper service and clothing alteration and repair)
8129	Other Personal Services			
81291	Pet Care (except Veterinary) Services	R	*0752	Animal Speciality Services, Except Veterinary (pet care services, except veterinary)
81292	Photo Finishing			
812921	Photo Finishing Laboratories (except One-Hour)	N	*7384	Photofinishing Laboratories (except one-hour)
812922	One-Hour Photo Finishing	N	*7384	Photofinishing Laboratories (one-hour)

81293	Parking Lots and Garages	E	7521	Automobile Parking
81299	All Other Personal Services	R	*7299	Miscellaneous Personal Services, NEC (except diet and weight reducing services, personal care services, and formal wear and costume rental service)
			*7389	Miscellaneous Business Services (bail handling)
813	Religious, Grantmaking, Civic, and Professional and Similar Organizations			
8131	Religious Organizations			
81311	Religious Organizations	E	8661	Religious Organizations
8132	Grantmaking and Giving Services			
81321	Grantmaking and Giving Services			
813211	Grantmaking Foundations	E	6732	Educational, Religious, and Charitable Trust
813212	Voluntary Health Organizations	N	*8399	Social Services, NEC (voluntary health organizations)
813219	Other Grantmaking and Giving Services	N	*8399	Social Services, NEC (grantmaking and giving)
8133	Social Advocacy Organizations			
81331	Social Advocacy Organizations			
813311	Human Rights Organizations	N	*8399	Social Services, NEC (human rights organizations and)
813312	Environment, Conservation and Wildlife Organizations	N	*8399	Social Services, NEC (environment, conservation, and wildlife advocacy)
			*8699	Membership Organizations, NEC (humane societies)
813319	Other Social Advocacy Organizations	N	*8399	Social Services, NEC (except human rights, environment, conservation and wildlife organizations, grantmaking and giving, and voluntary health organizations)
8134	Civic and Social Organizations			
81341	Civic and Social Organizations	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations, and youth development organizations)
			*8699	Membership Organizations, NEC (farm granges)
8139	Business, Professional, Labor, Political, and Other Organizations			
81391	Business Associations	R	8611	Business Associations
			*8699	Membership Organizations, NEC (farm business organizations)
81392	Professional Organizations	E	8621	Professional Membership Organizations
81393	Labor Unions and Similar Labor Organizations	E	8631	Labor Unions and Similar Labor Organizations
81394	Political Organizations	E	8651	Political Organizations
81399	Other Similar Organizations	R	*6531	Real Estate Agents and Managers (condominium associations)
			*8641	Civic, Social, and Fraternal Organizations (condominium and homeowner associations)
			*8699	Membership Organizations, NEC (except farm business organizations, farm granges, and environmental, conservation, and wildlife organizations)

814	Private Households			
8141	Private Households			
81411	Private Households	E	8811	Private Households
92	Public Administration			Public Administration
921	Executive, Legislative, Public Finance and General Government			
9211	Executive, Legislative, Public Finance and General Government			
92111	Executive Offices	E	9111	Executive Offices
92112	Legislative Bodies	E	9121	Legislative Bodies
92113	Public Finance	E	9311	Public Finance, Taxation, and Monetary Policy
92114	Executive and Legislative Offices, Combined	E	9131	Executive and Legislative Office, Combined
92115	American Indian and Alaska Native Tribal Governments	N	*8641	Civic, Social, and Fraternal Organizations (pt) (Indian Tribal Councils)
92119	All Other General Government	E	9199	General Government, NEC
922	Justice, Public Order, and Safety			
9221	Justice, Public Order, and Safety			
92211	Courts	E	9211	Courts
92212	Police Protection	E	9221	Police Protection
92213	Legal Counsel and Prosecution	E	9222	Legal Counsel and Prosecution
92214	Correctional Institutions	E	9223	Correctional Institutions
92215	Parole Offices and Probation Offices	N	*8322	Individual and Family Social Services (parole and probation offices)
92216	Fire Protection	E	9224	Fire Protection
92219	All Other Justice, Public Order, and Safety	E	9229	Public Order and Safety, NEC
923	Administration of Human Resource Programs			
9231	Administration of Human Resource Programs			
92311	Administration of Education Programs	E	9411	Administration of Educational Programs
92312	Administration of Public Health Programs	E	9431	Administration of Public Health Programs
92313	Administration of Social, Human Resource and Income Maintenance Programs	E	9441	Administration of Social, Human Resource and Income Maintenance Programs
92314	Administration of Veteran's Affairs	E	9451	Administration of Veteran's Affairs, Except Health Insurance
924	Administration of Environmental Quality Programs			
9241	Administration of Environmental Quality Programs			
92411	Air and Water Resource and Solid Waste Management	E	9511	Air and Water Resource and Solid Waste Management
92412	Land, Mineral, Wildlife, and Forest Conservation	E	9512	Land, Mineral, Wildlife, and Forest Conservation

925	Administration of Housing Programs, Urban Planning, and Community Development			
9251	Administration of Housing Programs, Urban Planning, and Community Development			
92511	Administration of Housing Programs	E	9531	Administration of Housing Programs
92512	Administration of Urban Planning and Community and Rural Development	E	9532	Administration of Urban Planning and Community and Rural Development
926	Administration of Economic Programs			
9261	Administration of Economic Programs			
92611	Administration of General Economic Programs	E	9611	Administration of General Economic Programs
92612	Regulation and Administration of Transportation Programs	R	9621	Regulations and Administration of Transportation Programs (except air traffic control)
92613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	E	9631	Regulation and Administration of Communications, Electric, Gas, and Other Utilities
92614	Regulation of Agricultural Marketing and Commodities	E	9641	Regulation of Agricultural Marketing and Commodities
92615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	E	9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors
927	Space Research and Technology			
9271	Space Research and Technology			
92711	Space Research and Technology	E	9661	Space Research and Technology
928	National Security and International Affairs			
9281	National Security and International Affairs			
92811	National Security	E	9711	National Security
92812	International Affairs	E	9721	International Affairs
99	Unclassified Establishments			
999	Unclassified Establishments			
9999	Unclassified Establishments			
99999	Unclassified Establishments	E	9999	Nonclassifiable Establishments

The definitions of status codes are as follows: E--existing industry; L--nonexistent (null set) industry in U.S.; N--new industry; R--revised industry; and * means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

Table 2 - 1987 U.S. SIC Matched to 1997 NAICS United States

1987 SIC Code	1987 SIC Description	1997 NAICS Code	1997 NAICS United States Description
0111	Wheat	11114	Wheat Farming
0112	Rice	11116	Rice Farming
0115	Corn	11115	Corn Farming (pt)
0116	Soybeans	11111	Soybean Farming
0119	Cash Grains, NEC		
	Dry Pea and Bean Farms	11113	Dry Pea and Bean Farming
	Oilseed, Except Soybean, Farms	11112	Oilseed (except Soybean) Farming
	Popcorn Farms	11115	Corn Farming (pt)
	Combination Oilseed and Grain Farms	111191	Oilseed and Grain Combination Farming
	Other Farms	111199	All Other Grain Farming
0131	Cotton	11192	Cotton farming
0132	Tobacco	11191	Tobacco Farming
0133	Sugarcane and Sugar Beets		
	Sugar Beets	111991	Sugar Beet Farming
	Sugarcane	11193	Sugarcane Farming
0134	Irish Potatoes	111211	Potato Farming
0139	Field Crops, Except Cash Grains, NEC		
	Hay Farms	11194	Hay Farming
	Peanut Farming	111992	Peanut Farming

	Sweet Potatoes and Yams	111219	Other Vegetable (except Potato) and Melon Farming (pt)
	Other Field Crop Farms	111998	All Other Miscellaneous Crop Farming (pt)
0161	Vegetables and Melons	111219	Other Vegetable (except Potato) and Melon Farming (pt)
0171	Berry Crops		
	Strawberry Farms	111333	Strawberry Farming
	Other Berry Farms	111334	Berry (except Strawberry) Farming
0172	Grapes	111332	Grape Vineyards
0173	Tree Nuts	111335	Tree Nut Farming
0174@	Citrus Fruits		
	Orange Groves and Farms	11131	Orange Groves
	Other Citrus Groves and Farms	11132	Citrus (except Orange) Groves
0175	Deciduous Tree Fruits		
	Apple Orchard and Farms	111331	Apple Orchards
	Other Farms	111339	Other Noncitrus Fruit Farming (pt)
0179@	Fruits and Tree Nuts, NEC		
	Combination Fruit and Tree Nut Farms	111336	Fruit and Tree Nut Combination Farming
	Other Farms	111339	Other Noncitrus Fruit Farming (pt)
0181@	Ornamental Floriculture and Nursery Products		
	Floriculture Farming	111422	Floriculture Production
	Nursery Farming	111421	Nursery and Tree Production (pt)
0182	Food Crops Grown Under Cover		
	Mushroom, Growing Of	111411	Mushroom Production

	Other Food Crops Grown Under Cover	111419	Other Food Crops Grown Under Cover
0191@	General Farms, Primarily Crop	111998	All Other Miscellaneous Crop Farming (pt)
0211	Beef Cattle Feedlots	112112	Cattle Feedlots
0212	Beef Cattle, Except Feedlots	112111	Beef Cattle Ranching and Farming (pt)
0213	Hogs	11221	Hog and Pig Farming
0214	Sheep and Goats		
	Sheep Farms	11241	Sheep Farming
	Goat Farms	11242	Goat Farming
0219@	General Livestock, Except Dairy and Poultry	11299	All Other Animal Production (pt)
0241	Dairy Farms		
	Dairy Heifer Replacement Farms	112111	Beef Cattle Ranching and Farming (pt)
	Dairy Farms	11212	Dairy Cattle and Milk Production
0251	Broiler, Fryers, and Roaster Chickens	11232	Broilers and Other Meat-Type Chicken Production
0252	Chicken Eggs	11231	Chicken Egg Production
0253	Turkey and Turkey Eggs	11233	Turkey Production
0254	Poultry Hatcheries	11234	Poultry Hatcheries
0259	Poultry and Eggs, NEC	11239	Other Poultry Production
0271	Fur-Bearing Animals and Rabbits	11293	Fur-Bearing Animal and Rabbit Production
0272	Horses and Other Equines	11292	Horse and Other Equine Production
0273	Animal Aquaculture		
	Finfish Farming	112511	Finfish Farming and Fish Hatcheries (pt)
	Shellfish Farming	112512	Shellfish Farming (pt)

	Other Animal Aquaculture	112519	Other Animal Aquaculture
0279@	Animal Specialities, NEC		
	Apiculture	11291	Apiculture
	Other	11299	All Other Animal Production (pt)
0291@	General Farms, Primarily Livestock and Animal Specialties	11299	All Other Animal Production (pt)
0711	Soil Preparation Services	115112	Soil Preparation, Planting and Cultivating (pt)
0721	Crop Planting, Cultivating and Protecting		
	Crop Dusting (using general purpose aircraft)	481219	Other Nonscheduled Air Transportation (pt)
	Other (including crop dusting using special purpose aircraft)	115112	Soil Preparation, Planting and Cultivating (pt)
0722	Crop Harvesting, Primarily by Machine	115113	Crop Harvesting, Primarily By Machine
0723	Crop Preparation Services For Market, except Cotton Ginning	115114	Postharvest Crop Activities (except Cotton Ginning)
0724	Cotton Ginning	115111	Cotton Ginning
0741	Veterinary Service For Livestock	54194	Veterinary Services(pt)
0742	Veterinary Services for Animal Specialties	54194	Veterinary Services (pt.)
0751@	Livestock Services, Except Veterinary		
	Custom Slaughtering	311611	Animal (except Poultry) Slaughtering (pt)
	Other Livestock Service, Except Veterinary	11521	Support Activities for Animal Production (pt)
0752@	Animal Specialty Services, Except Veterinary		
	Horses and Equines Services and Animal Production Breeding	11521	Support Activities for Animal Production (pt)
	Pet Care Services	81291	Pet Care (except Veterinary) Services

0761	Farm Labor Contractors and Crew Leaders	115115	Farm Labor Contractors and Crew Leaders
0762	Farm Management Services	115116	Farm Management Services
0781	Landscape Counseling and Planning		
	Horticulture Consulting	54169	Other Scientific and Technical Consulting Services (pt)
	Landscape Architectural Services	54132	Landscape Architectural Services
0782	Lawn and Garden Services	56173	Landscaping Services (pt)
0783	Ornamental Shrub and Tree Services	56173	Landscaping Services (pt)
0811@	Timber Tracts		
	Short Rotation Woody Crops	111421	Nursery and Tree Production (pt)
	Long Term Timber Farming	11311	Timber Tract Operations
0831@	Forest Nurseries and Gathering of Forest Products		
	Maple Sap	111998	All Other Miscellaneous Crop Farming (pt)
	Other Forest Products	11321	Forest Nurseries and Gathering of Forest Products
0851	Forestry Services	11531	Support Activities for Forestry
0912	Finfish	114111	Finfish Fishing
0913	Shellfish	114112	Shellfish Fishing
0919	Miscellaneous Marine Products		
	Except Plant Aquaculture	114119	Other Marine Fishing
	Plant Aquaculture	111998	All Other Miscellaneous Crop Farming (pt)
0921@	Fish Hatcheries and Preserves		
	Finfish Hatcheries	112511	Finfish Farming and Fish Hatcheries (pt)
	Shellfish Hatcheries	112512	Shellfish Farming (pt)

0971	Hunting, Trapping, and Game Propagation	11421	Hunting and Trapping
1011	Iron Ores	21221	Iron Ore Mining
1021	Copper Ores	212234	Copper Ore and Nickel Ore Mining (pt.)
1031	Lead and Zinc Ores	212231	Lead Ore and Zinc Ore Mining
1041	Gold Ores	212221	Gold Ore Mining
1044	Silver Ores	212222	Silver Ore Mining
1061	Ferroalloy Ores, Except Vanadium		
	Nickel Ore Mining	212234	Copper Ore and Nickel Ore Mining (pt.)
	Other Ferroalloys (except nickel)	212299	Other Metal Ore Mining (pt)
1081	Metal Mining Services		
	Metal Mining (except geophysical surveying)	213114	Support Activities for Metal Mining
	Geophysical Surveying	54136	Geophysical Surveying and Mapping Services (pt)
1094	Uranium-Radium-Vanadium Ores	212291	Uranium-Radium-Vanadium Ore Mining
1099	Miscellaneous Metal Ores, NEC	212299	Other Metal Ore Mining (pt)
1221	Bituminous Coal and Lignite Surface Mining	212111	Bituminous Coal and Lignite Surface Mining
1222	Bituminous Coal Underground Mining	212112	Bituminous Coal Underground Mining
1231	Anthracite Mining	212113	Anthracite Mining
1241	Coal Mining Services	213113	Support Activities for Coal Mining
1311	Crude Petroleum and Natural Gas	211111	Crude Petroleum and Natural Gas Extraction
1321	Natural Gas Liquids	211112	Natural Gas Liquid Extraction
1381	Drilling Oil and Gas Wells	213111	Drilling Oil and Gas Wells
1382	Oil and Gas Field Exploration Services		

	Geophysical Mapping and Surveying	54136	Geophysical Surveying and Mapping Services (pt)
	Other Oil and Gas Field Exploration Services	213112	Support Activities for Oil and Gas Field Operations (pt)
1389	Oil and Gas Field Services, NEC	213112	Support Activities for Oil and Gas Field Operations (pt)
1411	Dimension Stone	212311	Dimension Stone Mining and Quarry
1422	Crushed and Broken Limestone	212312	Crushed and Broken Limestone Mining and Quarrying
1423	Crushed and Broken Granite	212313	Crushed and Broken Granite Mining and Quarrying
1429	Crushed and Broken Stone, NEC	212319	Other Crushed and Broken Stone Mining and Quarrying (pt)
1442	Construction Sand and Gravel	212321	Construction Sand and Gravel Mining
1446	Industrial Sand	212322	Industrial Sand Mining
1455	Kaolin and Ball Clay	212324	Kaolin and Ball Clay Mining
1459	Clay, Ceramic, and Refractory Minerals, NEC	212325	Clay and Ceramic and Refractory Minerals Mining
1474	Potash, Soda, and Borate Minerals	212391	Potash, Soda, and Borate Mineral Mining
1475	Phosphate Rock	212392	Phosphate Rock Mining
1479	Chemical and Fertilizer Mineral Mining, NEC	212393	Other Chemical and Fertilizer Mineral Mining
1481	Nonmetallic Minerals Services Except Fuels		
	Nonmetallic Minerals Services, except fuels (except geophysical surveying)	213115	Support Activities for Non-metallic Minerals, (except Fuels)
	Geophysical Surveying Services	54136	Geophysical Surveying and Mapping Services (pt)
1499	Miscellaneous Nonmetallic Minerals, Except Fuels		
	Bituminous Limestone and Bituminous Sandstone	212319	Other Crushed and Broken Stone Mining or Quarrying (pt)
	Except Bituminous Limestone and Bituminous Sandstone	212399	All Other Non-Metallic Mineral Mining
1521@	General Contractors-Single-Family Houses	23321	Single Family Housing Construction (pt)

1522@	General Contractors-Residential Buildings, Other Than Single-Family		
	Hotel and Motel Construction	23332	Commercial and Institutional Building Construction (pt)
	Except Hotel and Motel Construction	23322	Multifamily Housing Construction (pt)
1531@	Operative Builders		
	Single-Family Housing	23321	Single Family Housing Construction (pt)
	Multi-Family Housing	23322	Multifamily Housing Construction (pt)
	Manufacturing and Light Industrial Buildings	23331	Manufacturing and Industrial Building Construction (pt)
	Commercial and Institutional Buildings	23332	Commercial and Institutional Building Construction (pt)
1541@	General Contractors-Industrial Buildings and Warehouses		
	Warehouse Construction	23332	Commercial and Institutional Building Construction (pt)
	Except Warehouse Construction	23331	Manufacturing and Industrial Building Construction (pt)
1542@	General Contractors-Nonresidential Buildings, Other than Industrial Buildings and Warehouses	23332	Commercial and Institutional Building Construction (pt)
1611	Highway and Street Construction, Except Elevated Highways	23411	Highway and Street Construction
1622	Bridge, Tunnel, and Elevated Highway Construction	23412	Bridge and Tunnel Construction
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction		
	Water, Sewer and Pipelines	23491	Water, Sewer and Pipeline Construction
	Power and Communication Transmission Lines	23492	Power and Communication Transmission Line Construction
1629	Heavy Construction, NEC		
	Industrial Nonbuilding Structures Construction	23493	Industrial Nonbuilding Structure Construction
	Except Industrial Nonbuilding Structures Construction	23499	All Other Heavy Construction (pt)

1711	Plumbing, Heating, and Air-Conditioning	23511	Plumbing, Heating and Air-Conditioning Contractors
1721@	Painting and Paper Hanging	23521	Painting and Wall Covering Contractors (pt)
1731@	Electrical Work		
	Burglar and Fire Alarm Installation	561621	Security Systems Services (except Locksmiths) (pt)
	Except Burglar and Fire Alarm Installation	23531	Electrical Contractors
1741	Masonry, Stone Setting and Other Stone Work	23541	Masonry and Stone Contractors
1742	Plastering, Drywall, Acoustical and Insulation Work	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
1743	Terrazzo, Tile, Marble, and Mosaic Work		
	Fresco Work	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
	Except Fresco Work	23543	Tile, Marble, Terrazzo and Mosaic Contractors
1751	Carpentry Work	23551	Carpentry Contractors
1752	Floor Laying and Other Floor Work, NEC	23552	Floor Laying and Other Floor Contractors
1761	Roofing, Siding, and Sheet Metal Work	23561	Roofing, Siding, and Sheet Metal Contractors
1771@	Concrete Work		
	Stucco Construction	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
	Except Stucco Construction	23571	Concrete Contractors
1781	Water Well Drilling	23581	Water Well Drilling Contractors
1791	Structural Steel Erection	23591	Structural Steel Erection Contractors
1793	Glass and Glazing Work	23592	Glass and Glazing Contractors (pt)
1794	Excavation Work	23593	Excavation Contractors
1795	Wrecking and Demolition Work	23594	Wrecking and Demolition Contractors
1796	Installation or Erection of Building Equipment, NEC	23595	Building Equipment and Other Machinery Installation Contractors

1799@	Special Trade Contractors, NEC		
	Paint and Wallpaper Stripping and Wallpaper Removal Contractors	23521	Painting and Wall Covering Contractors (pt)
	Tinted Glass Work	23592	Glass and Glazing Contractors (pt)
	Asbestos Abatement and Lead Paint Removal Contractors	56291	Remediation Services (pt)
	All Other Special Trade Contractors	23599	All Other Special Trade Contractors
2011	Meat Packing Plants	311611	Animal (except Poultry) Slaughtering (pt)
2013	Sausages and Other Prepared Meats	311612	Meat Processed from Carcasses (pt)
2015@	Poultry Slaughtering and Processing		
	Poultry Processing	311615	Poultry Processing
	Egg Processing	311999	All Other Miscellaneous Food Manufacturing (pt)
2021	Creamery Butter	311512	Creamery Butter Manufacturing
2022	Natural, Processed, and Imitation Cheese	311513	Cheese Manufacturing
2023	Dry, Condensed, and Evaporated Dairy Products	311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing
2024	Ice Cream and Frozen Desserts	31152	Ice Cream and Frozen Dessert Manufacturing
2026	Fluid Milk	311511	Fluid Milk Manufacturing
2032	Canned Specialties		
	Canned Specialties	311422	Specialty Canning
	Canned Pudding	311999	All Other Miscellaneous Food Manufacturing (pt)
2033@	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	311421	Fruit and Vegetable Canning (pt)
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes		
	Dried and Dehydrated Fruit, Vegetable, and Soup Mixes	311423	Dried and Dehydrated Food Manufacturing (pt)

	Vegetable Flours	311211	Flour Milling (pt)
2035	Pickled Fruits and Vegetables, Vegetables Sauces and Seasonings, and Salad Dressings		
	Pickled Fruits and Vegetables	311421	Fruit and Vegetable Canning (pt)
	Sauces and Salad Dressings	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt)
2037	Frozen Fruits, Fruit Juices, and Vegetables	311411	Frozen Fruit, Juice, and Vegetable Processing
2038	Frozen Specialties, NEC	311412	Frozen Specialty Food Manufacturing
2041	Flour and Other Grain Mill Products	311211	Flour Milling (pt)
2043	Cereal Breakfast Foods		
	Coffee Substitute	31192	Coffee and Tea Manufacturing (pt)
	Breakfast Cereal	31123	Breakfast Cereal Manufacturing
2044	Rice Milling	311212	Rice Milling
2045	Prepared Flour Mixes and Doughs	311822	Flour Mixes and Dough Manufacturing from Purchased Flour
2046	Wet Corn Milling	311221	Wet Corn Milling
2047	Dog and Cat Food	311111	Dog and Cat Food Manufacturing
2048	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats		
	Animal Slaughtering for Pet Food	311611	Animal (except Poultry) Slaughtering (pt)
	Except Slaughtering Animals for Pet Food	311119	Other Animal Food Manufacturing
2051	Bread and Other Bakery Products, Except Cookies and Crackers	311812	Commercial Bakeries (pt)
2052@	Cookies and Crackers		
	Cookie and Cracker	311821	Cookie and Cracker Manufacturing
	Pretzels	311919	Other Snack Food Manufacturing (pt)

	Unleavened Bread	311812	Commercial Bakeries (pt)
2053	Frozen Bakery Products, Except Bread	311813	Frozen Bakery Product Manufacturing
2061	Cane Sugar, Except Refining	311311	Sugarcane Mills
2062	Cane Sugar Refining	311312	Cane Sugar Refining
2063	Beet Sugar	311313	Beet Sugar Manufacturing
2064@	Candy and Other Confectionery Products		
	Chocolate Confectionery	31133	Confectionery Manufacturing from Purchased Chocolate
	Non-Chocolate Confectionery Manufacturing	31134	Non-Chocolate Confectionery Manufacturing (pt)
2066	Chocolate and Cocoa Products	31132	Chocolate and Confectionery Manufacturing from Cacao Beans
2067@	Chewing Gum	31134	Non-Chocolate Confectionery Manufacturing (pt)
2068@	Salted and Roasted Nuts and Seeds	311911	Roasted Nuts and Peanut Butter Manufacturing (pt)
2074@	Cottonseed Oil Mills		
	Cottonseed Processing	311223	Other Oilseed Processing (pt)
	Processing Purchased Cottonseed Oil	311225	Fats and Oils Refining and Blending (pt)
2075	Soybean Oil Mills		
	Soybean Processing	311222	Soybean Processing (pt)
	Processing Purchased Soybean Oil	311225	Fats and Oils Refining and Blending (pt)
2076@	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybeans		
	Vegetable Oilseed Processing, except Corn, Cottonseed, and Soybeans	311223	Other Oilseed Processing (pt)
	Processing Purchased Vegetable Oils, except Corn, Cottonseed, and Soybeans	311225	Fats and Oils Refining and Blending (pt)
2077@	Animal and Marine Fats and Oils		

	Animal Fats and Oils	311613	Rendering and Meat By-product Processing
	Canned Marine Fats and Oils	311711	Seafood Canning (pt)
	Fresh and Frozen Marine Fats and Oils	311712	Fresh and Frozen Seafood Processing (pt)
	Vegetable Oil Foots	311225	Fats and Oils Refining and Blending (pt)
2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC		
	Processing Fats and Oils from Purchased Fats and Oils	311225	Fats and Oils Refining and Blending (pt)
	Processing Soybean Oil from Soybeans Crushed in the Same Establishment	311222	Soybean Processing (pt)
	Processing Vegetable Oils, except Soybeans, from Oilseeds Crushed in the Same Establishment	311223	Other Oilseed Processing (pt)
2082	Malt Beverages	31212	Breweries
2083	Malt	311213	Malt Manufacturing
2084	Wines, Brandy, and Brandy Spirits	31213	Wineries
2085	Distilled and Blended Liquors	31214	Distilleries
2086	Bottled and Canned Soft Drinks and Carbonated Waters		
	Soft Drinks	312111	Soft Drink Manufacturing
	Bottled Water	312112	Bottled Water Manufacturing
2087@	Flavoring Extracts and Flavoring Syrups NEC		
	Flavoring Syrup and Concentrate	31193	Flavoring Syrup and Concentrate Manufacturing
	Flavoring Extracts	311942	Spice and Extract Manufacturing (pt)
	Powered Drink Mix	311999	All Other Miscellaneous Food Manufacturing (pt)
2091@	Canned and Cured Fish and Seafood	311711	Seafood Canning (pt)

2092@	Prepared Fresh or Frozen Fish and Seafoods	311712	Fresh and Frozen Seafood Processing (pt)
2095@	Roasted Coffee		
	Roasted Coffee	31192	Coffee and Tea Manufacturing (pt)
	Coffee Extracts	311942	Spice and Extract Manufacturing (pt)
2096@	Potato Chips, Corn Chips, and Similar Snacks	311919	Other Snack Food Manufacturing (pt)
2097	Manufactured Ice	312113	Ice Manufacturing
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	311823	Pasta Manufacturing
2099	Food Preparations, NEC		
	Bouillon	311423	Dried and Dehydrated Food Manufacturing (pt)
	Reducing Maple Sap to Maple Syrup	111998	All Other Miscellaneous Crop Farming (pt)
	Marshmallow Creme	31134	Non-Chocolate Confectionery Manufacturing (pt)
	Peanut Butter	311911	Roasted Nuts and Peanut Butter Manufacturing (pt)
	Perishable Prepared Food	311991	Perishable Prepared Food Manufacturing
	Tortillas	31183	Tortilla Manufacturing
	Tea	31192	Coffee and Tea Manufacturing (pt)
	Vinegar, Dip Mix, Salad Dressing Mix and Seasoning Mix	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt)
	Spices and Extracts	311942	Spice and Extract Manufacturing (pt)
	Other	311999	All Other Miscellaneous Food Manufacturing (pt)
2111	Cigarettes	312221	Cigarette Manufacturing
2121	Cigars	312229	Other Tobacco Product Manufacturing (pt)
2131@	Chewing and Smoking Tobacco and Snuff	312229	Other Tobacco Product Manufacturing (pt)
2141@	Tobacco Stemming and Redrying		

	Reconstituted Tobacco	312229	Other Tobacco Product Manufacturing (pt)
	Redrying and Stemming	31221	Tobacco Stemming and Redrying
2211@	Broadwoven Fabric Mills, Cotton	31321	Broadwoven Fabric Mills (pt)
2221@	Broadwoven Fabric Mills, Manmade Fiber and Silk	31321	Broadwoven Fabric Mills (pt)
2231@	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)		
	Except Wool Finishing	31321	Broadwoven Fabric Mills (pt)
	Wool Broadwoven Fabric Finishing	313311	Broadwoven Fabric Finishing Mills (pt)
	Wool Finishing, Except Broadwoven Fabric	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk, and Manmade Fiber	313221	Narrow Fabric Mills (pt)
2251@	Women's Full-Length and Knee-Length Hosiery, Except Socks	315111	Sheer Hosiery Mills (pt)
2252 @	Hosiery, NEC		
	Girls' Hosiery	315111	Sheer Hosiery Mills (pt)
	Socks	315119	Other Hosiery and Sock Mills
2253@	Knit Outerwear Mills	315191	Outerwear Knitting Mills (pt)
2254	Knit Underwear and Nightwear Mills	315192	Underwear and Nightwear Knitting Mills (pt)
2257@	Weft Knit Fabric Mills		
	Except Finishing	313241	Weft Knit Fabric Mills (pt)
	Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2258@	Lace and Warp Knit Fabric Mills		
	Except Finishing	313249	Other Knit Fabric and Lace Mills (pt)
	Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)

2259@	Knitting Mills, NEC		
	Knit Gloves and Mittens	315191	Outerwear Knitting Mills (pt)
	Girdles	315192	Underwear and Nightwear Knitting Mills (pt)
	Finished Articles of Weft Knit Fabric	313241	Weft Knit Fabric Mills (pt)
	Finished Articles of Warp Knit Fabric	313249	Other Knit Fabric and Lace Mills (pt)
2261@	Finishers of Broadwoven Fabrics of Cotton	313311	Broadwoven Fabric Finishing Mills (pt)
2262@	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk	313311	Broadwoven Fabric Finishing Mills (pt)
2269@	Finishers of Textiles, NEC		
	Broadwoven Finishing	313311	Broadwoven Fabric Finishing Mills (pt)
	Except Broadwoven Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2273	Carpets and Rugs	31411	Carpet and Rug Mills
2281@	Yarn Spinning Mills	313111	Yarn Spinning Mills (pt)
2282@	Yarn Texturizing, Throwing, Twisting, and Winding Mills		
	Except Spooling Purchased Yarn	313112	Yarn Texturing, Throwing and Twisting Mills
	Spooling Purchased Yarn	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2284@	Thread Mills		
	Except Finishing	313113	Thread Mills (pt)
	Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2295@	Coated Fabrics, Not Rubberized	31332	Fabric Coating Mills (pt)
2296	Tire Cord and Fabrics	314992	Tire Cord and Tire Fabric Mills
2297@	Nonwoven Fabrics	31323	Nonwoven Fabric Mills (pt)
2298	Cordage and Twine	314991	Rope, Cordage and Twine Mills

2299@	Textile Goods, NEC		
	Broadwoven Fabric of Jute, Linen, Hemp, and Ramie	31321	Broadwoven Fabric Mills (pt)
	Nonwoven Felt	31323	Nonwoven Fabric Mills (pt)
	Finishing Thread and Yarn of Flax, Hemp, Jute, Linen, and Ramie	313312	Textile and Fabric Finishing (except Broadwoven Fabrics) Mills (pt)
	Narrow Woven Fabric of Jute, Linen, Hemp, and Ramie	313221	Narrow Fabric Mills (pt)
	Thread of Hemp, Linen, and Ramie	313113	Thread Mills (pt)
	Yarn of Flax, Hemp, Jute, and Ramie	313111	Yarn Spinning Mills (pt)
	Other Textile Goods	314999	All Other Miscellaneous Textile Product Mills (pt)
2311@	Men's and Boys' Suits, Coats and Overcoats		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)
2321@	Men's and Boys' Shirts, Except Work Shirts		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315223	Men's and Boys' Cut and Sew Shirt, (except Work Shirt) Manufacturing (pt)
2322@	Men's and Boys' Underwear and Nightwear		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
2323	Men's and Boys' Neckwear	315993	Men's and Boys' Neckwear Manufacturing
2325@	Men's and Boys' Trousers and Slacks		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)

	Except Contractors	315224	Men's and Boys' Cut And Sew Trouser, Slack, And Jean Manufacturing (pt)
2326@	Men's and Boys' Work Clothing		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing
2329@	Men's and Boys' Clothing, NEC		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
	Athletic Uniforms	315299	All Other Cut and Sew Apparel Manufacturing (pt)
2331@	Women's, Misses', and Juniors' Blouses and Shirts		
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt)
2335@	Women's, Misses' and Junior's Dresses		
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315233	Women's and Girls' Cut and Sew Dress Manufacturing (pt)
2337@	Women's, Misses' and Juniors' Suits, Skirts and Coats		
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
2339@	Women's, Misses' and Juniors' Outerwear, NEC		
	Scarves	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Athletic Uniforms	315299	All Other Cut and Sew Apparel Manufacturing (pt)

	All Other, Except Contractors	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)
2341@	Women's, Misses, Children's, and Infants' Underwear and Nightwear		
	Women and Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Boys' Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Women's and Girls', Except Contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Boys' Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Infants', Except Contractors	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
2342@	Brassieres, Girdles, and Allied Garments		
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Except contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
2353	Hats, Caps, and Millinery	315991	Hat, Cap, and Millinery Manufacturing
2361@	Girls', Children's and Infants' Dresses, Blouses and Shirts		
	Infants' Dresses, Blouses, and Shirts	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
	Boys' Shirts	315223	Men's and Boys' Cut and Sew Shirt, (except Work Shirt) Manufacturing (pt)
	Boys' Shirt Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Girls' Blouses and Shirts	315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt)
	Girls' Dresses	315233	Women's and Girls' Cut and Sew Dress Manufacturing (pt)
	Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2369@	Girls', Children's and Infants' Outerwear, NEC		
	Infants' Outerwear, NEC	315291	Infants' Cut and Sew Apparel Manufacturing (pt)

	Boys' Suits and Coats	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)
	Boys' Trousers and Slacks	315224	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing (pt)
	Boys' Outerwear, NEC	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
	Boys' Robes	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Boys' Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Girls' Suits, Coats, Skirts, Etc.	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
	Girls' Outerwear, NEC	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)
	Girls' Robes	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2371	Fur Goods	315292	Fur and Leather Apparel Manufacturing (pt)
2381@	Dress and Work Gloves, Except Knit and All-Leather	315992	Glove and Mitten Manufacturing (pt
2384@	Robes and Dressing Gowns		
	Women's Except Contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Men's Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Men's and Boys' Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Women's and Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2385@	Waterproof Outerwear		
	Raincoats (Men's and Boys')	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)

	Raincoats (Women's and Girls')	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
	Other Men's and Boys' Outerwear	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
	Other Women's and Girls' Outerwear	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)
	Infants' Waterproof Outerwear Except Contractors	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
	Aprons, Bibs, and Other Miscellaneous Waterproof Items	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Contractors (Men's and Boys')	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Contractors (Women's and Girls')	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2386@	Leather and Sheep-Lined Clothing	315292	Fur and Leather Apparel Manufacturing (pt)
2387@	Apparel Belts	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
2389@	Apparel and Accessories, NEC		
	Handkerchiefs, Arm bands, etc.	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Academic and Clerical Outerwear	315299	All Other Cut and Sew Apparel Manufacturing (pt)
	Garters and Garter Belts	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Women' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Men's Contractors	315211	Mens' and Boys' Cut and Sew Apparel Contractors (pt)
2391	Curtains and Draperies	314121	Curtain and Drapery Mills (pt)
2392@	Housefurnishings, Except Curtains and Draperies		
	Blanket, Laundry, and Wardrobe Bags	314911	Textile Bag Mills (pt)
	Mops, Floor and Dust	339994	Broom, Brush and Mop Manufacturing (pt)
	Other Housefurnishings	314129	Other Household Textile Product Mills
2393@	Textile Bags	314911	Textile Bag Mills (pt)

2394	Canvas and Related Products	314912	Canvas and Related Product Mills
2395@	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade		
	Pleating and Stitching, Except Apparel Contractors	314999	All Other Miscellaneous Textile Product Mills (pt)
	Men's and Boys' Apparel Contractors	315211	Mens' and Boys' Cut and Sew Apparel Contractors (pt)
	Women's and Girls' Apparel Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2396@	Automotive Trimmings, Apparel Findings, and Related Products		
	Textile Automotive Trimmings	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)
	Apparel Findings and Trimmings	315999	Other Apparel Accessories, and Other Apparel Manufacturing (pt)
	Printing and Embossing on Fabric Articles	323113	Commercial Screen Printing (pt)
	Other Apparel Products	314999	All Other Miscellaneous Textile Product Mills (pt)
2397	Schiffli Machine Embroideries	313222	Schiffli Machine Embroidery
2399	Fabricated Textile Products, NEC		
	Seat Belts and Seat and Tire Covers	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)
	Apparel and Apparel Accessories	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Other Fabricated Textile Products	314999	All Other Miscellaneous Textile Product Mills (pt)
2411	Logging	11331	Logging
2421@	Sawmills and Planing Mills, General		
	Lumber Manufacturing from Purchased Lumber, Softwood Cut Stock, Wood Lathe and Planing Mill Products	321912	Cut Stock, Resawing Lumber, and Planing (pt)
	Sawmills	321113	Sawmills (pt)
	Softwood Flooring	321918	Other Millwork (including Flooring) (pt)

	Kiln Drying	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
2426 @	Hardwood Dimension and Flooring Mills		
	Hardwood Flooring	321918	Other Millwork (including Flooring) (pt)
	Wood Stock and Turnings	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Wood Furniture Frames	337215	Showcase, Partition, Shelving, and Locker Manufacturing (pt)
	Other Hardwood Dimension Except Flooring	321912	Cut Stock, Resawing Lumber, and Planing (pt)
2429@	Special Product Sawmills, NEC		
	Sawmills	321113	Sawmills (pt)
	Stave Manufacturing from Purchased Lumber	321912	Cut Stock, Resawing Lumber, and Planing (pt)
	Excelsior and Cooperage Headings	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
2431	Millwork		
	Wood Windows and Doors	321911	Wood Window and Door Manufacturing
	Except Wood Window and Doors	321918	Other Millwork (including Flooring) (pt)
2434	Wood Kitchen Cabinets	33711	Wood Kitchen Cabinet and Counter Top Manufacturing (pt)
2435	Hardwood Veneer and Plywood	321211	Hardwood Veneer and Plywood Manufacturing
2436	Softwood Veneer and Plywood	321212	Softwood Veneer and Plywood Manufacturing
2439@	Structural Wood Members, NEC		
	Lumber Member Manufacturing from Purchased Lumber	321912	Cut Stock, Resawing Lumber, and Planing (pt)
	Trusses	321214	Truss Manufacturing
	Except Trusses and Lumber Member Manufacturing from Purchased Lumber	321213	Engineered Wood Member (except Truss) Manufacturing
2441	Nailed and Lock Corner Wood Boxes and Shook	32192	Wood Container and Pallet Manufacturing (pt)

2448	Wood Pallets and Skids	32192	Wood Container and Pallet Manufacturing (pt)
2449	Wood Containers, NEC	32192	Wood Container and Pallet Manufacturing (pt)
2451	Mobile Homes	321991	Manufactured Home (Mobile Home) Manufacturing
2452	Prefabricated Wood Buildings and Components	321992	Prefabricated Wood Building Manufacturing
2491	Wood Preserving	321114	Wood Preservation
2493	Reconstituted Wood Products	321219	Reconstituted Wood Product Manufacturing
2499	Wood Products, NEC		
	Mirror and Picture Frames	339999	All Other Miscellaneous Manufacturing (pt)
	Wood Tubs and Vats, Jewelry and Cigar Boxes	32192	Wood Container and Pallet Manufacturing (pt)
	Other Wood Products	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
2511	Wood Household Furniture, Except Upholstered	337122	Wood Household Furniture (except Upholstered) Manufacturing (pt)
2512	Wood Household Furniture, Upholstered	337121	Upholstered Household Furniture Manufacturing (pt)
2514	Metal Household Furniture	337124	Metal Household Furniture Manufacturing
2515	Mattresses, Foundations, and Convertible Beds		
	Mattresses and Foundations	33791	Mattress Manufacturing
	Convertible Sofas	337121	Upholstered Household Furniture Manufacturing (pt)
2517	Wood Television, Radio, Phonograph and Sewing Machine Cabinets	337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing
2519	Household Furniture, NEC	337125	Household Furniture (except Wood and Metal) Manufacturing
2521	Wood Office Furniture	337211	Wood Office Furniture Manufacturing
2522	Office Furniture, Except Wood	337214	Nonwood Office Furniture Manufacturing
2531@	Public Building and Related Furniture		
	Seats for Motor Vehicles	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)

	Furniture Made for Public Buildings	337127	Institutional Furniture Manufacturing (pt)
	Blackboards	339942	Lead Pencil and Art Good Manufacturing (pt)
2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers		
	Counter Tops	33711	Wood Kitchen Cabinet and Counter Top Manufacturing (pt)
	Custom Architectural Woodwork, Millwork and Fixtures	337212	Custom Architectural Woodwork, and Millwork Manufacturing
	Except Counter Tops, Custom Architectural Woodwork, Millwork, and Fixtures	337215	Showcase, Partition, Shelving, and Locker Manufacturing (pt)
2542	Office and Store Fixtures, Partitions Shelving, and Lockers, Except Wood	337215	Showcase, Partition, Shelving, and Locker Manufacturing (pt)
2591	Drapery Hardware and Window Blinds and Shades	33792	Blind and Shade Manufacturing
2599@	Furniture and Fixtures, NEC		
	Hospital Beds	339113	Surgical Appliance and Supplies Manufacturing (pt)
	Except Hospital Beds	337127	Institutional Furniture Manufacturing (pt)
2611	Pulp Mills		
	Pulp Producing Mills Only	32211	Pulp Mills
	Pulp Mills Producing Paper	322121	Paper (except Newsprint) Mills (pt)
	Pulp Mills Producing Paperboard	32213	Paperboard Mills (pt)
2621@	Paper Mills		
	Except Newsprint Mills	322121	Paper (except Newsprint) Mills (pt)
	Newsprint Mills	322122	Newsprint Mills
2631	Paperboard Mills	32213	Paperboard Mills (pt)
2652	Setup Paperboard Boxes	322213	Setup Paperboard Box Manufacturing

2653	Corrugated and Solid Fiber Boxes	322211	Corrugated and Solid Fiber Box Manufacturing
2655	Fiber Cans, Tubes, Drums, and Similar Products	322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing
2656	Sanitary Food Containers, Except Folding	322215	Non-Folding Sanitary Food Container Manufacturing (pt)
2657	Folding Paperboard Boxes, Including Sanitary	322212	Folding Paperboard Box Manufacturing
2671	Packaging Paper and Plastics Film, Coated and Laminated		
	Single-Web Paper, Paper Multiweb Laminated Rolls and Sheets for Packaging Uses	322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing
	Plastics Packaging Film and Sheet	326112	Unsupported Plastics Packaging Film and Sheet Manufacturing
2672	Coated and Laminated Paper, NEC	322222	Coated and Laminated Paper Manufacturing (pt)
2673	Plastics, Foil, and Coated Paper Bags		
	Coated or Multiweb Laminated Bags	322223	Plastics, Foil, and Coated Paper Bag Manufacturing
	Plastics Bags	326111	Unsupported Plastics Bag Manufacturing
2674	Uncoated Paper and Multiwall Bags	322224	Uncoated Paper and Multiwall Bag Manufacturing
2675@	Die-Cut Paper and Paperboard and Cardboard		
	File Folders, Tabulating Cards, and Other Paper and Paperboard Office Supplies	322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing (pt)
	Pasted, Lined, Laminated, or Surface-Coated Paperboard	322292	Surface-Coated Paperboard Manufacturing
	Die-Cut Paper and Paperboard Products, Except Office Supplies	322298	All Other Converted Paper Product Manufacturing (pt)
2676	Sanitary Paper Products	322291	Sanitary Paper Product Manufacturing
2677	Envelopes	322232	Envelope Manufacturing
2678	Stationery, Tablets, and Related Products	322233	Stationery, Tablet, and Related Product Manufacturing
2679@	Converted Paper and Paperboard Products, NEC		

	Egg Cartons and Other Containers from Purchased Paper	322215	Non-Folding Sanitary Food Container Manufacturing (pt)
	Wallpaper and Gift Wrap Paper	322222	Coated and Laminated Paper Manufacturing (pt)
	Paper Supplies for Business Machines and Other Paper Office Supplies	322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing (pt)
	Other Converted Paper and Paperboard Products such as Paper Filters, Crepe Paper, and Laminated and Tiled Wallboard	322298	All Other Converted Paper Product Manufacturing (pt)
2711	Newspapers: Publishing, or Publishing and Printing	51111	Newspaper Publishers
2721	Periodicals: Publishing, or Publishing and Printing	51112	Periodical Publishers
2731	Books: Publishing, or Publishing and Printing		
	Music Book Publishing	51223	Music Publishers (pt)
	All Other Book Publishers	51113	Book Publishers
2732	Book Printing	323117	Book Printing
2741	Miscellaneous Publishing		
	Database Publishing	51114	Database and Directory Publishers
	Sheet Music Publishers	51223	Music Publishers (pt)
	Miscellaneous Publishing, Except Database	511199	All Other Publishers
2752@	Commercial Printing, Lithographic		
	Quick Printing	323114	Quick Printing (pt)
	Except Quick Printing	323110	Commercial Lithographic Printing (pt)
2754	Commercial Printing, Gravure	323111	Commercial Gravure Printing (pt)
2759@	Commercial Printing, NEC		
	Screen Printing	323113	Commercial Screen Printing (pt)

	Flexographic Printing	323112	Commercial Flexographic Printing (pt)
	Quick Printing	323114	Quick Printing (pt)
	Digital Printing,, except Quick Printing	323115	Digital Printing
	Other Commercial Printing	323119	Other Commercial Printing (pt)
2761	Manifold Business Forms	323116	Manifold Business Form Printing
2771@	Greeting Cards		
	Lithographic Printing of Greeting Cards	323110	Commercial Lithographic Printing (pt)
	Gravure Printing of Greeting Cards	323111	Commercial Gravure Printing (pt)
	Flexographic Printing of Greeting Cards	323112	Commercial Flexographic Printing (pt)
	Screen Printing of Greeting Cards	323113	Commercial Screen Printing (pt)
	Other Printing of Greeting Cards	323119	Other Commercial Printing (pt)
	Publishing Greeting Cards	511191	Greeting Card Publishers
2782@	Blankbooks, Loose-leaf Binders and Devices		
	Lithographic Printing of Checkbooks	323110	Commercial Lithographic Printing (pt)
	Gravure Printing of Checkbooks	323111	Commercial Gravure Printing (pt)
	Flexographic Printing of Checkbooks	323112	Commercial Flexographic Printing (pt)
	Screen Printing of Checkbooks	323113	Commercial Screen Printing (pt)
	Other Printing of Checkbooks	323119	Other Commercial Printing (pt)
	Blankbooks, Loose-leaf Binders and Devices	323118	Blankbook, Loose-leaf Binder and Device Manufacturing
2789	Bookbinding and Related Work	323121	Tradebinding and Related Work
2791@	Typesetting	323122	Prepress Services (pt)
2796@	Platemaking and Related Services	323122	Prepress Services (pt)

2812	Alkalies and Chlorine	325181	Alkalies and Chlorine Manufacturing
2813	Industrial Gases	32512	Industrial Gas Manufacturing (pt)
2816	Inorganic Pigments		
	Inorganic Pigments, Except Bone and Lamp Black	325131	Inorganic Dye and Pigment Manufacturing (pt)
	Bone and Lamp Black	325182	Carbon Black Manufacturing (pt)
2819@	Industrial Inorganic Chemicals, NEC		
	Activated Carbon and Charcoal	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
	Alumina	331311	Alumina Refining
	Inorganic Dyes	325131	Inorganic Dye and Pigment Manufacturing (pt)
	Other	325188	All Other Basic Inorganic Chemical Manufacturing (pt)
2821	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers	325211	Plastics Material and Resin Manufacturing
2822	Synthetic Rubber	325212	Synthetic Rubber Manufacturing
2823	Cellulosic Manmade Fibers	325221	Cellulosic Organic Fiber Manufacturing
2824	Manmade Organic Fibers, Except Cellulosic	325222	Noncellulosic Organic Fiber Manufacturing
2833	Medicinal Chemicals and Botanical Products	325411	Medicinal and Botanical Manufacturing
2834	Pharmaceutical Preparations	325412	Pharmaceutical Preparation Manufacturing (pt)
2835@	In Vitro and In Vivo Diagnostic Substances		
	Diagnostic Substances, Except In-Vitro Diagnostic	325412	Pharmaceutical Preparation Manufacturing (pt)
	In-Vitro Diagnostic Substances	325413	In-Vitro Diagnostic Substance Manufacturing
2836	Biological Products, Except Diagnostic Substances	325414	Biological Product (except Diagnostic) Manufacturing
2841	Soaps and Other Detergents, Except Speciality Cleaners	325611	Soap and Other Detergent Manufacturing (pt)
2842	Speciality Cleaning, Polishing, and Sanitary Preparations	325612	Polish and Other Sanitation Good Manufacturing

2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants	325613	Surface Active Agent Manufacturing
2844	Perfumes, Cosmetics, and Other Toilet Preparations		
	Toilet Preparations, Except Toothpaste	32562	Toilet Preparation Manufacturing
	Toothpaste	325611	Soap and Other Detergent Manufacturing (pt)
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	32551	Paint and Coating Manufacturing (pt)
2861	Gum and Wood Chemicals	325191	Gum and Wood Chemical Manufacturing
2865@	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments		
	Aromatics	32511	Petrochemical Manufacturing (pt)
	Organic Dyes and Pigments	325132	Organic Dye and Pigment Manufacturing
	Other	325192	Cyclic Crude and Intermediate Manufacturing
2869@	Industrial Organic Chemicals, NEC		
	Aliphatics	32511	Petrochemical Manufacturing (pt)
	Carbon Bisulfide	325188	All Other Inorganic Chemical Manufacturing (pt)
	Ethyl Alcohol	325193	Ethyl Alcohol Manufacturing
	Fluorocarbon Gases	32512	Industrial Gas Manufacturing (pt)
	Other	325199	All Other Basic Organic Chemical Manufacturing (pt)
2873	Nitrogenous Fertilizers	325311	Nitrogenous Fertilizer Manufacturing
2874	Phosphatic Fertilizers	325312	Phosphatic Fertilizer Manufacturing
2875	Fertilizers, Mixing Only	325314	Fertilizer (Mixing Only) Manufacturing
2879	Pesticides and Agricultural Chemicals, NEC	32532	Pesticide and Other Agricultural Chemical Manufacturing
2891	Adhesives and Sealants	32552	Adhesive Manufacturing

2892	Explosives	32592	Explosives Manufacturing
2893	Printing Ink	32591	Printing Ink Manufacturing
2895	Carbon Black	325182	Carbon Black Manufacturing (pt)
2899	Chemicals and Chemical Preparations, NEC		
	Frit	32551	Paint and Coating Manufacturing (pt)
	Table Salt	311942	Spice and Extract Manufacturing (pt)
	Fatty Acids	325199	All Other Basic Organic Chemical Manufacturing (pt)
	Other	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
2911	Petroleum Refining	32411	Petroleum Refineries
2951	Asphalt Paving Mixtures and Blocks	324121	Asphalt Paving Mixture and Block Manufacturing
2952	Asphalt Felts and Coatings	324122	Asphalt Shingle and Coating Materials Manufacturing
2992	Lubricating Oils and Greases	324191	Petroleum Lubricating Oil and Grease Manufacturing
2999	Products of Petroleum and Coal, NEC	324199	All Other Petroleum and Coal Products Manufacturing (pt)
3011	Tires and Inner Tubes	326211	Tire Manufacturing (except Retreading)
3021	Rubber and Plastics Footwear	316211	Rubber and Plastics Footwear Manufacturing
3052	Rubber and Plastics Hose and Belting	32622	Rubber and Plastics Hoses and Belting Manufacturing
3053	Gaskets, Packing, and Sealing Devices	339991	Gasket, Packing, and Sealing Device Manufacturing
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Products	326291	Rubber Product Manufacturing for Mechanical Use
3069	Fabricated Rubber Products, NEC		
	Rubberized Fabric	31332	Fabric Coating Mills (pt)
	Rubber Resilient Floor Covering	326192	Resilient Floor Covering Manufacturing (pt)
	Other	326299	All Other Rubber Product Manufacturing

3081	Unsupported Plastics Film and Sheet	326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing
3082	Unsupported Plastics Profile Shapes	326121	Unsupported Plastics Profile Shape Manufacturing (pt)
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	32613	Laminated Plastics Plate, Sheet, and Shape Manufacturing
3084@	Plastic Pipe	326122	Plastic Pipe and Pipe Fitting Manufacturing (pt)
3085	Plastics Bottles	32616	Plastics Bottle Manufacturing
3086	Plastics Foam Products		
	Urethane Foam Products	32615	Urethane and Other Foam Product (except Polystyrene) Manufacturing
	Polystyrene Foam Products	32614	Polystyrene Foam Product Manufacturing
3087	Custom Compounding of Purchased Plastics Resins	325991	Custom Compounding of Purchased Resin
3088	Plastics Plumbing Fixtures	326191	Plastics Plumbing Fixtures Manufacturing
3089	Plastics Products, NEC		
	Pipe Fittings	326122	Plastics Pipe and Pipe Fitting Manufacturing (pt)
	Plastics Sausage Casings	326121	Unsupported Plastics Profile Shape Manufacturing (pt)
	Other	326199	All Other Plastics Product Manufacturing (pt)
3111	Leather Tanning and Finishing	31611	Leather and Hide Tanning and Finishing (pt)
3131@	Boot and Shoe Cut Stock and Findings		
	Wood Heels	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Metal Buckles	339993	Fastener, Button, Needle, and Pin Manufacturing (pt)
	Except Wood Heels and Metal Buckles	316999	All Other Leather Good Manufacturing (pt)
3142	House Slippers	316212	House Slipper Manufacturing
3143	Men's Footwear, Except Athletic	316213	Men's Footwear (except Athletic) Manufacturing
3144	Women's Footwear, Except Athletic	316214	Women's Footwear (except Athletic) Manufacturing

3149	Footwear, Except Rubber, NEC	316219	Other Footwear Manufacturing
3151	Leather Gloves and Mittens	315992	Glove and Mitten Manufacturing (pt)
3161	Luggage	316991	Luggage Manufacturing
3171	Women's Handbags and Purses	316992	Women's Handbag and Purse Manufacturing
3172	Personal Leather Goods, Except Women's Handbags and Purses	316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing
3199@	Leather Goods, NEC	316999	All Other Leather Good Manufacturing (pt)
3211	Flat Glass	327211	Flat Glass Manufacturing
3221	Glass Containers	327213	Glass Container Manufacturing
3229	Pressed and Blown Glass and Glassware, NEC	327212	Other Pressed and Blown Glass and Glassware Manufacturing
3231	Glass Products, Made of Purchased Glass	327215	Glass Product Manufacturing Made of Purchased Glass
3241	Cement, Hydraulic	32731	Cement Manufacturing
3251	Brick and Structural Clay Tile	327121	Brick and Structural Clay Tile Manufacturing
3253	Ceramic Wall and Floor Tile	327122	Ceramic Wall and Floor Tile Manufacturing
3255	Clay Refractories	327124	Clay Refractory Manufacturing
3259	Structural Clay Products, NEC	327123	Other Structural Clay Product Manufacturing
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	327111	Vitreous China Plumbing Fixture and China and Earthenware Fittings and Bathroom Accessories Manufacturing
3262	Vitreous China Table and Kitchen Articles	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt)
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt)
3264	Porcelain Electrical Supplies	327113	Porcelain Electrical Supply Manufacturing
3269	Pottery Products, NEC	327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing (pt)

3271	Concrete Block and Brick	327331	Concrete Block and Brick Manufacturing
3272@	Concrete Products, Except Block and Brick		
	Dry Mixture Concrete	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
	Concrete Pipes	327332	Concrete Pipe Manufacturing
	Other Concrete Products	32739	Other Concrete Product Manufacturing
3273	Ready-Mixed Concrete	32732	Ready-Mix Concrete Manufacturing
3274	Lime	32741	Lime Manufacturing
3275	Gypsum Products	32742	Gypsum and Gypsum Product Manufacturing (pt)
3281	Cut Stone and Stone Products	327991	Cut Stone and Stone Product Manufacturing
3291	Abrasive Products		
	Steel Wool With or Without Soap	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Abrasive Products (Except Steel Wool With or Without Soap)	32791	Abrasive Product Manufacturing
3292	Asbestos Products		
	Asbestos Brake Linings and Pads	33634	Motor Vehicle Brake System Manufacturing (pt)
	Other Asbestos Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
3295	Minerals and Earths, Ground or Otherwise Treated	327992	Ground or Treated Mineral and Earth Manufacturing
3296	Mineral Wool	327993	Mineral Wool Manufacturing
3297	Nonclay Refractories	327125	Nonclay Refractory Manufacturing
3299@	Nonmetallic Mineral Products, NEC		
	Moldings, Ornamental and Architectural Plaster Work	32742	Gypsum and Gypsum Product Manufacturing (pt)

	Other Nonmetallic Mineral Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
3312@	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills		
	Coke Ovens, Not Integrated With Steel Mills	324199	All Other Petroleum and Coal Products Manufacturing (pt)
	Except Coke Ovens Not Integrated with Steel Mills	331111	Iron and Steel Mills (pt)
3313@	Electrometallurgical Products, Except Steel		
	Ferroalloys	331112	Electrometallurgical Ferroalloy Product Manufacturing
	Nonferrous Alloys	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum) (pt)
3315@	Steel Wiredrawing and Steel Nails and Spikes		
	Steel Wire Drawing	331222	Steel Wire Drawing
	Nails, Spikes, Paper Clips, and Wire, Not Made in Wire Drawing Plants	332618	Other Fabricated Wire Product Manufacturing (pt)
3316	Cold-Rolled Steel Sheet, Strip, and Bars	331221	Cold-Rolled Steel Shape Manufacturing
3317	Steel Pipe and Tubes	33121	Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel
3321	Gray and Ductile Iron Foundries	331511	Iron Foundries (pt)
3322	Malleable Iron Foundries	331511	Iron Foundries (pt)
3324	Steel Investment Foundries	331512	Steel Investment Foundries
3325	Steel Foundries, NEC	331513	Steel Foundries (except Investment)
3331	Primary Smelting and Refining of Copper	331411	Primary Smelting and Refining of Copper
3334	Primary Production of Aluminum	331312	Primary Aluminum Production
3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum	331419	Primary Smelting and Refining of Nonferrous Metals (except Copper and Aluminum)
3341@	Secondary Smelting and Refining of Nonferrous Metals		

	Aluminum	331314	Secondary Smelting and Alloying of Aluminum (pt)
	Copper	331423	Secondary Smelting, Refining, and Alloying of Copper (pt)
	Except Aluminum and Copper	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum) (pt)
3351	Rolling, Drawing, and Extruding of Copper	331421	Copper Rolling, Drawing, and Extruding
3353	Aluminum Sheet, Plate, and Foil	331315	Aluminum Sheet, Plate, and Foil Manufacturing
3354	Aluminum Extruded Products	331316	Aluminum Extruded Product Manufacturing
3355	Aluminum Rolling and Drawing, NEC	331319	Other Aluminum Rolling and Drawing, (pt)
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	331491	Nonferrous Metal (except Copper and Aluminum) Rolling. Drawing, and Extruding (pt)
3357@	Drawing and Insulating of Nonferrous Wire		
	Aluminum Wire Drawing	331319	Other Aluminum Rolling and Drawing (pt)
	Copper Wire Drawing	331422	Copper Wire (except Mechanical) Drawing
	Wire Drawing Except Copper or Aluminum	331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing, and Extruding (pt)
	Fiber Optic Cable - Insulating Only	335921	Fiber Optic Cable Manufacturing
	All Other	335929	Other Communication and Energy Wire Manufacturing
3363	Aluminum Die-Castings	331521	Aluminum Die-Castings
3364	Nonferrous Die-Castings, Except Aluminum	331522	Nonferrous (except Aluminum) Die-Castings
3365	Aluminum Foundries	331524	Aluminum Foundries
3366	Copper Foundries	331525	Copper Foundries
3369	Nonferrous Foundries, Except Aluminum and Copper	331528	Other Nonferrous Foundries
3398	Metal Heat Treating	332811	Metal Heat Treating
3399@	Primary Metal Products, NEC		

	Ferrous Powder, Paste, Flakes, etc.	331111	Iron and Steel Mills (pt)
	Aluminum Powder, Paste, Flakes, etc.	331314	Secondary Smelting and Alloying of Aluminum (pt)
	Copper Powder, Flakes, Paste, etc.	331423	Secondary Smelting, Refining and Alloying of Copper (pt)
	Other Nonferrous Powder, Paste, Flakes, etc.	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum) (pt)
	Nonferrous Nails, Brads, Staples, etc.	332618	Other Fabricated Wire Product Manufacturing (pt)
	Laminated Steel	332813	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt)
3411	Metal Cans	332431	Metal Can Manufacturing
3412	Metal Shipping Barrels, Drums, Kegs and Pails	332439	Other Metal Container Manufacturing (pt)
3421	Cutlery	332211	Cutlery and Flatware (except Precious) Manufacturing (pt)
3423	Hand and Edge Tools, Except Machine Tools and Handsaws	332212	Hand and Edge Tool Manufacturing (pt)
3425	Saw Blades and Handsaws	332213	Saw Blade and Handsaw Manufacturing
3429@	Hardware, NEC		
	Vacuum and Insulated Bottles, Jugs, and Chests	332439	Other Metal Container Manufacturing (pt)
	Hose Nozzles	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)
	Hardware, Except Hose Nozzles, and Vacuum and Insulated Bottles, Jugs, and Chests	33251	Hardware Manufacturing (pt)
3431	Enameled Iron and Metal Sanitary Ware	332998	Enameled Iron and Metal Sanitary Ware Manufacturing
3432	Plumbing Fixture Fittings and Trim		
	Plumbing Fixtures Fittings and Trim, Except Metal Shower Rods	332913	Plumbing Fixture Fitting and Trim Manufacturing
	Metal Shower Rods	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3433	Heating Equipment, Except Electric and Warm Air Furnaces	333414	Heating Equipment Manufacturing, (except Electric and Warm Air Furnaces) (pt)

3441	Fabricated Structural Metal	332312	Fabricated Structural Metal Manufacturing (pt)
3442	Metal Doors, Sash, Frames, Molding, and Trim Manufacturing	332321	Metal Window and Door Manufacturing (pt)
3443@	Fabricated Plate Work (Boiler Shops)		
	Fabricated Plate Work and Metal Weldments	332313	Plate Work Manufacturing
	Power Boilers and Heat Exchanges	33241	Power Boiler and Heat Exchanger Manufacturing
	Heavy Gauge Tanks	33242	Metal Tank (Heavy Gauge) Manufacturing
	Metal Cooling Towers	333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt)
3444	Sheet Metal Work		
	Ducts, Flumes, Flooring. Siding, Dampers, etc.	332322	Sheet Metal Work Manufacturing
	Metal Bins and Vats	332439	Other Metal Container Manufacturing (pt)
3446	Architectural and Ornamental Metal Work	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
3448	Prefabricated Metal Buildings and Components	332311	Prefabricated Metal Building and Component Manufacturing
3449@	Miscellaneous Structural Metal Work		
	Custom Roll Forming	332114	Custom Roll Forming
	Fabricated Bar Joists and Concrete Reinforcing Bars	332312	Fabricated Structural Metal Manufacturing (pt)
	Curtain Wall	332321	Metal Window and Door Manufacturing (pt)
	Metal Plaster Bases	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
3451	Screw Machine Products	332721	Precision Turned Product Manufacturing
3452	Bolts, Nuts, Screws, Rivets, and Washers	332722	Bolt, Nut, Screw, Rivet, and Washer Manufacturing
3462	Iron and Steel Forgings	332111	Iron and Steel Forging
3463	Nonferrous Forgings	332112	Nonferrous Forging

3465	Automotive Stamping	33637	Motor Vehicle Metal Stamping
3466	Crowns and Closures	332115	Crown and Closure Manufacturing
3469	Metal Stamping, NEC		
	Stamping Coins	339911	Jewelry (except Costume) Manufacturing, (pt)
	Metal Stamping, NEC (Except Kitchen Utensils, Pots and Pans for Cooking and Coins)	332116	Metal Stamping
	Kitchen Utensils and Pots and Pans for Cooking	332214	Kitchen Utensil, Pot and Pan Manufacturing
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	332813	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt)
3479	Coating, Engraving, and Allied Services, NEC		
	Jewelry Engraving and Etching, Costume Jewelry	339914	Costume Jewelry and Novelty Manufacturing (pt)
	Jewelry Engraving and Etching, Precious Metal	339911	Jewelry (except Costume) Manufacturing (pt)
	Silverware and Flatware Engraving and Etching	339912	Silverware and Plated Ware Manufacturing (pt)
	Other Coating, Engraving and Allied Services	332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers
3482	Small Arms Ammunition	332992	Small Arms Ammunition Manufacturing
3483	Ammunition, Except for Small Arms	332993	Ammunition (except Small Arms) Manufacturing
3484	Small Arms	332994	Small Arms Manufacturing
3489	Ordnance and Accessories, NEC	332995	Other Ordnance and Accessories Manufacturing
3491	Industrial Valves	332911	Industrial Valve Manufacturing
3492	Fluid Power Valves and Hose Fittings	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt)
3493	Steel Springs, Except Wire	332611	Steel Spring (except Wire) Manufacturing
3494	Valves and Pipe Fittings, NEC		
	Except Metal Pipe Hangers and Supports	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)

	Metal Pipe Hangers and Supports	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3495	Wire Springs		
	Wire Springs (Except Watch and Clock Springs)	332612	Wire Spring Manufacturing
	Watch and Clock Springs	334518	Watch, Clock, and Part Manufacturing (pt)
3496	Miscellaneous Fabricated Wire Products	332618	Other Fabricated Wire Product Manufacturing (pt)
3497	Metal Foil and Leaf		
	Laminated Aluminum Foil Rolls/Sheets for Flexible Packaging Uses	322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses
	Foil and Foil Containers	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3498	Fabricated Pipe and Pipe Fittings	332996	Fabricated Pipe and Pipe Fitting Manufacturing
3499	Fabricated Metal Products, NEC		
	Metal Furniture Frames	337215	Showcase, Partition, Shelving, and Locker Manufacturing (pt)
	Powder Metallurgy	332117	Powder Metallurgy Part Manufacturing
	Metal Boxes	332439	Other Metal Container Manufacturing (pt)
	Safe and Vault Locks	33251	Hardware Manufacturing (pt)
	Metal Aerosol Valves	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)
	Trophies of Nonprecious Metals	339914	Costume Jewelry and Novelty Manufacturing (pt)
	Other Metal Products	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units	333611	Turbine and Turbine Generator Set Unit Manufacturing
3519	Internal Combustion Engines, NEC		
	Stationary Engine Radiators	336399	All Other Motor Vehicle Parts Manufacturing (pt)
	Except Stationary Engine Radiators	333618	Other Engine Equipment Manufacturing (pt)

3523@	Farm Machinery and Equipment		
	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Hair Clippers for Animals, Farm Conveyors, and Elevators)	333111	Farm Machinery and Equipment Manufacturing
	Corrals, Stalls, Holding Gates	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
	Hand Hair Clippers for Animals	332212	Hand and Edge Tool Manufacturing(pt)
	Farm Conveyors and Farm Elevators, Stackers, and Bale Throwers	333922	Conveyor and Conveying Equipment Manufacturing (pt)
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment		
	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers)	333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing
	Nonpowered Lawnmowers	332212	Hand and Edge Tool Manufacturing (pt)
3531@	Construction Machinery and Equipment		
	Railway Track Maintenance Equipment	33651	Railroad Rolling Stock Manufacturing (pt)
	Winches, Aerial Work Platforms, and Automotive Wrecker Hoists	333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing (pt)
	Other Construction Machinery and Equipment	33312	Construction Machinery Manufacturing
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment	333131	Mining Machinery and Equipment Manufacturing
3533	Oil and Gas Field Machinery and Equipment	333132	Oil and Gas Field Machinery and Equipment Manufacturing
3534	Elevators and Moving Stairways	333921	Elevator and Moving Stairway Manufacturing
3535	Conveyors and Conveying Equipment	333922	Conveyor and Conveying Equipment Manufacturing (pt)
3536	Overhead Traveling Cranes, Hoists and Monorail Systems	333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing (pt)

3537	Industrial Trucks, Tractors, Trailers, and Stackers		
	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal Pallets and Air Cargo Containers)	333924	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing
	Metal Pallets	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Metal Air Cargo Containers	332439	Other Metal Container Manufacturing (pt)
3541	Machine Tools, Metal Cutting Type	333512	Machine Tool (Metal Cutting Types) Manufacturing
3542	Machine Tools, Metal Forming Type	333513	Machine Tool (Metal Forming Types) Manufacturing
3543	Industrial Patterns	332997	Industrial Pattern Manufacturing
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds		
	Except Industrial Molds	333514	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing
	Industrial Molds	333511	Industrial Mold Manufacturing
3545@	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices		
	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (Except Precision Measuring Devices)	333515	Cutting Tool and Machine Tool Accessory Manufacturing
	Precision Measuring Devices	332212	Hand and Edge Tool Manufacturing (pt)
3546	Power-Driven Handtools	333991	Power-Driven Hand Tool Manufacturing
3547	Rolling Mill Machinery and Equipment	333516	Rolling Mill Machinery and Equipment Manufacturing
3548@	Electric and Gas Welding and Soldering Equipment		
	Except Transformers for Arc-Welding	333992	Welding and Soldering Equipment Manufacturing
	Transformers for Arc-Welding	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt)
3549	Metalworking Machinery, NEC	333518	Other Metalworking Machinery Manufacturing
3552	Textile Machinery	333292	Textile Machinery Manufacturing

3553	Woodworking Machinery	33321	Sawmill and Woodworking Machinery Manufacturing
3554	Paper Industries Machinery	333291	Paper Industry Machinery Manufacturing
3555	Printing Trades Machinery and Equipment	333293	Printing Machinery and Equipment Manufacturing
3556	Food Products Machinery	333294	Food Product Machinery Manufacturing
3559@	Special Industry Machinery, NEC		
	Rubber and Plastics Manufacturing Machinery	33322	Rubber and Plastics Industry Machinery Manufacturing
	Automotive Maintenance Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Semiconductor Machinery Manufacturing	333295	Semiconductor Manufacturing Machinery
	Except Rubber and Plastics Manufacturing Machinery, Semiconductor Manufacturing Machinery and Automotive Maintenance Equipment	333298	All Other Industrial Machinery Manufacturing (pt)
3561	Pumps and Pumping Equipment	333911	Pump and Pumping Equipment Manufacturing (pt)
3562	Ball and Roller Bearings	332991	Ball and Roller Bearing Manufacturing
3563	Air and Gas Compressors	333912	Air and Gas Compressor Manufacturing
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment		
	Air Purification Equipment	333411	Air Purification Equipment Manufacturing
	Fans and Blowers	333412	Industrial and Commercial Fan and Blower Manufacturing
3565	Packaging Machinery	333993	Packaging Machinery Manufacturing
3566	Speed Changers, Industrial High-Speed Drives, and Gears	333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing
3567	Industrial Process Furnaces and Ovens	333994	Industrial Process Furnace and Oven Manufacturing
3568	Mechanical Power Transmission Equipment, NEC	333613	Mechanical Power Transmission Equipment Manufacturing
3569	General Industrial Machinery and Equipment, NEC	333999	All Other General Purpose Machinery Manufacturing (pt)
3571	Electronic Computers	334111	Electronic Computer Manufacturing

3572	Computer Storage Devices	334112	Computer Storage Device Manufacturing
3575	Computer Terminals	334113	Computer Terminal Manufacturing
3577	Computer Peripheral Equipment, NEC	334119	Other Computer Peripheral Equipment Manufacturing (pt)
3578@	Calculating and Accounting Machines, Except Electronic Computers		
	Point of Sales Terminals and Fund Transfer Devices	334119	Other Computer Peripheral Equipment Manufacturing (pt)
	Calculating and Accounting Machines, Except Point of Sales Terminals and Fund Transfer Devices	333313	Office Machinery Manufacturing (pt)
3579@	Office Machines, NEC		
	Pencil Sharpeners, Staplers, and Other Office Equipment	339942	Lead Pencil and Art Good Manufacturing (pt)
	Time Clocks and Other Time Recording Devices	334518	Watch, Clock, and Part Manufacturing (pt)
	Other Office Machines	333313	Office Machinery Manufacturing (pt)
3581	Automatic Vending Machines	333311	Automatic Vending Machine Manufacturing
3582	Commercial Laundry, Drycleaning, and Pressing Machines	333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment		
	Motor Vehicle Air Conditioning	336391	Motor Vehicle Air Conditioning Manufacturing
	Except Motor Vehicle Air Conditioning	333415	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt)
3586	Measuring and Dispensing Pumps	333913	Measuring and Dispensing Pump Manufacturing
3589	Service Industry Machinery, NEC	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
3592	Carburetors, Pistons, Piston Rings and Valves	336311	Carburetor, Piston, Piston Ring and Valve Manufacturing
3593	Fluid Power Cylinders and Actuators	333995	Fluid Power Cylinder and Actuator Manufacturing

3594	Fluid Power Pumps and Motors	333996	Fluid Power Pump and Motor Manufacturing
3596	Scales and Balances, Except Laboratory	333997	Scale and Balance (except Laboratory) Manufacturing
3599@	Industrial and Commercial Machinery and Equipment, NEC		
	Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except Motor Vehicle	336399	All Other Motor Vehicle Part Manufacturing (pt)
	Flexible Metal Hose	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Carnival Amusement Park Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Machine Shops	33271	Machine Shops
	Other Industrial and Commercial Machinery and Equipment	333999	All Other General Purpose Machinery Manufacturing (pt)
3612	Power, Distribution, and Specialty Transformers	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt)
3613	Switchgear and Switchboard Apparatus	335313	Switchgear and Switchboard Apparatus Manufacturing
3621	Motors and Generators	335312	Motor and Generator Manufacturing (pt)
3624	Carbon and Graphite Products	335991	Carbon and Graphite Product Manufacturing
3625	Relays and Industrial Controls	335314	Relay and Industrial Control Manufacturing
3629	Electrical Industrial Apparatus, NEC	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing (pt)
3631	Household Cooking Equipment	335221	Household Cooking Appliance Manufacturing
3632	Household Refrigerators and Home and Farm Freezers	335222	Household Refrigerator and Home Freezer Manufacturing
3633	Household Laundry Equipment	335224	Household Laundry Equipment Manufacturing
3634	Electric Housewares and Fans		
	Except Wall and Baseboard Heating Units for Permanent Installation	335211	Electric Housewares and Household Fan Manufacturing

	Wall and Baseboard Heating Units For Permanent Installation	333414	Heating Equipment (except Electric and Warm Air Furnaces) Manufacturing (pt)
3635	Household Vacuum Cleaners	335212	Household Vacuum Cleaner Manufacturing (pt)
3639	Household Appliances, NEC		
	Floor Waxing and Floor Polishing Machines	335212	Household Vacuum Cleaner Manufacturing (pt)
	Household Sewing Machines	333298	All Other Industrial Machinery Manufacturing (pt)
	Other Household Appliances	335228	Other Major Household Appliance Manufacturing
3641	Electric Lamp Bulbs and Tubes	33511	Electric Lamp Bulb and Part Manufacturing
3643	Current-Carrying Wiring Devices	335931	Current-Carrying Wiring Device Manufacturing
3644	Noncurrent-Carrying Wiring Devices	335932	Noncurrent-Carrying Wiring Device Manufacturing
3645	Residential Electric Lighting Fixtures	335121	Residential Electric Lighting Fixture Manufacturing (pt)
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing
3647	Vehicular Lighting Equipment	336321	Vehicular Lighting Equipment Manufacturing
3648@	Lighting Equipment, NEC	335129	Other Lighting Equipment Manufacturing (pt)
3651	Household Audio and Video Equipment	33431	Audio and Video Equipment Manufacturing
3652	Phonograph Records and Prerecorded Audio Tapes and Disks		
	Reproduction of Recording Media	334612	Prerecorded Compact Disc (Except Software), Tape and Record Reproducing (pt)
	Integrated Record Companies, Except Duplication Only	51222	Integrated Record Production/Distribution
3661	Telephone and Telegraph Apparatus		
	Telephone and Telegraph Apparatus, Except Telephone Transformers, and Consumer External Modems	33421	Telephone Apparatus Manufacturing

	Telephone Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)
	Consumer External Modems	334418	Printed Circuit/Electronics Assembly Manufacturing (pt)
3663	Radio and Television Broadcasting and Communication Equipment	33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (pt)
3669	Communications Equipment, NEC	33429	Other Communication Equipment Manufacturing
3671	Electron Tubes	334411	Electron Tube Manufacturing
3672	Printed Circuit Boards	334412	Printed Circuit Board Manufacturing
3674	Semiconductors and Related Devices	334413	Semiconductor and Related Device Manufacturing
3675	Electronic Capacitors	334414	Electronic Capacitor Manufacturing
3676	Electronic Resistors	334415	Electronic Resistor Manufacturing
3677	Electronic Coils, Transformers, and Other Inductors	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)
3678	Electronic Connectors	334417	Electronic Connector Manufacturing
3679	Electronic Components, NEC		
	Communication Equipment	33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (pt)
	Printed Circuit/Electronics Assembly	334418	Printed Circuit/Electronics Assembly Manufacturing (pt)
	Electronic Control Modules for Motor Vehicles	336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
	Other Electronic Components	334419	Other Electronic Component Manufacturing
3691	Storage Batteries	335911	Storage Battery Manufacturing
3692	Primary Batteries, Dry and Wet	335912	Dry and Wet Primary Battery Manufacturing
3694	Electrical Equipment for Internal Combustion Engines	336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
3695	Magnetic and Optical Recording Media	334613	Magnetic and Optical Recording Media Manufacturing

3699	Electrical Machinery, Equipment, and Supplies, NEC		
	Electronic Teaching Machines and Flight Simulators	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Outboard Electric Motors	333618	Other Engine Equipment Manufacturing (pt)
	Bar Code Scanners	334119	Other Computer Peripheral Equipment Manufacturing (pt)
	Lasers		Classify According to Function
	Christmas Tree Lighting Sets and Electric Insect Lamps	335129	Other Lighting Equipment Manufacturing (pt)
	Other Electrical Machinery, Equipment, and Supplies	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing (pt)
3711@	Motor Vehicles and Passenger Car Bodies		
	Automobiles	336111	Automobile Manufacturing
	Light Truck and Utility Vehicles	336112	Light Truck and Utility Vehicle Manufacturing
	Heavy Duty Trucks	33612	Heavy Duty Truck Manufacturing
	Kit Car and Other Passenger Car Bodies	336211	Motor Vehicle Body Manufacturing (pt)
	Military Armored Vehicles	336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt)
3713	Truck and Bus Bodies	336211	Motor Vehicle Body Manufacturing (pt)
3714@	Motor Vehicle Parts and Accessories		
	Dump-Truck Lifting Mechanisms and Fifth Wheels	336211	Motor Vehicle Body Manufacturing (pt)
	Gasoline Engines Including Rebuilt and Engine Parts Including Rebuilt for Motor Vehicles	336312	Gasoline Engine and Engine Parts Manufacturing

	Wiring Harness Sets, Other than Ignition; Block Heaters and Battery Heaters; Instrument Board Assemblies; Permanent Defroster; Windshield Washer-Wiper Mechanisms; Cruise Control Mechanisms; and Other Electrical Equipment for Internal Combustion Engines	336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
	Steering and Suspension Parts	33633	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing
	Brake and Brake Systems, Including Assemblies	33634	Motor Vehicle Brake System Manufacturing (pt)
	Transmissions and Power Train Parts, Including Rebuilding	33635	Motor Vehicle Transmission and Power Train Parts Manufacturing
	Other Motor Vehicle Parts	336399	All Other Motor Vehicle Parts Manufacturing (pt)
3715	Truck Trailers	336212	Truck Trailer Manufacturing
3716	Motor Homes	336213	Motor Home Manufacturing
3721	Aircraft	336411	Aircraft Manufacturing
3724	Aircraft Engines and Engine Parts	336412	Aircraft Engine and Engine Parts Manufacturing
3728	Aircraft Parts and Auxiliary Equipment, NEC		
	Fluid Power Aircraft Subassemblies	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt)
	Except Fluid Power Aircraft Subassemblies	336413	Other Aircraft Part and Auxiliary Equipment Manufacturing
3731	Ship Building and Repairing	336611	Ship Building and Repairing
3732	Boat Building and Repairing		
	Boat Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
	Boat Building	336612	Boat Building
3743	Railroad Equipment		
	Locomotive Fuel Lubricating or Cooling Medium Pumps	333911	Pump and Pumping Equipment Manufacturing (pt)

	Other Railroad Equipment	33651	Railroad Rolling Stock Manufacturing (pt)
3751	Motorcycles, Bicycles, and Parts	336991	Motorcycle, Bicycle, and Parts Manufacturing (pt)
3761	Guided Missiles and Space Vehicles	336414	Guided Missile and Space Vehicle Manufacturing
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing
3769	Guided Missile Space Vehicle Parts and Auxiliary Equipment, NEC	336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing
3792	Travel Trailers and Campers	336214	Travel Trailer and Camper Manufacturing (pt)
3795	Tanks and Tank Components	336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt)
3799@	Transportation Equipment, NEC		
	Automobile, Boat, Utility and Light Truck Trailers	336214	Travel Trailer and Camper Manufacturing (pt)
	Wheelbarrows	332212	Hand and Edge Tool Manufacturing (pt)
	Other Transportation Equipment	336999	All Other Transportation Equipment Manufacturing
3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments	334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing
3821	Laboratory Apparatus and Furniture	339111	Laboratory Apparatus and Furniture Manufacturing
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	334512	Automatic Environmental Control Manufacturing for Regulating Residential, Commercial, and Appliance Use
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products	334513	Instruments and Related Product Manufacturing for Measuring Displaying, and Controlling Industrial Process Variables
3824	Totalizing Fluid Meters and Counting Devices	334514	Totalizing Fluid Meter and Counting Device Manufacturing
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals		
	Portable Instrument Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)

	Except Portable Instrument Transformers	334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals
3826	Laboratory Analytical Instruments	334516	Analytical Laboratory Instrument Manufacturing
3827	Optical Instruments and Lenses	333314	Optical Instrument and Lens Manufacturing
3829	Measuring and Controlling Devices, NEC		
	Medical Thermometers	339112	Surgical and Medical Instrument Manufacturing (pt)
	Except Medical Thermometers	334519	Other Measuring and Controlling Device Manufacturing
3841	Surgical and Medical Instruments and Apparatus	339112	Surgical and Medical Instrument Manufacturing (pt)
3842@	Orthopedic, Prosthetic, and Surgical Appliances and Supplies		
	Orthopedic, Prosthetic, and Surgical Appliances and Supplies, except Electronic Hearing Aids	339113	Surgical Appliance and Supplies Manufacturing (pt)
	Electronic Hearing Aids	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing (pt)
3843	Dental Equipment and Supplies	339114	Dental Equipment and Supplies Manufacturing
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	334517	Irradiation Apparatus Manufacturing (pt)
3845	Electromedical and Electrotherapeutic Apparatus		
	CT and CAT Scanners	334517	Irradiation Apparatus Manufacturing (pt)
	Other Electromedical and Electrotherapeutic Apparatus	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing (pt)
3851	Ophthalmic Goods	339115	Ophthalmic Goods Manufacturing (pt)
3861	Photographic Equipment and Supplies		
	Photographic Equipment and Supplies (Except Photographic Film, Paper, Plate and Chemicals)	333315	Photographic and Photocopying Equipment Manufacturing
	Photographic Film, Paper, Plates and Chemicals	325992	Photographic Film, Paper, Plate and Chemical Manufacturing

3873	Watches, Clocks, Clockwork Operated Devices and Parts	334518	Watch, Clock, and Part Manufacturing (pt)
3911	Jewelry, Precious Metal	339911	Jewelry (except Costume) Manufacturing (pt)
3914	Silverware, Plated Ware, and Stainless Steel Ware		
	Cutlery and Flatware Except Precious	332211	Cutlery and Flatware (except Precious) Manufacturing (pt)
	Silverware, Plated Ware, and Stainless Steel Ware (Except Nonprecious Metal Cutlery and Flatware)	339912	Silverware and Plated Ware Manufacturing (pt)
3915	Jewelers' Findings and Materials, and Lapidary Work	339913	Jewelers' Material and Lapidary Work Manufacturing
3931	Musical Instruments	339992	Musical Instrument Manufacturing
3942	Dolls and Stuffed Toys	339931	Doll and Stuffed Toy Manufacturing
3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles		
	Metal Tricycles	336991	Motorcycle, Bicycle and Parts Manufacturing (pt)
	Other Games, Toys and Children's Vehicles	339932	Game, Toy, and Children's Vehicle Manufacturing
3949	Sporting and Athletic Goods, NEC	33992	Sporting and Athletic Good Manufacturing
3951	Pens, Mechanical Pencils and Parts	339941	Pen and Mechanical Pencil Manufacturing
3952@	Lead Pencils, Crayons, and Artist's Materials		
	Drafting Tables and Boards	337127	Institutional Furniture Manufacturing (pt)
	Drawing and India Ink	325998	All Other Miscellaneous Chemical Manufacturing (pt)
	Other	339942	Lead Pencil and Art Good Manufacturing (pt)
3953	Marking Devices	339943	Marking Device Manufacturing
3955	Carbon Paper and Inked Ribbons	339944	Carbon Paper and Inked Ribbon Manufacturing
3961	Costume Jewelry and Costume Novelties, Except Precious Metals	339914	Costume Jewelry and Novelty Manufacturing (pt)
3965	Fasteners, Buttons, Needles, and Pins	339993	Fastener, Button, Needle and Pin Manufacturing (pt)

3991	Brooms and Brushes	339994	Broom, Brush and Mop Manufacturing (pt)
3993	Signs and Advertising Specialties	33995	Sign Manufacturing
3995	Burial Caskets	339995	Burial Casket Manufacturing
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC	326192	Resilient Floor Covering Manufacturing (pt)
3999	Manufacturing Industries, NEC		
	Beauty and Barber Chairs	337127	Institutional Furniture Manufacturing (pt)
	Burnt Wood Articles	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Fur Dressing and Bleaching	31611	Leather and Hide Tanning and Finishing (pt)
	Lamp Shades of Paper or Textile	335121	Residential Electric Lighting Fixture Manufacturing (pt)
	Matches	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
	Metal Products, Such As Combs, Hair Curlers, Etc.	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Plastics Products, Such As Combs, Hair Curlers, Etc.	326199	All Other Plastics Product Manufacturing (pt)
	Flexographic Printing Eyeglass Frames for the Trade	323112	Commercial Flexographic Printing (pt)
	Gravure Printing Eyeglass Frames for the Trade	323111	Commercial Gravure Printing (pt)
	Lithographic Printing Eyeglass Frames for the Trade	323110	Commercial Lithographic Printing (pt)
	Screen Printing of Eyeglass Frames for the Trade	323113	Commercial Screen Printing (pt)
	Other Printing of Eyeglass Frames for the Trade	323119	Other Commercial Printing (pt)
	Tape Measures	332212	Hand and Edge Tool Manufacturing (pt)
	Other	339999	All Other Miscellaneous Manufacturing (pt)
4011	Railroads, Line-haul Operating	482111	Line-Haul Railroads
4013@	Railroad Switching and Terminal Establishments		
	Beltline and Logging Railroads	482112	Short Line Railroads

	Other	48821	Support Activities for Rail Transportation (pt)
4111@	Local and Suburban Transit		
	Mixed Mode Transit Systems	485111	Mixed Mode Transit Systems
	Commuter Rail Systems	485112	Commuter Rail Systems
	Bus and Motor Vehicle Transit Systems	485113	Bus and Motor Vehicle Transit Systems
	Other Urban Transit Systems	485119	Other Urban Transit Systems
	Airport Limousine Transportation	485999	All Other Transit and Ground Passenger Transportation (pt)
4119@	Local Passenger Transportation, NEC		
	Ambulances	62191	Ambulance Service (pt)
	Employee Transportation	48541	School and Employee Bus Transportation (pt)
	Sightseeing Buses and Cable and Cog Railways, Except Scenic	48711	Scenic and Sightseeing Transportation , Land (pt)
	Special Needs Transportation	485991	Special Needs Transportation
	Hearse Rental with Driver and Carpool and Vanpool Operations	485999	All Other Transit and Ground Passenger Transportation (pt)
	Automobile Rental with Driver and Limousine Rental with Driver	48532	Limousine Service
4121	Taxicabs	48531	Taxi Service
4131	Intercity and Rural Bus Transportation	48521	Interurban and Rural Bus Transportation
4141@	Local Bus Charter Service	48551	Charter Bus Industry (pt)
4142	Bus Charter Service, Except Local	48551	Charter Bus Industry (pt)
4151	School Buses	48541	School and Employee Bus Transportation (pt)
4173@	Terminal and Service Facilities for Motor Vehicle Passenger Transportation	48849	Other Support Activities for Road Transportation (pt)

4212@	Local Trucking Without Storage		
	Solid Waste Collection Without Disposal	562111	Solid Waste Collection (pt)
	Hazardous Waste Collection Without Disposal	562112	Hazardous Waste Collection (pt)
	Other Waste Collection Without Disposal	562119	Other Waste Collection (pt)
	Local General Freight Trucking Without Storage	48411	General Freight Trucking, Local (pt)
	Household Goods Moving Without Storage	48421	Used Household and Office Goods Moving (pt)
	Local Specialized Freight Trucking Without Storage	48422	Specialized Freight (except Used Goods) Trucking, Local (pt)
4213@	Trucking, Except Local		
	Long-distance Truckload General Freight Trucking	484121	General Freight Trucking, Long-Distance, Truckload
	Long-distance Less Than Truckload General Freight Trucking	484122	General Freight Trucking, Long-Distance, Less Than Truckload
	Long-distance Household Goods Moving	48421	Used Household and Office Goods Moving (pt)
	Long-distance Specialized Freight Trucking	48423	Specialized Freight (except Used Goods) Trucking, Long-Distance
4214@	Local Trucking with Storage		
	Local General Freight Trucking with Storage	48411	General Freight Trucking, Local (pt)
	Local Household Goods Moving	48421	Used Household and Office Goods Moving (pt)
	Local Specialized Freight Trucking with Storage	48422	Specialized Freight (except Used Goods) Trucking, Local (pt)
4215@	Couriers Services Except by Air		
	Hub and Spoke Intercity Delivery	49211	Couriers (pt)
	Local Delivery	49221	Local Messengers and Local Delivery
4221	Farm Product Warehousing and Storage	49313	Farm Product Warehousing and Storage Facilities
4222	Refrigerated Warehousing and Storage	49312	Refrigerated Warehousing and Storage Facilities (pt)
4225	General Warehousing and Storage		

	General Warehousing and Storage	49311	General Warehousing and Storage Facilities (pt)
	Miniwarehouses and Self-Storage Units	53113	Lessors of Miniwarehouses and Self Storage Units
4226	Special Warehousing and Storage, NEC		
	Fur Storage	49312	Refrigerated Warehousing and Storage Facilities (pt)
	General Warehousing in Foreign Trade Zones	49311	General Warehousing and Storage Facilities (pt)
	Other	49319	Other Warehousing and Storage Facilities
4231@	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	48849	Other Support Activities for Road Transportation (pt)
4311	United States Postal Service	49111	Postal Service
4412	Deep Sea Foreign Transportation of Freight	483111	Deep Sea Freight Transportation
4424@	Deep Sea Domestic Transportation of Freight	483113	Coastal and Great Lakes Freight Transportation (pt)
4432@	Freight Transportation on the Great Lakes - St. Lawrence Seaway	483113	Coastal and Great Lakes Freight Transportation (pt)
4449	Water Transportation of Freight, NEC	483211	Inland Water Freight Transportation (pt)
4481	Deep Sea Transportation of Passengers, Except by Ferry		
	Deep Sea Passenger Transportation	483112	Deep Sea Passenger Transportation
	Coastal and Great Lakes Passenger Transportation	483114	Coastal and Great Lakes Passenger Transportation (pt)
4482@	Ferries		
	Coastal and Great Lakes Ferries	483114	Coastal and Great Lakes Passenger Transportation (pt)
	Inland Water Ferries	483212	Inland Water Passenger Transportation (pt)
4489	Water Transportation of Passengers, NEC		
	Water Taxis	483212	Inland Water Passenger Transportation (pt)
	Airboats, Excursion Boats, and Sightseeing Boats	48721	Scenic and Sightseeing Transportation, Water (pt)

4491	Marine Cargo Handling		
	Dock and Pier Operations	48831	Port and Harbor Operations (pt)
	Except Dock and Pier Operations	48832	Marine Cargo Handling
4492@	Towing and Tugboat Services		
	Coastal and Great Lakes Barge Operations	483113	Coastal and Great Lakes Freight Transportation (pt)
	Inland Water Barge Operations	483211	Inland Water Freight Transportation (pt)
	Except Barge Operations	48833	Navigational Services to Shipping (pt)
4493	Marinas	71393	Marinas
4499@	Water Transportation Services, NEC		
	Boat and Ship Rental	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (pt)
	Lighthouse Operations	48831	Port and Harbor Operations (pt)
	Marine Salvage and Piloting Vessels In and Out of Harbors	48833	Navigational Services to Shipping (pt)
	Other	48839	Other Support Activities for Water Transportation (pt)
4512	Air Transportation, Scheduled		
	Scheduled Passenger Air Transportation	481111	Scheduled Passenger Air Transportation
	Scheduled Freight Air Transportation	481112	Scheduled Freight Air Transportation
4513@	Air Courier Services	49211	Couriers (pt)
4522@	Air Transportation, Nonscheduled		
	Air Ambulance	62191	Ambulance Services (pt)
	Nonscheduled Charter Freight Air Transportation	481212	Nonscheduled Chartered Freight Air Transportation
	Nonscheduled Charter Passenger Air Transportation	481211	Nonscheduled Chartered Passenger Air Transportation

	Sightseeing Aircraft	48799	Scenic and Sightseeing Transportation , Other (pt)
4581	Airports, Flying Fields, and Airport Terminal Services		
	Air Traffic Control	488111	Air Traffic Control (pt)
	Airfreight Handling at Airports, Hangar Operations, Airport Terminal Services, Aircraft Storage, Airports, and Flying Fields	488119	Other Airport Operations (pt)
	Aircraft Cleaning and Janitorial Services	56172	Janitorial Services (pt)
	Aircraft Servicing and Repairing	48819	Other Support Activities for Air Transportation
4612	Crude Petroleum Pipelines	48611	Pipeline Transportation of Crude Oil
4613	Refined Petroleum Pipelines	48691	Pipeline Transportation of Refined Petroleum Products
4619	Pipelines, NEC	48699	All Other Pipeline Transportation
4724	Travel Agencies	56151	Travel Agencies
4725	Tour Operators	56152	Tour Operators
4729@	Arrangement of Passenger Transportation, NEC		
	Arrangement of Carpools and Vanpools	488999	All Other Support Activities for Transportation (pt)
	Except Arrangement of Carpools and Vanpools	561599	All Other Travel Arrangement and Reservation Services (pt)
4731	Arrangement of Transportation of Freight and Cargo		
	Freight Rate Auditors and Tariff Consultants	541618	Other Management Consulting Services (pt)
	Except Freight Rate Auditors and Tariff Consultants	48851	Freight Transportation Arrangement
4741@	Rental of Railroad Cars		
	Rental of Railroad Cars	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (pt)

	Grain Leveling in Railroad Cars, Grain Trimming for Railroad Equipment, Precooling of Fruits and Vegetables in Connection with Transportation, and Railroad Car Cleaning, Icing, Ventilating and Heating	48821	Support Activities for Rail Transportation (pt)
4783	Packing and Crating	488991	Packing and Crating
4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation		
	Marine Cargo Checkers	48839	Other Support Activities for Water Transportation (pt)
	Except Marine Cargo Checkers	48849	Other Support Activities for Road Transportation (pt)
4789	Transportation Services, NEC		
	Pipeline Terminals and Stockyards for Transportation	488999	All Other Support Activities for Transportation (pt)
	Horse-drawn Cabs and Carriages	48711	Scenic and Sightseeing Transportation, Land (pt)
	Other	48821	Support Activities for Rail Transportation (pt)
4812@	Radiotelephone Communications		
	Paging Carriers	513321	Paging
	Cellular Carriers	513322	Cellular and Other Wireless Telecommunications (pt)
	Paging and Cellular Resellers	51333	Telecommunications Resellers (pt)
4813@	Telephone Communications, Except Radiotelephone		
	Except Resellers	51331	Wired Telecommunications Carriers (pt)
	Resellers	51333	Telecommunications Resellers (pt)
4822@	Telegraph and Other Message Communications	51331	Wired Telecommunications Carriers (pt)
4832	Radio Broadcasting Stations		
	Networks	513111	Radio Networks
	Stations	513112	Radio Stations

4833	Television Broadcasting Stations	51312	Television Broadcasting
4841	Cable and Other Pay Television Services		
	Cable Networks	51321	Cable Networks
	Except Cable Networks	51322	Cable and Other Program Distribution
4899	Communications Services, NEC		
	Radio Dispatch	513322	Cellular and Other Wireless Telecommunications (pt)
	Satellite Communications	51334	Satellite Telecommunications
	Except Radio Dispatch and Satellite Communications	51339	Other Telecommunications
4911	Electric Services		
	Hydroelectric Power Generation	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels	221113	Nuclear Electric Power Generation (pt)
	Other Electric Power Generation	221119	Other Electric Power Generation (pt)
	Electric Power Transmission and Control	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution	221122	Electric Power Distribution (pt)
4922	Natural Gas Transmission	48621	Pipeline Transportation of Natural Gas (pt)
4923@	Natural Gas Transmission and Distribution		
	Distribution	22121	Natural Gas Distribution (pt)
	Transmission	48621	Pipeline Transportation of Natural Gas (pt)
4924@	Natural Gas Distribution	22121	Natural Gas Distribution (pt)
4925@	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution	22121	Natural Gas Distribution (pt)
4931@	Electric and Other Services Combined		

	Hydroelectric Power Generation When Combined with Other Services	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels When Combined with Other Services	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels When Combined with Other Services	221113	Nuclear Electric Power Generation (pt)
	Other Electric Power Generation When Combined with Other Services	221119	Other Electric Power Generation (pt)
	Electric Power Transmission When Combined with Other Services	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution When Combined with Other Services	221122	Electric Power Distribution (pt)
	Natural Gas When Combined with Electric Services	22121	Natural Gas Distribution (pt)
4932@	Gas and Other Services Combined	22121	Natural Gas Distribution (pt)
4939@	Combination Utilities, NEC		
	Hydroelectric Power Generation When Combined with Other Services	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels When Combined with Other Services	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels When Combined with Other Services	221113	Nuclear Electric Power Generation (pt)
	Other Power Generation When Combined with Other Services	221119	Other Electric Power Generation (pt)
	Electric Power Transmission When Combined with Other Services	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution When Combined with Other Services	221122	Electric Power Distribution (pt)

	Natural Gas Distribution when Combined with Other Services	22121	Natural Gas Distribution (pt)
4941	Water Supply	22131	Water Supply and Irrigation Systems (pt)
4952	Sewerage Systems	22132	Sewage Treatment Facilities
4953	Refuse Systems		
	Solid Waste Collection When Combined with Disposal	562111	Solid Waste Collection (pt)
	Hazardous Waste Collection When Combined with Disposal	562112	Hazardous Waste Collection (pt)
	Materials Recovery Facilities	56292	Materials Recovery Facilities
	Other Waste Collection When Combined with Disposal	562119	Other Waste Collection (pt)
	Hazardous Waste Treatment and Disposal	562211	Hazardous Waste Treatment and Disposal
	Solid Waste Landfills	562212	Solid Waste Landfills
	Solid Waste Combustors and Incinerators	562213	Solid Waste Combustors and Incinerators
	Other Nonhazardous Waste Treatment and Disposal	562219	Other Nonhazardous Waste Treatment and Disposal
4959	Sanitary Services, NEC		
	Vacuuming of Airport Runways	488119	Other Airport Operations (pt)
	Remediation Services	56291	Remediation Services (pt)
	Malaria Control and Mosquito Eradication	56171	Exterminating and Pest Control Services (pt)
	Other	562998	All Other Miscellaneous Waste Management Services
4961	Steam and Air-Conditioning Supply	22133	Steam and Air-Conditioning Supply
4971@	Irrigation Systems	22131	Water Supply and Irrigation Systems (pt)
5012	Automobiles and Other Motor Vehicles	42111	Automobile and Other Motor Vehicle Wholesalers
5013	Motor Vehicle Supplies and New Parts		

	Sold Via Retail Method	44131	Automotive Parts and Accessories Stores (pt) - Retail
	Sold Via Wholesale Method	42112	Motor Vehicle Supplies and New Part Wholesalers
5014	Tires and Tubes		
	Sold Via Retail Method	44132	Tire Dealers (pt.) - Retail
	Sold Via Wholesale Method	42113	Tire and Tube Wholesalers
5015	Motor Vehicle Parts, Used	42114	Motor Vehicle Part (Used) Wholesalers
5021	Furniture		
	Sold Via Retail Method	44211	Furniture Stores (pt)
	Sold Via Wholesale Method	42121	Furniture Wholesalers
5023	Home Furnishings		
	Sold Via Retail Method	44221	Floor Covering Stores (pt)
	Sold Via Wholesale Method	42122	Home Furnishing Wholesalers
5031	Lumber, Plywood, Millwork, and Wood Panels		
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method	42131	Lumber, Plywood, Millwork, and Wood Panel Wholesalers (pt)
5032	Brick, Stone and Related Construction Materials		
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method	42132	Brick, Stone and Related Construction Material Wholesalers
5033	Roofing, Siding, and Insulation Materials	42133	Roofing, Siding, and Insulation Material Wholesalers
5039	Construction Materials, NEC		
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method	42139	Other Construction Material Wholesalers

5043	Photographic Equipment and Supplies	42141	Photographic Equipment and Supplies Wholesalers
5044	Office Equipment	42142	Office Equipment Wholesalers
5045	Computers and Computer Peripheral Equipment and Software		
	Sold Via Wholesale Method	42143	Computer and Computer Peripheral Equipment and Software Wholesalers
	Sold Via Retail Method	44312	Computer and Software Stores (pt) - Retail
5046	Commercial Equipment, NEC	42144	Other Commercial Equipment Wholesalers
5047	Medical, Dental, and Hospital Equipment and Supplies		
	Sold Via Wholesale Method	42145	Medical, Dental and Hospital Equipment and Supplies Wholesalers
	Sold Via Retail Method	446199	All Other Health and Personal Care Stores (pt) - Retail
5048	Ophthalmic Goods	42146	Ophthalmic Goods Wholesalers
5049	Professional Equipment and Supplies, NEC		
	Sold Via Wholesale Method	42149	Other Professional Equipment and Supplies Wholesalers
	Religious and School Supplies Sold Via Retail Method	45321	Office Supplies and Stationery Stores (pt) - Retail
5051	Metals Service Centers and Offices	42151	Metals Service Centers and Offices
5052	Coal and Other Minerals and Ores	42152	Coal and Other Mineral and Ore Wholesalers
5063	Electrical Apparatus and Equipment Wiring Supplies, and Construction Materials		
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method	42161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Material Wholesalers
5064	Electrical Appliances, Television and Radio Sets	42162	Electrical Appliance, Television and Radio Set Wholesalers
5065	Electronic Parts and Equipment, Not Elsewhere Classified	42169	Other Electronic Parts and Equipment Wholesalers

5072	Hardware	42171	Hardware Wholesalers
5074	Plumbing and Heating Equipment and Supplies (Hydronics)		
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method	42172	Plumbing and Heating Equipment and Supplies (Hydronics) Wholesalers
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies	42173	Warm Air Heating and Air-Conditioning Equipment and Supplies Wholesalers
5078	Refrigeration Equipment and Supplies	42174	Refrigeration Equipment and Supplies Wholesalers
5082	Construction and Mining (Except Petroleum) Machinery and Equipment	42181	Construction and Mining (except Petroleum) Machinery and Equipment Wholesalers
5083	Farm and Garden Machinery and Equipment		
	Sold Via Wholesale Method	42182	Farm and Garden Machinery and Equipment Wholesalers
	Garden and Lawn Equipment Sold Via Retail Method	44421	Outdoor Power Equipment Stores (pt) - Retail
5084	Industrial Machinery and Equipment	42183	Industrial Machinery and Equipment Wholesalers (pt)
5085	Industrial Supplies		
	Fluid Power Accessories	42183	Industrial Machinery and Equipment Wholesalers (pt)
	Except Fluid Power Accessories	42184	Industrial Supplies Wholesalers
5087	Service Establishment Equipment and Supplies		
	Sold Via Wholesale Method	42185	Service Establishment Equipment and Supplies Wholesalers
	Sold Via Retail Method	44612	Cosmetics, Beauty Supplies, and Perfume Stores (pt)
5088	Transportation Equipment and Supplies, Except Motor Vehicles	42186	Transportation Equipment and Supplies (except Motor Vehicles) Wholesalers
5091	Sporting and Recreational Goods and Supplies	42191	Sporting and Recreational Goods and Supplies Wholesalers
5092	Toys and Hobby Goods and Supplies	42192	Toy and Hobby Goods and Supplies Wholesalers

5093	Scrap and Waste Materials	42193	Recyclable Material Wholesalers
5094	Jewelry, Watches, Precious Stones, and Precious Metals	42194	Jewelry, Watch , Precious Stone, and Precious Metal Wholesalers
5099	Durable Goods, NEC	42199	Other Miscellaneous Durable Goods Wholesalers (pt)
5111	Printing and Writing Paper	42211	Printing and Writing Paper Wholesalers
5112	Stationery and Office Supplies		
	Sold Via Retail Method	45321	Office Supplies and Stationery Stores (pt)
	Sold Via Wholesale Method	42212	Stationery and Office Supplies Wholesalers
5113	Industrial and Personal Service Paper	42213	Industrial and Personal Service Paper Wholesalers
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	42221	Drugs, Drug Proprietaries, and Druggists' Sundries Wholesalers
5131	Piece Goods, Notions, and Other Dry Goods		
	Piece Good Converters, Broadwoven Fabrics	313311	Broadwoven Fabric Finishing Mills (pt)
	Piece Good Converters, Except Broadwoven Fabrics	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
	Except Converters	42231	Piece Goods, Notions, and Other Dry Goods Wholesalers
5136	Men's and Boys' Clothing and Furnishings	42232	Men's and Boys' Clothing and Furnishings Wholesalers
5137	Women's Children's and Infants' Clothing and Accessories	42233	Women's, Children's, and Infants' Clothing and Accessories Wholesalers
5139	Footwear	42234	Footwear Wholesalers
5141	Groceries, General Line	42241	General Line Grocery Wholesalers
5142	Packaged Frozen Foods	42242	Packaged Frozen Food Wholesalers
5143	Dairy Products, Except Dried or Canned	42243	Dairy Products (except Dried or Canned) Wholesalers
5144	Poultry and Poultry Products	42244	Poultry and Poultry Product Wholesalers
5145	Confectionery	42245	Confectionery Wholesalers
5146	Fish and Seafoods	42246	Fish and Seafood Wholesalers

5147	Meats and Meat Products		
	Boxed Beef	311612	Meat Processed from Carcasses (pt)
	Except Boxed Beef	42247	Meat and Meat Product Wholesalers
5148	Fresh Fruits and Vegetables	42248	Fresh Fruit and Vegetable Wholesalers
5149	Groceries and Related Products, NEC	42249	Other Grocery and Related Product Wholesalers
5153	Grain and Field Beans	42251	Grain and Field Bean Wholesalers
5154	Livestock	42252	Livestock Wholesalers
5159	Farm-Product Raw Materials, NEC	42259	Other Farm Product Raw Material Wholesalers
5162	Plastics Materials and Basic Forms and Shapes	42261	Plastics Materials and Basic Forms and Shapes Wholesalers
5169	Chemicals and Allied Products, NEC	42269	Other Chemical and Allied Products Wholesalers
5171	Petroleum Bulk Stations and Terminals		
	Heating Oil Sold Via Retail Method	454311	Heating Oil Dealers (pt)
	LP Gas Sold Via Retail Method	454312	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt)
	Sold Via Wholesale Method	42271	Petroleum Bulk Stations and Terminals
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	42272	Petroleum and Petroleum Products (except Bulk Stations and Terminals) Wholesalers
5181	Beer and Ale	42281	Beer and Ale Wholesalers
5182	Wine and Distilled Alcoholic Beverages	42282	Wine and Distilled Alcoholic Beverage Wholesalers
5191	Farm Supplies		
	Lawn and Garden Supplies Sold Via Retail Method	44422	Nursery and Garden Centers (pt) - Retail
	Except Lawn and Garden Supplies Sold Via Retail Method	42291	Farm Supplies Wholesalers
5192	Books, Periodicals, and Newspapers	42292	Book, Periodical and Newspaper Wholesalers

5193	Flowers, Nursery Stock, and Florists' Supplies		
	Sold Via Wholesale Method	42293	Flower, Nursery Stock and Florists' Supplies Wholesalers
	Sold Via Retail Method	44422	Nursery and Garden Centers (pt) - Retail
5194	Tobacco and Tobacco Products	42294	Tobacco and Tobacco Product Wholesalers
5198	Paint, Varnishes, and Supplies		
	Sold Via Wholesale Method	42295	Paint, Varnish and Supplies Wholesalers (pt)
	Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt) - (Retail)
5199	Nondurable Goods, NEC		
	Advertising Specialties Goods Distributors	54189	Other Services Related to Advertising (pt)
	Except Specialty Advertising	42299	Other Miscellaneous Nondurable Goods Wholesalers
5211	Lumber and Other Building Materials Dealers		
	Home Centers	44411	Home Centers
	Sold Via Wholesale Method	42131	Lumber, Plywood, Millwork and Wood Panel Wholesalers (pt)
	Sold Via Retail Method, Except Home Centers and Glass	44419	Other Building Material Dealers (pt)
5231	Paint, Glass, and Wallpaper Stores		
	Paint and Wallpaper Sold Via Wholesale Method	42295	Paint, Varnish and Supplies Wholesalers (pt)
	Glass Stores	44419	Other Building Material Dealers (pt)
	Paint and Wallpaper Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt)
5251	Hardware Stores	44413	Hardware Stores
5261	Retail Nurseries, Lawn and Garden Supply Stores		
	Except Cut Christmas Trees and Outdoor Power Equipment	44422	Nursery and Garden Centers (pt)

	Cut Christmas Trees	453998	All Other Miscellaneous Store Retailers (except Tobacco Stores) (pt)
	Outdoor Power Equipment Stores	44421	Outdoor Power Equipment Stores (pt)
5271	Mobile Home Dealers	45393	Manufactured (Mobile) Home Dealers
5311	Department Stores	45211	Department Stores
5331	Variety Stores	45299	All Other General Merchandise Stores (pt)
5399	Miscellaneous General Merchandise Stores		
	Warehouse Clubs and General Merchandise Combination Stores	45291	Warehouse Clubs and Superstores (pt)
	All Other General Merchandise Stores	45299	All Other General Merchandise Stores (pt)
5411	Grocery Stores		
	Convenience Stores with Gas	44711	Gasoline Stations with Convenience Stores (pt)
	Supermarkets and Grocery Stores with Little General Merchandise	44511	Supermarkets and Other Grocery (except Convenience) Stores
	Supermarkets and Grocery Stores with Substantial General Merchandise	45291	Warehouse Clubs and Superstores (pt)
	Convenience Stores without Gas	44512	Convenience Stores
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners		
	Freezer Provisioners	45439	Other Direct Selling Establishments (pt)
	Meat Markets	44521	Meat Markets (pt)
	Fish and Seafood Markets	44522	Fish and Seafood Markets
5431	Fruit and Vegetable Markets	44523	Fruit and Vegetable Markets
5441	Candy, Nut, and Confectionery Stores	445292	Confectionary and Nut Stores
5451	Dairy Products Stores	445299	All Other Specialty Food Stores (pt)

5461	Retail Bakeries		
	Donut Shops, Pretzel Shops, Cookie Shops, Bagel Shops, and Other Such Shops that Make and Sell for Immediate Consumption	722213	Snack and Nonalcoholic Beverage Bars (pt)
	Bakeries That Make and Sell at the Same Location	311811	Retail Bakeries
	Sales Only of All Other Baked Goods	445291	Baked Goods Stores
5499	Miscellaneous Food Stores		
	Poultry and Poultry Products	44521	Meat Markets (pt)
	Coffee Shops Making and Serving Food and Beverages for Immediate Consumption	722211	Limited-Service Restaurants (pt)
	Food Supplement Stores	446191	Food (Health) Supplement Stores
	All Other Miscellaneous Food Stores	445299	All Other Specialty Food Stores (pt)
5511	Motor Vehicle Dealers (New and Used)	44111	New Car Dealers
5521	Motor Vehicle Dealers (Used Only)	44112	Used Car Dealers
5531	Auto and Home Supply Stores		
	Tire Dealers	44132	Tire Dealers (pt)
	All Other Auto and Home Supply Stores	44131	Automotive Parts and Accessories Stores (pt)
5541	Gasoline Service Stations		
	Convenience Store with Gas	44711	Gasoline Stations with Convenience Store (pt)
	Except with Convenience Stores	44719	Other Gasoline Stations
5551	Boat Dealers	441222	Boat Dealers
5561	Recreational Vehicle Dealers	44121	Recreational Vehicle Dealers
5571	Motorcycle Dealers	441221	Motorcycle Dealers
5599	Automotive Dealers, NEC	441229	All Other Motor Vehicle Dealers

5611	Men's and Boys' Clothing and Accessory Stores		
	Men's Clothing Stores	44811	Men's Clothing Stores
	Men's Accessory Stores	44815	Clothing Accessories Stores (pt)
5621	Women's Clothing Stores	44812	Women's Clothing Stores
5632	Women's Accessory and Specialty Stores		
	Specialty Stores	44819	Other Clothing Stores (pt)
	Accessory Stores	44815	Clothing Accessories Stores (pt)
5641	Children's and Infants' Wear Stores	44813	Children's and Infants' Clothing Stores
5651	Family Clothing Stores	44814	Family Clothing Stores
5661	Shoe Stores	44821	Shoe Stores
5699	Miscellaneous Apparel and Accessory Stores		
	Custom Tailors and Seamstresses	315	Included in Apparel Manufacturing Subsector Based on Type of Garment Produced
	Miscellaneous Apparel	44819	Other Clothing Stores (pt)
	Miscellaneous Accessories	44815	Clothing Accessories Stores (pt)
5712	Furniture Stores		
	Custom Made Furniture, Except Cabinets and Upholstered	337122	Nonupholstered Wood Household Furniture Manufacturing (pt)
	Custom Wood Cabinets	33711	Wood Kitchen Cabinet and Counter Top Manufacturing (pt)
	Upholstered Custom Made Furniture	337121	Upholstered Household Furniture Manufacturing (pt)
	Except Custom Cabinet and Furniture Builders	44211	Furniture Stores (pt.)
5713	Floor Covering Stores	44221	Floor Covering Stores (pt)
5714	Drapery, Curtain, and Upholstery Stores		

	Drapery and Curtain Stores	442291	Window Treatment Stores (pt)
	Upholstery Stores	45113	Sewing, Needlework and Piece Goods Stores (pt)
	Custom Drapes	314121	Curtain and Drapery Mills (pt)
5719	Miscellaneous Homefurnishings Stores		
	Blinds and Shades	442291	Window Treatment Stores (pt)
	Pottery and Crafts Made and Sold on Site		Included in Manufacturing sector based on article produced
	Except Blinds, Shades, and Pottery and Crafts Made and Sold on Site	442299	All Other Home Furnishings Stores
5722	Household Appliance Stores	443111	Household Appliance Stores (pt)
5731	Radio, Television, and Consumer Electronics Stores		
	Except Auto Radio Stores	443112	Radio, Television, and Other Electronics Stores (pt)
	Auto Radio Stores	44131	Automotive Parts and Accessories Stores (pt)
5734	Computer and Computer Software Stores	44312	Computer and Software Stores (pt)
5735	Record and Prerecorded Tape Stores	45122	Prerecorded Tape, Compact Disc and Record Stores
5736	Musical Instrument Stores	45114	Musical Instrument and Supplies Stores
5812@	Eating and Drinking Places		
	Full Service Restaurants	72211	Full-Service Restaurants
	Limited Service Restaurants	722211	Limited-Service Restaurants (pt)
	Cafeterias	722212	Cafeterias
	Snack Nonalcoholic Beverage Bars	722213	Snack and Nonalcoholic Beverage Bars (pt)
	Food Service Contractors	72231	Foodservice Contractors
	Caterers	72232	Caterers
	Dinner Theaters	71111	Theater Companies and Dinner Theaters (pt)

5813	Drinking Places (Alcoholic Beverages)	72241	Drinking Places (Alcoholic Beverages)
5912	Drug Stores and Proprietary Stores	44611	Pharmacies and Drug Stores
5921	Liquor Stores	44531	Beer, Wine and Liquor Stores
5932	Used Merchandise Stores		
	Pawn Shops	522298	All Other Non-Depository Credit Intermediation (pt)
	Except pawn shops	45331	Used Merchandise Stores
5941	Sporting Goods Stores and Bicycle Shops	45111	Sporting Goods Stores (pt)
5942	Book Stores	451211	Book Stores
5943	Stationery Stores	45321	Office Supplies and Stationery Stores (pt)
5944	Jewelry Stores	44831	Jewelry Stores (pt)
5945	Hobby, Toy, and Game Shops	45112	Hobby, Toy and Game Stores
5946	Camera and Photographic Supply Stores	44313	Camera and Photographic Supplies Stores
5947	Gift, Novelty, and Souvenir Shops	45322	Gift, Novelty and Souvenir Stores
5948	Luggage and Leather Goods Stores	44832	Luggage and Leather Goods Stores
5949	Sewing, Needlework, and Piece Goods Stores	45113	Sewing, Needlework and Piece Goods Stores (pt)
5961	Catalog and Mail-Order Houses	45411	Electronic Shopping and Mail-Order Houses
5962	Automatic Merchandising Machine Operator	45421	Vending Machine Operators
5963	Direct Selling Establishments		
	Mobile Food Wagons	72233	Mobile Foodservices
	All Other Direct Selling Establishments	45439	Other Direct Selling Establishments (pt)
5983	Fuel Oil Dealers	454311	Heating Oil Dealers (pt)
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	454312	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt)

5989	Fuel Dealers, NEC	454319	Other Fuel Dealers
5992	Florists	45311	Florists
5993	Tobacco Stores and Stands	453991	Tobacco Stores
5994	News Dealers and Newsstands	451212	News Dealers and Newsstands
5995	Optical Goods Stores		
	Optical Stores Grinding Prescription Lenses, except 1-Hour Labs	339115	Ophthalmic Goods Manufacturing (pt)
	Except Optical Laboratories Grinding Prescription Lenses	44613	Optical Goods Stores
5999	Miscellaneous Retail Stores, NEC		
	Cosmetic Stores	44612	Cosmetics, Beauty Supplies and Perfume Stores (pt)
	Hearing Aid and Artificial Limb Stores	446199	All Other Health and Personal Care Stores (pt)
	Pets and Pet Supply Stores	45391	Pet and Pet Supplies Stores
	Art Dealers	45392	Art Dealers
	Personal Appliance Stores	443111	Household Appliance Stores (pt)
	Telephone and Typewriter Stores	443112	Radio, Television and Other Electronics Stores (pt.)
	Rough Gem Stores	44831	Jewelry Stores (pt)
	Other Miscellaneous Retail Stores	453998	All Other Miscellaneous Store Retailers (except Tobacco Stores) (pt)
6011	Federal Reserve Banks	52111	Monetary Authorities-Central Banks
6019@	Central Reserve Depository Institutions, NEC	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
6021@	National Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt)
	Credit Card Issuing	52221	Credit Card Issuing (pt)

	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt)
6022@	State Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt)
	Credit Card Issuing	52221	Credit Card Issuing (pt)
	Private and Industrial Banking	52219	Other Depository Intermediation
	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt)
6029@	Commercial Banks, NEC	52211	Commercial Banking (pt)
6035@	Savings Institutions, Federally Chartered	52212	Savings Institutions (pt)
6036@	Savings institutions, Not Federally Chartered	52212	Savings Institutions (pt)
6061@	Credit Unions, Federally Chartered	52213	Credit Unions (pt)
6062@	Credit Unions, Not Federally Chartered	52213	Credit Unions (pt)
6081@	Branches and Agencies of Foreign Banks		
	International Trade Financing	522293	International Trade Financing (pt)
	Branches of Foreign Banks	52211	Commercial Banking (pt)
	Agencies of Foreign Banks	522298	All Other Non-Depository Credit Intermediation (pt)
6082@	Foreign Trade and International Banking Institutions	522293	International Trade Financing (pt)
6091@	Nondeposit Trust Facilities	523991	Trust, Fiduciary, and Custody Activities (pt)
6099@	Functions Related to Deposit Banking, NEC		
	Clearinghouses and Electronic Funds Transfer	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
	Foreign Currency Exchange	52313	Commodity Contracts Dealing (pt)
	Escrow and Fiduciary Agencies	523991	Trust, Fiduciary, and Custody Activities (pt)
	Deposit Brokers	523999	Miscellaneous Financial Investment Activities (pt)

	Other	52239	Other Activities Related to Credit Intermediation (pt)
6111@	Federal and Federally Sponsored Credit Agencies		
	Trade Banks	522293	International Trade Financing (pt)
	Secondary Market Financing	522294	Secondary Market Financing
	Other	522298	All Other Non-Depository Credit Intermediation (pt)
6141@	Personal Credit Institutions		
	Credit Card Issuing	52221	Credit Card Issuing (pt)
	Installment Sales Financing	52222	Sales Financing (pt)
	Other	522291	Consumer Lending
6153@	Short-Term Business Credit Institutions, Except Agricultural		
	Business Sales Finance	52222	Sales Financing (pt)
	Credit Card Service	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
	Other	522298	All Other Non-Depository Credit Intermediation (pt)
6159@	Miscellaneous Business Credit Institutions		
	Finance Leasing, Without Operating Leasing	52222	Sales Financing (pt)
	Finance Leasing and Operating Leasing Combined	532	Included in Rental and Leasing Services subsector by Type of Equipment and Method of Operation
	Trade Banks	522293	International Trade Financing (pt)
	All Other	522298	All Other Non-Depository Credit Intermediation (pt)
6162@	Mortgage Bankers and Loan Correspondents		
	Mortgage Bankers and Originators	522292	Real Estate Credit
	Mortgage Servicing	52239	Other Activities Related to Credit Intermediation (pt)

6163	Loan Brokers	52231	Mortgage and Other Loan Brokers
6211@	Security Brokers, Dealers, and Flotation Companies		
	Security Dealers and Underwriters	52311	Investment Banking and Securities Dealing
	Security Brokers	52312	Securities Brokerage
	Dealers, Except Securities and Commodities	52391	Miscellaneous Intermediation (pt.)
	Other	523999	Miscellaneous Financial Investment Activities (pt.)
6221@	Commodity Contracts Brokers and Dealers		
	Commodity Dealers	52313	Commodity Contracts Dealing (pt)
	Commodity Brokers	52314	Commodity Brokerage
6231	Security and Commodity Exchanges	52321	Securities and Commodity Exchanges
6282@	Investment Advice		
	Portfolio Managers	52392	Portfolio Management (pt)
	Other	52393	Investment Advice
6289@	Services Allied With the Exchange of Securities or Commodities, NEC		
	Securities Custodians	523991	Trust, Fiduciary, and Custody Activities (pt)
	Other	523999	Miscellaneous Financial Investment Activities (pt)
6311@	Life Insurance		
	Life Insurers-Direct	524113	Direct Life Insurance Carriers
	Reinsurance Carriers, Life	52413	Reinsurance Carriers (pt)
6321@	Accident and Health Insurance		
	Accident and Health Insurers-Direct	524114	Direct Health and Medical Insurance Carriers (pt)
	Self Insurers	52519	Other Insurance Funds (pt)

	Reinsurance Carriers, Accident and Health	52413	Reinsurance Carriers (pt)
6324@	Hospital and Medical Service Plans		
	Accident and Health Insurers-Direct	524114	Direct Health and Medical Insurance Carriers (pt)
	Self Insurers	52519	Other Insurance Funds (pt)
	Reinsurance Carriers, Health and Medical	52413	Reinsurance Carriers (pt)
6331@	Fire, Marine, and Casualty Insurance		
	Fire, Marine, and Casualty Insurers-Direct	524126	Direct Property and Casualty Insurance Carriers (pt)
	Self Insurers	52519	Other Insurance Funds (pt)
	Reinsurance Carriers, Fire, Marine, and Casualty	52413	Reinsurance Carriers (pt)
6351@	Surety Insurance		
	Financial Responsibility Insurers-Direct	524126	Direct Property and Casualty Insurance Carriers (pt)
	Reinsurance Carriers, Financial Responsibility	52413	Reinsurance Carriers (pt)
6361@	Title Insurance		
	Title Insurers-Direct	524127	Direct Title Insurance Carriers
	Reinsurance Carriers, Title	52413	Reinsurance Carriers (pt)
6371@	Pension, Health, and Welfare Funds		
	Managers	52392	Portfolio Management (pt)
	Administrators	524292	Third Party Administration for Insurance and Pension Funds (pt)
	Pension Funds	52511	Pension Funds
	Health and Welfare Funds	52512	Health and Welfare Funds
6399	Insurance Carriers, NEC	524128	Other Direct Insurance (except Life, Health, and Medical) Carriers
6411@	Insurance Agents, Brokers, and Service		

	Insurance Agents and Brokers	52421	Insurance Agencies and Brokerages
	Claim Adjusters	524291	Claims Adjusters
	Claim Processors	524292	Third Party Administrators for Insurance and Pension Funds (pt)
	Other	524298	All Other Insurance Related Activities
6512	Operators of Nonresidential Buildings		
	Stadium and Arena Owners	71131	Promoters of Performing Arts, Sports and Similar Events with Facilities (pt)
	Except Stadium and Arena Owners	53112	Lessors of Nonresidential Buildings (except Miniwarehouses)
6513@	Operators of Apartment Buildings	53111	Lessors of Residential Buildings and Dwellings (pt)
6514@	Operators of Dwellings Other Than Apartment Buildings	53111	Lessors of Residential Buildings and Dwellings (pt)
6515@	Operators of Residential Mobile Home Sites	53119	Lessors of Other Real Estate Property(pt)
6517@	Lessors of Railroad Property	53119	Lessors of Other Real Estate Property (pt)
6519@	Lessors of Real Property, NEC	53119	Lessors of Other Real Estate Property (pt)
6531@	Real Estate Agents and Managers		
	Real Estate Agents and Brokers	53121	Offices of Real Estate Agents and Brokers
	Condominium Associations	81399	Other Similar Organizations (pt)
	Residential Property Managers	531311	Residential Property Managers
	Nonresidential Property Managers	531312	Nonresidential Property Managers
	Real Estate Appraisers	53132	Offices of Real Estate Appraisers
	Cemetery Management	81222	Cemeteries and Crematories (pt)
	Other	53139	Other Activities Related to Real Estate
6541	Title Abstract Offices	541191	Title Abstract and Settlement Offices
6552	Land Subdividers and Developers, Except Cemeteries	23311	Land Subdivision and Land Development

6553@	Cemetery Subdividers and Developers	81222	Cemeteries and Crematories (pt.)
6712	Offices of Bank Holding Companies	551111	Offices of Bank Holding Companies
6719	Offices of Holding Companies, NEC	551112	Offices of Other Holding Companies
6722	Management Investment Offices, Open-End	52591	Open-End Investment Funds
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices	52599	Other Financial Vehicles
6732	Education, Religious, and Charitable Trusts	813211	Grantmaking Foundations
6733@	Trusts, Except Educational, Religious, and Charitable		
	Managers	52392	Portfolio Management (pt)
	Administrators of Private Estates	523991	Trust, Fiduciary, and Custody Services (pt)
	Vacation Funds for Employees	52519	Other Insurance Funds (pt)
	Personal Trusts, Estates, and Agency Accounts	52592	Trusts, Estates, and Agency Accounts
6792@	Oil Royalty Traders		
	Investors on Own Account	523999	Miscellaneous Financial Investment Activities (pt.)
	Oil Royalty Trading Companies	53311	Owners and Lessors of Other Non-Financial Assets (pt)
6794	Patent Owners and Lessors	53311	Owners and Lessors of Other Non-Financial Assets (pt)
6798	Real Estate Investment Trusts	52593	Real Estate Investment Trusts
6799@	Investors, NEC		
	Venture Capital Companies	52391	Miscellaneous Intermediation (pt)
	Pool Operators	52392	Portfolio Management (pt)
	Commodity Contract Trading Companies	52313	Commodity Contracts Dealing (pt)
	Other	523999	Miscellaneous Financial Investment Activities (pt)
7011	Hotels and Motels		

	Hotels and Motels, except Casino Hotels	72111	Hotels (except Casino Hotels) and Motels (pt)
	Casino Hotels	72112	Casino Hotels
	Bed and Breakfast Inns	721191	Bed and Breakfast Inns
	Other	721199	All Other Traveler Accommodation
7021	Rooming and Boarding Houses	72131	Rooming and Boarding Houses (pt)
7032	Sporting and Recreational Camps	721214	Recreational and Vacation Camps
7033	Recreational Vehicle Parks and Campsites	721211	RV (Recreational Vehicle Parks) and Campgrounds
7041@	Organization Hotels and Lodging Houses, on Membership Basis		
	Organization Hotels	72111	Hotels (except Casino Hotels) and Motels (pt)
	Other	72131	Rooming and Boarding Houses (pt)
7211	Power Laundries, Family and Commercial	812321	Laundries, Family and Commercial
7212	Garment Pressing, and Agents for Laundries	812391	Garment Pressing and Agents for Laundries
7213@	Linen Supply	812331	Linen Supply (pt.)
7215	Coin-Operated Laundry and Drycleaning	81231	Coin-Operated Laundries and Drycleaners
7216	Drycleaning Plants, Except Rug Cleaning	812322	Drycleaning Plants
7217	Carpet and Upholstery Cleaning	56174	Carpet and Upholstery Cleaning Services
7218	Industrial Launderers	812332	Industrial Launderers
7219@	Laundry and Garment Services, NEC		
	Diaper Service	812331	Linen Supply (pt)
	Clothing Alteration and Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
	Except Diaper Service and Clothing Alteration and Repair	812399	All Other Laundry Services

7221	Photographic Studios, Portrait	541921	Photographic Studios, Portrait
7231@	Beauty Shops		
	Beauty Shops and Salons	812112	Beauty Salons
	Manicure and Pedicure Salons	812113	Nail Salons
	Beauty and Cosmetology Schools	611511	Cosmetology and Barber Schools (pt)
7241	Barber Shops		
	Barber Shops	812111	Barber Shops
	Barber Colleges	611511	Cosmetology and Barber Schools (pt)
7251	Shoe Repair Shops and Shoeshine Parlors	81143	Footwear and Leather Goods Repair (pt)
7261	Funeral Services and Crematories		
	Funeral Homes	81221	Funeral Homes
	Except Funeral Homes	81222	Cemeteries and Crematories (pt)
7291	Tax Return Preparation Services	541213	Tax Preparation Services
7299@	Miscellaneous Personal Services, NEC		
	Babysitting Services	62441	Child Day Care Services (pt)
	Diet and Weight Reducing Services	812191	Diet and Weight Reducing Centers
	Formal Wear and Costume Rental	53222	Formal Wear and Costume Rental (pt)
	Personal Care Services	812199	Other Personal Care Services
	All Other Miscellaneous Personal Services, NEC	81299	All Other Personal Services (pt)
7311	Advertising Agencies	54181	Advertising Agencies
7312	Outdoor Advertising Services	54185	Display Advertising (pt)
7313	Radio, Television, and Publishers' Advertising Representatives	54184	Media Representatives

7319	Advertising, NEC		
	Aerial Advertising	481219	Other Nonscheduled Air Transportation (pt)
	Media Buying Services	54183	Media Buying Agencies
	Display Advertising, Except Outdoor	54185	Display Advertising (pt)
	Advertising Materials Distributor Services	54187	Advertising Material Distribution Services
	Other	54189	Other Services Related to Advertising (pt.)
7322	Adjustment and Collection Services		
	Collection Services	56144	Collection Agencies
	Adjustment Bureaus	561491	Repossession Services (pt)
7323	Credit Reporting Services	56145	Credit Bureaus
7331	Direct Mail Advertising Services	54186	Direct Mail Advertising
7334	Photocopying and Duplicating Services	561439	Business Service Centers (including Copy Shops)
7335	Commercial Photography		
	Aerial Photography	481219	Other Nonscheduled Air Transportation (pt)
	Except When Combined With a Variety of Aircraft-based Services	541922	Commercial Photography (pt)
7336	Commercial Art and Graphic Design	54143	Graphic Design Services (pt)
7338	Secretarial and Court Reporting Services		
	Secretarial Services	56141	Document Preparation Services
	Court Reporting Services	561492	Court Reporting and Stenotype Services
7342	Disinfecting and Pest Control Services		
	Disinfecting Services	56172	Janitorial Services (pt)
	Exterminating and Pest Control Services	56171	Exterminating and Pest Control Services (pt)

7349	Building Cleaning and Maintenance Services, NEC	56172	Janitorial Services (pt)
7352@	Medical Equipment Rental and Leasing		
	Home Health Furniture and Equipment Rental and Leasing	532291	Home Health Equipment Rental
	Medical Machinery Rental and Leasing	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
7353@	Heavy Construction Equipment Rental and Leasing		
	With Operator	23499	All Other Heavy Construction (pt)
	Without Operator	532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing (pt)
7359@	Equipment Rental and Leasing, NEC		
	Consumer Electronics and Appliances Rental	53221	Consumer Electronics and Appliances Rental
	General Rental Centers	53231	General Rental Centers
	Residential Furniture, Party Supplies, and All Other Miscellaneous Consumer Goods Rental and Leasing	532299	All Other Consumer Goods Rental
	Oilfield and Well Drilling Machinery and Equipment Rental and Leasing	532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing (pt)
	Airplane Rental and Leasing	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (pt)
	Portable Toilet Rental	562991	Septic Tank and Related Services (pt)
	Office Machinery and Equipment Rental and Leasing	53242	Office Machinery and Equipment Rental and Leasing (pt)
	Industrial Trucks Rental and Leasing	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
7361@	Employment Agencies		
	Executive Placing Services	541612	Human Resources and Executive Search Consulting Services (pt)
	Except Executive Placing Services	56131	Employment Placement Agencies (pt)

7363	Help Supply Services		
	Temporary Help Supply	56132	Temporary Help Services
	Employee Leasing Services	56133	Employee Leasing Services
7371	Computer Programming Services	541511	Custom Computer Programming Services
7372	Prepackaged Software		
	Software Publishing	51121	Software Publishers
	Reproduction of Software	334611	Software Reproducing
7373	Computer Integrated Systems Design	541512	Computer Systems Design Services (pt)
7374	Computer Processing and Data Preparation and Processing Services	51421	Data Processing Services
7375	Information Retrieval Services	514191	On-Line Information Services
7376	Computer Facilities Management Services	541513	Computer Facilities Management Services
7377	Computer Rental and Leasing	53242	Office Machinery and Equipment Rental and Leasing (pt)
7378	Computer Maintenance and Repair		
	Sales Locations Providing Supporting Repair Services as Major Source of Revenue	44312	Computer and Software Stores (pt)
	All Other Repair and Maintenance	811212	Computer and Office Machine Repair and Maintenance (pt)
7379	Computer Related Services, NEC		
	Computer Systems Consultants	541512	Computer Systems Design Services (pt.)
	Except Computer Systems Consultants	541519	Other Computer Related Services
7381	Detective, Guard, and Armored Car Services		
	Detective Services	561611	Investigation Services
	Guard Services	561612	Security Guards and Patrol Services

	Armored Car Services	561613	Armored Car Services
7382	Security Systems Services	561621	Security Systems Services (except Locksmiths) (pt)
7383	News Syndicates	51411	New Syndicates
7384	Photofinishing Laboratories		
	Photofinishing Laboratories (Except One-Hour)	812921	Photo Finishing Laboratories (except One-Hour)
	One-Hour Photofinishing	812922	One-Hour Photo Finishing
7389	Business Services, NEC		
	Sound Recording Studios	51224	Sound Recording Studios
	Audio Taping Services	51229	Other Sound Recording Industries (pt.)
	Process Services, Patent Agents, Notaries Public and Paralegal Services	541199	All Other Legal Services
	Bail Handling	81299	All Other Personal Services (pt)
	Mapmaking Services	54137	Surveying and Mapping (except Geophysical) Services (pt)
	Interior Design	54141	Interior Design Services
	Industrial Design	54142	Industrial Design Services
	Drafting Service	54134	Drafting Services
	Fashion, Furniture and Other Design Services	54149	Other Specialized Design Services
	Sign Painting and Other Advertising Related Business Services	54189	Other Services Related to Advertising (pt)
	Translation and Interpretation Services	54193	Translation and Interpretation Services
	Home and Building Inspection Services	54135	Building Inspection Services
	Appraisers, Except Insurance and Real Estate, and Miscellaneous Professional, Scientific, and Technical Services	54199	All Other Professional, Scientific and Technical Services

	Agents and Brokers for Authors and Artists	71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures (pt)
	Telephone Answering Services	561421	Telephone Answering Services
	Telemarketing Bureaus and Telephone Soliciting Services	561422	Telemarketing Bureaus
	Private Mail Centers and Mail Box Rental	561431	Private Mail Centers
	Business Service Centers, except Private Mail Centers and Mail Box Rental	561439	Other Business Service Centers (including Copy Shops)
	Recovery and Repossess	561491	Repossession Services (pt)
	Packaging and Labeling Services	56191	Packaging and Labeling Services
	Swimming Pool Cleaning and Maintenance	56179	Other Services to Buildings and Dwellings (pt)
	Hotel and Restaurant Reservation Services	561599	All Other Travel Arrangement and Reservation Services (pt)
	Convention and Trade Show Services	56192	Convention and Trade Show Organizers
	Convention and Visitors Bureaus and Tourist Information Service	561591	Convention and Visitors Bureaus
	Credit Card Services	52232	Financial Transactions, Processing, Reserve and Clearing House Activities (pt)
	Business Support Services, Except Telephone Answering, Telemarketing Bureaus, Private Mail Centers, and Repossession Services	561499	All Other Business Support Services
	All Other Support Services	56199	All Other Support Services
7513	Truck Rental and Leasing, Without Drivers	53212	Truck, Utility Trailer and RV (Recreational Vehicle) Rental and Leasing (pt)
7514	Passenger Car Rental	532111	Passenger Cars Rental
7515	Passenger Car Leasing	532112	Passenger Cars Leasing

7519	Utility Trailer and Recreational Vehicle Rental	53212	Truck, Utility Trailer and RV (Recreational Vehicles) Rental and Leasing (pt)
7521	Automobile Parking	81293	Parking Lots and Garages
7532	Top, Body, and Upholstery Repair Shops and Paint Shops	811121	Automotive Body, Paint, and Interior Repair and Maintenance
7533	Automotive Exhaust System Repair Shops	811112	Automotive Exhaust System Repair
7534@	Tire Retreading and Repair Shops		
	Retreading	326212	Tire Retreading
	Repair	811198	All Other Automotive Repair and Maintenance (pt)
7536	Automotive Glass Replacement Shops	811122	Automotive Glass Replacement Shops
7537	Automotive Transmission Repair Shops	811113	Automotive Transmission Repair
7538	General Automotive Repair Shops	811111	General Automotive Repair
7539	Automotive Repair Shops, NEC	811118	Other Automotive Mechanical and Electrical Repair and Maintenance
7542	Carwashes	811192	Car Washes
7549@	Automotive Services, Except Repair and Carwashes		
	Lubricating Services, Automotive	811191	Automotive Oil Change and Lubrication Shops
	Towing	48841	Motor Vehicle Towing
	Except Lubricating Services and Towing	811198	All Other Automotive Repair and Maintenance (pt)
7622	Radio and Television Repair Shops		
	Stereo, TV, VCR, and Radio Repair	811211	Consumer Electronics Repair and Maintenance (pt)
	Telecommunication Equipment Repair	811213	Communication Equipment Repair and Maintenance (pt)
	Radio and TV Sales Locations Providing Supporting Repair Services As Major Source of Revenue	443112	Radio, Television and Other Electronics Stores (pt)
7623	Refrigeration and Air-Conditioning Services and Repair Shops		

	Refrigerator and A/C Sales Locations Providing Supporting Repair Service as Major Source of Revenue	443111	Household Appliance Stores (pt)
	Commercial Refrigerator Equipment Repair	81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (pt)
	Except Commercial	811412	Appliance Repair and Maintenance (pt)
7629	Electrical and Electronic Repair Shops, NEC		
	Appliance Sales Locations Providing Supporting Repair Services As Major Source of Revenue	443111	Household Appliance Stores (pt)
	Business and Office Machine Repair, Electrical	811212	Computer and Office Machine Repair and Maintenance (pt)
	Telephone Set Repair	811213	Communication Equipment Repair and Maintenance (pt)
	Electrical Measuring Instrument Repair and Calibration, Medical Equipment Repair, Electrical	811219	Other Electronic and Precision Equipment Repair and Maintenance (pt)
	Appliance Repair, Electrical; Washing Machine Repair; Electric Razor Repair	811412	Appliance Repair and Maintenance (pt)
	Consumer Electronic Equipment Repair Except Computer, Radio, Television, Stereo, and VCR	811211	Consumer Electronics Repair and Maintenance (pt)
7631@	Watch, Clock, and Jewelry Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
7641	Reupholster and Furniture Repair	81142	Reupholstery and Furniture Repair
7692@	Welding Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
7694@	Armature Rewinding Shops		
	Repair	81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (pt)
	Remanufacturing	335312	Motor and Generator Manufacturing (pt)
7699	Repair Shops and Related Services, NEC		
	Locksmith Shops	561622	Locksmiths
	Cesspool Cleaning, Sewer Cleaning and Rodding	562991	Septic Tank and Related Services (pt)

	Furnace Ducts, Chimney and Gutter Cleaning Services	56179	Other Services to Buildings and Dwellings (pt)
	Ship Scaling	48839	Other Supporting Activities for Water Transportation (pt)
	Bicycle Sales Locations Providing Supporting Repair Services As Major Source of Revenue	45111	Sporting Goods Stores (pt)
	Other Non-Automotive Transportation Equipment and Industrial Machinery and Equipment	81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (pt)
	Farriers	11521	Support Activities for Animal Production (pt)
	Typewriter Repair	811212	Computer and Office Machine Repair and Maintenance (pt)
	Dental Instrument Repair, Laboratory Instrument Repair, Medical Equipment and Other Electronic and Precision Equipment Repair, Except Typewriters	811219	Other Electronic and Precision Equipment Repair and Maintenance (pt)
	Lawnmower Repair Shops, Sharpening and Repairing Knives, Saws and Tools	811411	Home and Garden Equipment Repair and Maintenance
	Gas Appliance Repair Service, Sewing Machine Repair, Stove Repair Shops, and Other Non-Electrical Appliances	811412	Appliance Repair and Maintenance (pt)
	Leather Goods Repair Shops, Luggage Repair Shops, Pocketbook Repair Shops	81143	Footwear and Leather Goods Repair (pt)
	Except Industrial, Electronic, Home and Garden, Appliance, Locksmith, and Leather Goods	81149	Other Personal and Household Goods Repair and Maintenance (pt)
7812	Motion Picture and Video Tape Production	51211	Motion Picture and Video Production
7819	Services Allied to Motion Picture Production		
	Teleproduction and Post-Production Services	512191	Teleproduction and Other Post-Production Services
	Casting Bureaus	56131	Employment Placement Agencies (pt)
	Wardrobe Rental (Motion Pictures)	53222	Formal Wear and Costumes Rental (pt)
	Rental of Motion Picture Equipment	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)

	Talent Payment Services	541214	Payroll Services (pt)
	Film Directors and Related Motion Picture Production Services, Independent	71151	Independent Artists, Writers, and Performers (pt)
	Reproduction of Video	334612	Prerecorded Compact Disc (Except Software), Tape, and Record Manufacturing (pt)
	All Other Services	512199	Other Motion Picture and Video Industries (pt)
7822	Motion Picture and Video Tape Distribution		
	Prerecorded Video Tapes (Wholesaling of)	42199	Other Miscellaneous Durable Goods Wholesalers (pt)
	All Other	51212	Motion Picture and Video Distribution (pt)
7829	Services Allied to Motion Picture Distribution		
	Except Film Libraries	512199	Other Motion Picture and Video Industries (pt)
	Film Libraries	51212	Motion Picture and Video Distribution (pt)
7832	Motion Picture Theaters, Except Drive-Ins.	512131	Motion Picture Theaters, Except Drive-In
7833	Drive-In Motion Picture Theaters	512132	Drive-In Motion Picture Theaters
7841	Video Tape Rental	53223	Video Tapes and Disc Rental
7911@	Dance Studios, Schools, and Halls		
	Dance Studios and Halls	71399	All Other Amusement and Recreation Industries (pt)
	Dance Schools	61161	Fine Arts Schools (pt)
7922@	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services		
	Casting Agencies	56131	Employment Placement Agencies (pt)
	Theater and Opera Companies	71111	Theater Companies and Dinner Theaters (pt)
	Theatrical Agents	71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures (pt)

	Ballet and Dance Companies	71112	Dance Companies
	Theater Operators	71131	Promoters of Performing Arts, Sports, and Similar Events with Facilities (pt)
	Theatrical Promoters	71132	Promoters of Performing Arts, Sports, and Similar Events without Facilities (pt)
	Producers of Radio Programs	51229	Other Sound Recording Industries (pt)
	Theatrical Equipment Rental	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
7929@	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups		
	Musical Groups and Artists, Orchestras	71113	Musical Groups and Artists
	Actors and Actresses	71151	Independent Artists, Writers, and Performers (pt)
	Except Musical Groups and Artists, Actors and Actresses	71119	Other Performing Arts Companies (pt)
7933	Bowling Centers	71395	Bowling Centers
7941@	Professional Sports Clubs and Promoters		
	Professional Sports Clubs	711211	Sports Teams and Clubs
	Sports Agents	71141	Agents and Managers for Artists, Athletes, Entertainers , and Other Public Figures (pt)
	Sports Promoters	71132	Promoters of Arts, Sports and Similar Events without Facilities (pt)
	Stadium Operators	71131	Promoters of Arts, Sports, and Similar Events with Facilities (pt)
	Except Sports Clubs, Stadium Operators, Sports Promoters, and Agents	711219	Other Spectator Sports (pt)
7948@	Racing, Including Track Operations		
	Racetrack Operators	711212	Race Tracks
	Racing, except Track Operators	711219	Other Spectator Sports (pt)

7991@	Physical Fitness Facilities	71394	Fitness and Recreational Sports Centers (pt)
7992@	Public Golf Courses	71391	Golf Courses and Country Clubs (pt)
7993@	Coin Operated Amusement Devices		
	Amusement Arcades	71312	Amusement Arcades
	Gambling (Slot Machine) Operators	71329	Other Gambling Industries (pt)
	Except Amusement Arcades and Slot Machine Operators	71399	All Other Amusement and Recreation Industries (pt)
7996	Amusement Parks	71311	Amusement and Theme Parks
7997@	Membership Sports and Recreation Clubs		
	Golf Clubs	71391	Golf Courses and Country Clubs (pt)
	Recreation Clubs with Facilities	71394	Fitness and Recreational Sports Centers (pt)
	Recreation Clubs Without Facilities	71399	All Other Amusement and Recreation Industries (pt)
7999	Amusement and Recreation Services, NEC		
	Ticket Agencies	561599	All Other Travel Arrangement and Reservation Services (pt)
	Aerial Tramways, Scenic and Amusement	48799	Scenic and Sightseeing Transportation, Other (pt)
	Circus Companies	71119	Other Performing Arts Companies (pt)
	Professional Athletes	711219	Other Spectator Sports (pt)
	Skiing Facilities	71392	Skiing Facilities
	Nonmembership Recreation Facilities	71394	Fitness and Recreational Sports Centers (pt)
	Casinos, except Casino Hotels	71321	Casinos (except Casino Hotels)
	Lottery, Bingo, Bookie and Other Gaming Operations	71329	Other Gambling Industries (pt)
	Caverns and Miscellaneous Commercial Parks	71219	Nature Parks and Other Similar Institutions (pt)
	Sports Instruction	61162	Sports and Recreation Instruction

	Sports Equipment Rental	532292	Recreational Goods Rental
	Scenic Transport Operations, Land	48711	Scenic and Sightseeing Transportation, Land (pt)
	Charter Fishing	48721	Scenic and Sightseeing Transportation, Water (pt)
	Amusement and Recreation Services, NEC (except circuses, professional athletes, caverns, and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities, sports instruction, sports equipment rental, and amusement or scenic transport operations)	71399	All Other Amusement and Recreation Industries (pt)
8011@	Offices and Clinics of Doctors of Medicine		
	Surgical and Emergency Centers	621493	Freestanding Ambulatory Surgical and Emergency Centers
	HMO Medical Centers	621491	HMO Medical Centers
	Offices of Physicians, Mental Health Specialists	621112	Offices of Physicians, Mental Health Specialists (pt)
	Offices of Physicians Except Mental Health	621111	Offices of Physicians, (except Mental Health Specialists) (pt)
8021	Offices and Clinics of Dentists	62121	Offices of Dentists
8031@	Offices and Clinics of Doctors of Osteopathy		
	Offices of Doctors of Osteopathy, Except Mental Health	621111	Offices of Physicians (except Mental Health Specialists) (pt)
	Offices of Doctors of Osteopathy, Mental Health Specialists	621112	Offices of Physicians, Mental Health Specialists (pt)
8041	Offices and Clinics of Chiropractors	62131	Offices of Chiropractors
8042	Offices and Clinics of Optometrists	62132	Offices of Optometrists
8043	Offices and Clinics of Podiatrists	621391	Offices of Podiatrists
8049	Offices and Clinics of Health Practitioners, NEC		
	Mental Health Practitioners, Except Physicians	62133	Offices of Mental Health Practitioners (except Physicians)

	Offices of Physical, Occupational, and Speech Therapists and Audiologists	62134	Offices of Physical, Occupational, and Speech Therapists and Audiologists
	Other Offices of Heath Practitioners	621399	Offices of All Other Miscellaneous Health Practitioners
8051@	Skilled Nursing Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	All Other Skilled Nursing Care Facilities	62311	Nursing Care Facilities (pt)
8052@	Intermediate Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	Mental Retardation Facilities	62321	Residential Mental Retardation Facilities
	Other Intermediate Care Facilities	62311	Nursing Care Facilities (pt)
8059@	Nursing and Personal Care Facilities, NEC		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	Other Nursing and Personal Care Facilities	62311	Nursing Care Facilities (pt)
8062@	General Medical and Surgical Hospitals	62211	General Medical and Surgical Hospitals (pt)
8063@	Psychiatric Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt)
8069@	Specialty Hospitals, Except Psychiatric		
	Children's Hospitals	62211	General Medical and Surgical Hospitals (pt)
	Psychiatric and Substance Abuse Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt)
	Other Specialty Hospitals	62231	Specialty (except Psychiatric and Substance Abuse) Hospitals
8071	Medical Laboratories		
	Diagnostic Imaging Centers	621512	Diagnostic Imaging Centers
	Medical Laboratories, Except Diagnostic Imaging Centers	621511	Medical Laboratories

8072	Dental Laboratories	339116	Dental Laboratories
8082	Home Health Care Services	62161	Home Health Care Services
8092	Kidney Dialysis Centers	621492	Kidney Dialysis Centers
8093	Specialty Outpatient Facilities, NEC		
	Family Planning Centers	62141	Family Planning Centers (pt)
	Outpatient Mental Health Facilities	62142	Outpatient Mental Health and Substance Abuse Centers
	Other Specialty Outpatient Facilities	621498	All Other Outpatient Care Facilities
8099@	Health and Allied Services, NEC		
	Blood and Organ Banks	621991	Blood and Organ Banks
	Medical artists	54143	Graphic Design Services (pt)
	Medical Photography	541922	Commercial Photography (pt)
	Childbirth Preparation Classes	62141	Family Planning Centers (pt)
	Other Health and Allied Services	621999	All Other Miscellaneous Ambulatory Health Care Services
8111	Legal Services	54111	Offices of Lawyers
8211	Elementary and Secondary Schools	61111	Elementary and Secondary Schools
8221	Colleges, Universities, and Professional Schools	61131	Colleges, Universities and Professional Schools
8222	Junior Colleges and Technical Institutes	61121	Junior Colleges
8231	Libraries	51412	Libraries and Archives
8243	Data Processing Schools		
	Computer Repair Training	611519	Other Technical and Trade Schools (pt)
	Except Computer Repair Training	61142	Computer Training
8244	Business and Secretarial Schools	61141	Business and Secretarial Schools

8249@	Vocational Schools, NEC		
	Vocational Apprenticeship Training	611513	Apprenticeship Training
	Aviation Schools	611512	Flight Training (pt)
	Other Technical and Trade Schools	611519	Other Technical and Trade Schools (pt)
8299@	Schools and Educational Services, NEC		
	Flying Instruction	611512	Flight Training (pt)
	Automobile Driving Instruction	611692	Automobile Driving Schools
	Curriculum Development, Educational	61171	Educational Support Services (pt)
	Exam Preparation and Tutoring	611691	Exam Preparation and Tutoring
	Art Drama and Music Schools	61161	Fine Arts Schools (pt)
	Language Schools	61163	Language Schools
	Professional and Management Development Training	61143	Professional and Management Development Training Schools
	All Other Schools and Educational Services, NEC	611699	All Other Miscellaneous Schools and Instruction
8322	Individual and Family Social Services		
	Child and Youth Services	62411	Child and Youth Services (pt)
	Community Food Services	62421	Community Food Services
	Community Housing Services, Except Temporary Shelters	624229	Other Community Housing Services
	Emergency and Other Relief Services	62423	Emergency and Other Relief Services
	Services for the Elderly and Persons with Disabilities	62412	Services for the Elderly and Persons with Disabilities
	Temporary Shelter	624221	Temporary Shelters
	Parole Offices and Probation Offices	92215	Parole Offices and Probation Offices
	Other Individual and Family Services	62419	Other Individual and Family Services

8331	Job Training and Vocational Rehabilitation Services	62431	Vocational Rehabilitation Services
8351	Child Day Care Services	62441	Child Day Care Services (pt)
8361	Residential Care		
	Homes for the Elderly	623312	Homes for the Elderly
	Mental Health and Substance Abuse Facilities	62322	Residential Mental Health and Substance Abuse Facilities
	Other Residential Care	62399	Other Residential Care Facilities
8399	Social Services, NEC		
	Voluntary Health Organizations	813212	Voluntary Health Organizations
	Grantmaking and Giving	813219	Other Grantmaking and Giving Services
	Human Rights Organizations	813311	Human Rights Organizations
	Environment, Conservation, and Wildlife Organizations	813312	Environment, Conservation and Wildlife Organizations (pt)
	All Other Social Advocacy Organizations	813319	Other Social Advocacy Organizations
8412	Museums and Art Galleries		
	Museums	71211	Museums
	Historical and Heritage Sites	71212	Historical Sites
8422	Arboreta and Botanical or Zoological Gardens		
	Botanical and Zoological Gardens	71213	Zoos and Botanical Gardens
	Nature Parks and Reserves	71219	Nature Parks and Other Similar Institutions (pt)
8611	Business Associations	81391	Business Associations (pt)
8621	Professional Membership Organizations	81392	Professional Organizations
8631	Labor Unions and Similar Labor Organizations	81393	Labor Unions and Similar Labor Organizations
8641	Civic, Social, and Fraternal Associations		

	Civic and Social Associations	81341	Civic and Social Organizations (pt)
	Homeowner and Condominium Associations	81399	Other Similar Organizations(pt)
	American Indian and Alaskan Native Tribal Governments	92115	American Indian and Alaska Native Tribal Governments
	Youth Development Organizations	62411	Child and Youth Services (pt)
8651	Political Organizations	81394	Political Organizations
8661	Religious Organizations	81311	Religious Organizations
8699@	Membership Organizations, NEC		
	Farm Granges	81341	Civic and Social Organizations (pt)
	Farm Business Organizations	81391	Business Associations (pt)
	Humane Societies	813312	Environment, Conservation, and Wildlife Organizations (pt)
	Motor Clubs	561599	All Other Travel Arrangement and Reservation Services (pt)
	Except Farm Granges, Farm Business Organizations and Environmental Conservation and Wildlife Organizations	81399	Other Similar Organizations (pt)
8711	Engineering Services	54133	Engineering Services
8712	Architectural Services	54131	Architectural Services
8713	Surveying Services		
	Geophysical Surveying Services	54136	Geophysical Surveying and Mapping Services (pt)
	Except Geophysical Surveying	54137	Surveying and Mapping (except Geophysical) Services (pt)
8721@	Accounting, Auditing, and Bookkeeping Services		
	Auditing Accountants	541211	Offices of Certified Public Accountants
	Payroll Services	541214	Payroll Services (pt)
	Other Accounting Services	541219	Other Accounting Services

8731@	Commercial Physical and Biological Research		
	Physical and Engineering Sciences	54171	Research and Development in the Physical Sciences and Engineering Sciences (pt)
	Life Sciences	54172	Research and Development in the Life Sciences (pt)
8732@	Commercial Economic, Sociological, and Educational Research		
	Social Sciences and Humanities	54173	Research and Development in the Social Sciences and Humanities (pt)
	Market Research and Opinion Research	54191	Marketing Research and Public Opinion Polling
8733@	Noncommercial Research Organizations		
	Physical and Engineering Services	54171	Research and Development in the Physical Sciences and Engineering Sciences (pt)
	Life Sciences	54172	Research and Development in the Life Sciences (pt)
	Social Sciences and Humanities	54173	Research and Development in the Social Sciences and Humanities (pt)
8734	Testing Laboratories		
	Veterinary Testing Labs	54194	Veterinary Services (pt)
	Except Veterinary Testing Labs	54138	Testing Laboratories
8741@	Management Services		
	Except Construction Management Services	56111	Office Administrative Services
	Construction Management Services	23	Included in Construction Sector By Type of Construction
8742@	Management Consulting Services		
	Administrative and General Management Consulting	541611	Administrative Management and General Management Consulting Services
	Human Resources and Personnel Management Consulting	541612	Human Resources and Executive Search Services (pt)
	Marketing Consulting	541613	Marketing Consulting Services

	Manufacturing Management, Physical Distribution, and Site Location Consulting	541614	Process, Physical, Distribution and Logistics Consulting Services
8743	Public Relations Services	54182	Public Relations Agencies
8744	Facilities Support Management Services	56121	Facilities Support Services
8748@	Business Consulting Services, NEC		
	Educational Test Development and Evaluation Services, Educational Testing, and Educational Consulting	61171	Educational Support Services (pt)
	Safety Consulting	541618	Other Management Consulting Services (pt)
	Agriculture Consulting, Economic Consultants, Radio Consultants, Traffic Consultants	54169	Other Scientific and Technical Consulting Services (pt)
8811	Private Households	81411	Private Households
8999@	Services, NEC		
	Authors, Artists, and Related Technical Services, Independent	71151	Independent Artists, Writers, and Performers (pt)
	Record Production	51221	Record Production
	Nuclear Consultants, Consulting Geologists, and Consulting Physicists	54169	Other Scientific and Technical Consulting Services (pt)
	Music Publishing	51223	Music Publishers (pt)
	Actuarial Consulting	541612	Human Resources and Executive Search Consulting Services (pt)
	All Other Information Providers	514199	All Other Information Services
	Environmental Consultants	54162	Environmental Consulting Services
9111	Executive Offices	92111	Executive Offices
9121	Legislative Bodies	92112	Legislative Bodies
9131	Executive and Legislative Offices, Combined	92114	Executive and Legislative Offices, Combined

9199	General Government, NEC	92119	All Other General Government
9211	Courts	92211	Courts
9221	Police Protection	92212	Police Protection
9222	Legal Counsel and Prosecution	92213	Legal Counsel and Prosecution
9223	Correctional Institutions	92214	Correctional Institutions
9224	Fire Protection	92216	Fire Protection
9229	Public Order and Safety, NEC	92219	All Other Justice, Public Order, and Safety
9311	Public Finance, Taxation, and Monetary Policy	92113	Public Finance
9411	Administration of Educational Programs	92311	Administration of Education Programs
9431	Administration of Public Health Programs	92312	Administration of Public Health Programs
9441	Administration of Social, Human Resource and Income Maintenance Programs	92313	Administration of Social, Human Resource and Income Maintenance Programs
9451	Administration of Veteran's Affairs, Except Health Insurance	92314	Administration of Veteran's Affairs
9511	Air and Water Resource and Solid Waste Management	92411	Air and Water Resource and Solid Waste Management
9512	Land, Mineral, Wildlife, and Forest Conservation	92412	Land, Mineral, Wildlife, and Forest Conservation
9531	Administration of Housing Programs	92511	Administration of Housing Programs
9532	Administration of Urban Planning and Community and Rural Development	92512	Administration of Urban Planning and Community and Rural Development
9611	Administration of General Economic Programs	92611	Administration of General Economic Programs
9621	Regulations and Administration of Transportation Programs		
	Air Traffic Control	488111	Air Traffic Control (pt)
	Except Air Traffic Control	92612	Regulation and Administration of Transportation Programs

9631	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	92613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities
9641	Regulation of Agricultural Marketing and Commodity	92614	Regulation of Agricultural Marketing and Commodity
9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	92615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors
9661	Space Research and Technology	92711	Space Research and Technology
9711	National Security	92811	National Security
9721	International Affairs	92812	International Affairs
9999	Nonclassifiable Establishments	99999	Unclassified Establishments

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 industry. The abbreviation NEC is used for Not Elsewhere Classified.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 97–8101 Filed 4–8–97; 8:45 am]

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April 9, 1997

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Reduced Vertical Separation Minimum Operations; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 28870; Amdt No. 91–254]

RIN 2120–AE51

Reduced Vertical Separation Minimum Operations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is establishing requirements for operations of U.S.-registered aircraft in airspace designated as Reduced Vertical Separation Minimum (RVSM) airspace. RVSM refers to airspace between flight level (FL) 290 and FL 410, with assigned altitudes separated by a minimum of 1,000 feet rather than the 2,000 foot minimum separation currently required above FL 290. The current requirement is based on navigation equipment with a level of accuracy that necessitated a 2,000 foot buffer. Modern navigation equipment permits more precise navigation, including altitude control. These regulations require operators and their aircraft to be approved in accordance with new requirements, in order to operate in RVSM specified airspace. The regulations ensure that operators and their aircraft are properly qualified and equipped to conduct flight operations while separated by 1,000 feet, and ensure that compliance with the RVSM requirements is maintained. This amendment makes more tracks and altitudes available for air traffic control to assign to operators, thus increasing efficiency of operations and air traffic capacity. This action maintains a level of safety equal to or greater than that provided by the current regulations. RVSM will be applied in designated areas, with the first area being certain flight levels in the North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) airspace.

DATES: This final rules is effective April 9, 1997. Comments must be submitted on or before June 9, 1997.

ADDRESSES: Substantive comments on this action should be delivered or mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Room 915–G, Docket No. 28870, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 28870. Substantive comments also may be submitted electronically to the following Internet address: 9–NPRM–CMTS@faa.dot.gov. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Grimes, AFS–400, Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3734.

SUPPLEMENTARY INFORMATION:

Substantive Comments Invited

This action is a product of international agreements under which the international aviation community, including the United States, is prepared to and plans to begin operational testing of the RVSM procedures in certain altitudes on March 27, 1997. Arriving air traffic, having departed Europe and separated at RVSM altitudes, cannot as a practical matter arrive in oceanic airspace controlled by the United States, all needing to be reassigned to a pre-RVSM separation altitude. Unless this rule is implemented by March 27, 1997, there would have to be major delays for westbound NAT traffic in airspace that the FAA does not control, to avoid a significant safety problem.

Because the United States international commitments in this matter cannot otherwise reasonably be met and because of the potential safety problem for aircraft entering U.S.-controlled oceanic airspace without the benefit of this rule, the FAA is publishing this action as a final rule without an opportunity for public comment. It should be noted, however, that this action has been developed through the international committee process, a variety of related program meetings, and a formal public meeting in 1993. No significant adverse comment was received.

If an individual believes that a significant salient issue has been overlooked, that person is invited to comment by submitting such written data, views, or arguments as they may desire. Comments should identify the regulatory docket number and should be submitted in triplicate to the Rules Docket address specified above. Because this rule was developed as a result of an international agreement, comments deemed substantive will be presented for consideration and reviewed by the international community under the auspices of ICAO. If considered salient, the comment will be included for use by all participating member States.

All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28870.'' The postcard will be date stamped and returned to the commenter.

Availability of This Document

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone 703–321–3339), the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board Service (telephone: 202–267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register's** webpage at http://www.access.gpo/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the docket number of this rule.

Persons interested in being placed on the mailing list for future rulemaking actions should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Statement of the Problem

With air traffic increasing annually worldwide, FAA airspace planners and their international counterparts continually study methods of enhancing the air traffic control (ATC) system's ability to accommodate this traffic in a safe and efficient manner. The traffic problem has become particularly acute in the NAT airspace, where the number of flight operations increased 30 percent from 1988 through 1992, according to the NAT Traffic Forecasting Group. The forecast indicates that traffic will rise 60 percent over the 1992 level of 228,200 operations by 2005. Currently, 27 percent of operations in the NAT airspace receive clearances on tracks and to altitudes other than those

requested by the operators in their filed flight plans because of airspace limitations. These flights are conducted at less than optimum tracks and altitudes for the aircraft, resulting in time and fuel inefficiencies.

One limitation on air traffic management at high altitudes is the required vertical separation. Whereas at lower altitudes air traffic controllers can assign aircraft operating under Instrument Flight Rules (IFR) altitudes a minimum of 1,000 feet apart, above FL 290, required vertical separation is a minimum of 2,000 feet.

Note: Flight levels are stated in digits that represent hundreds of feet. The term flight level is used to describe a surface of constant atmospheric pressure related to a reference datum of 29.92 inches of mercury. Rather than adjusting altimeters for changes in atmospheric pressure, pilots base altitude readings above the transition altitude [in the United States, 18,000 feet] on this standard reference. FL 290 represents 29,000 feet; FL 310 represents 31,000 feet, and so on.)

The 2,000 foot vertical separation minimum applied above FL 290 in U.S. and international airspace dates to the 1950's. At that time, high-altitude flight was possible for only a limited number of military aircraft, and inaccuracies in altitude-keeping systems were evident above FL 290. (''Altitude-keeping'' means the accuracy in the vertical plane with which an aircraft adheres to its assigned pressure altitude using the aircraft altitude-keeping and barometric altimeter systems.) However, advances in technology eventually gave transport and general aviation aircraft the ability to operate at higher altitudes, resulting in increased traffic along high-altitude routes.

The 2,000 ft minimum vertical separation restricts the number of flight levels available, even though many more air carrier and general aviation aircraft are capable of high altitude operations now than when the standard was established. Flight levels 310, 330, 350, 370, and 390 are the flight levels at which aircraft crossing between North America and Europe operate most economically, thus causing congestion at peak hours. One solution to air traffic management limitations would be to make available other flight levels, such as 320, 340, 360, and 380. Exhaustive technical studies show that a 1,000 ft minimum vertical separation is feasible and safe. The solution is based on marked improvement in altitude-keeping technology and provides relief from the fuel and time inefficiencies being seen in the NAT MNPS airspace.

History

Rising traffic volume and fuel costs, which made flight at fuel efficient altitudes a priority for operators, sparked an interest in the early 1970's in implementing RVSM above FL 290. In April 1973, the Air Transport Association of America (ATA) petitioned the FAA for a rule change to reduce the vertical separation minimum to 1,000 feet for aircraft operating above FL 290. The petition was denied in 1977 in part because (1) aircraft altimeters had not been improved sufficiently, (2) improved maintenance and operational standards had not been developed, and (3) altitude correction was not available in all aircraft. In addition, the cost of modifying nonconforming aircraft was prohibitive. The FAA concluded that granting the ATA petition at that time would have adversely affected safety.

Nevertheless, the FAA recognized the potential benefits of RVSM under certain circumstances and continued to review technological developments, committing extensive resources to studying aircraft altitude-keeping performance and necessary criteria for safely reducing vertical separation above FL 290. These benefits and data showing that implementing RVSM is technically feasible have been demonstrated in studies conducted cooperatively in international forums, as well as separately by the FAA.

Because of the high standard of performance and equipment required for RVSM, the FAA foresees initial introduction of RVSM in oceanic airspace where special navigation performance standards already exist. (Special navigation areas require high levels of long-range navigation precision due to the separation standard applied). RVSM implementation in such airspace requires an increased level of precision demanded of operators, aircraft, and vertical navigation systems.

In 1997, RVSM is planned only for one such special navigation area of operation, the NAT MNPS, established in the International Civil Aviation Organization (ICAO) NAT Region. In designated NAT MNPS airspace, tracks are spaced 60 nautical miles (nm) apart. On these tracks, aircraft are separated vertically by 2000 feet. All aircraft operating in this airspace must be appropriately equipped and capable of meeting the MNPS standards. Operators must follow procedures that ensure the standards are met, and flightcrews must be trained and qualified to meet the MNPS standards. Each operator, aircraft, and navigation system combination must receive and maintain authorization to operate in the NAT MNPS. The NATSPG Central Monitoring Agency for the NAT Systems Planning Group monitors NAT aircraft fleet performance to ensure that a safe operating environment is maintained.

FAA data indicate that the altitude-keeping performance of most aircraft flying in the NAT could meet the standards for RVSM operations. The FAA and ICAO research to determine the feasibility of implementing RVSM in the NAT MNPS included the following four efforts:

1. *FAA Vertical Studies Program*. This program began in mid-1981, with the objectives of collecting and analyzing data on aircraft performance in maintaining assigned altitude, developing program requirements to reduce vertical separation, and providing technical and operational representation on the various working groups studying the issue outside the FAA.

2. *RTCA Special Committee (SC)–150*. RTCA, Inc., (formerly Radio Technical Commission for Aeronautics) is an industry organization in Washington, DC, that addresses aviation technical requirements and concepts and produces recommended standards. When the FAA hosted a public meeting in early 1982 on vertical separation, it was recommended that RTCA be the forum for development of minimum system performance standards for RVSM. RTCA SC–150 was formed in March 1982 to develop minimum system performance requirements, identify required improvements to aircraft equipment and changes to operational procedures, and assess the impact of the requirements on the aviation community. SC–150 served as the focal point for the study and development of RVSM criteria and programs in the United States from 1982 to 1987, including analysis of the results of the FAA Vertical Studies Program.

3. *ICAO Review of the General Concept of Separation Panel (RGCSP)*. In 1987, the FAA concentrated its resources for the development of RVSM programs in the ICAO RGCSP. The U.S. delegation to the ICAO RGCSP used the material developed by SC–150 as the foundation for U.S. positions and plans on RVSM criteria and programs. The panel's major conclusions were:

- RVSM is ''technically feasible without imposing unreasonably demanding technical requirements on the equipment.''
- RVSM provides ''significant benefits in terms of economy and en route airspace capacity.''
- Implementation of RVSM on either a regional or global basis requires ''sound operational judgment supported

by an assessment of system performance based on: Aircraft altitude-keeping capability, operational considerations, system performance monitoring, and risk assessment.''

4. *NATSPG and the NATSPG Vertical Separation Implementation Group (VSIG).*

The NATSPG Task Force was established in 1988 to identify the requirements to be met by the future NAT Region air traffic services system; to design the framework for the NAT airspace system concept; and to prepare a general plan for the phased introduction of the elements of the concept. The objective of this effort was to permit ''significant increases in airspace capacity and improvements in flight economy.'' At the meeting of the NATSPG in June 1991, all of the NAT air traffic service provider States, as well as the International Air Transport Association (IATA) and International Federation of Airline Pilots Association (IFALPA), endorsed the Future NAT Air Traffic Services System Concept Description developed by the NATSPG Task Force. With regard to the implementation of RVSM, the Concept Description concludes that ''priority must be given to implementation of this measure as it is believed to be achievable within the early part of the concept timeframe.'' NATSPG's initial goal was to implement RVSM between 1996 and 1997. To meet this goal, the NATSPG established the VSIG in June 1991 to take the necessary actions to implement RVSM in the NAT. These actions included:

- Programs and documents to approve aircraft and operators to conduct flight in the RVSM environment and to address all issues related to aircraft airworthiness, maintenance, and operations. The group has produced guidance material for aircraft and operator approval, which ICAO has distributed to civil aviation authorities and NAT users. ICAO has planned that the guidance material be incorporated in the approval process established by the States.
- Developing the system for monitoring aircraft altitude-keeping performance. This system is used to observe aircraft performance in the vertical plane to determine that the approval process is uniformly effective and that the RVSM airspace system is safe.
- Evaluating and developing ATC procedures for RVSM, conducting simulation studies to assess the effect of RVSM on ATC, and developing documents to address ATC issues.

The NATSPG RVSM implementation program was endorsed by the ICAO Limited NAT Regional Air Navigation Meeting held in Portugal in November 1992. At that meeting, it was concluded that RVSM implementation should be pursued. The FAA concurred with the conclusions of the NATSPG on RVSM implementation.

On August 17, 1993, the FAA held a public meeting to obtain input and data that would be considered by the FAA in determining if and how to implement reduced vertical separation in appropriate airspace. The 32 meeting participants included representatives of the aviation industry, including manufacturers and air carriers, and unions, as well as pilots and government officials. Five members of the public made formal statements.

The ATA supported RVSM, indicating that the FAA should proceed as quickly as possible with implementation because of direct economic benefit for airlines. A member of the ATA supported the concept and indicated that Traffic Alert and Collision Avoidance Systems (TCAS) should be included in the system specifications. The speaker indicated that, in his analysis, no changes to the TCAS system would be needed to implement the reduced vertical separation.

The Airline Pilots Association (ALPA) supported RVSM, but expressed concern that the engineering requirements were so complex that continuing compliance could be difficult. Therefore, ALPA emphasized that there must be an ongoing effort to collect data on altitude keeping performance through monitoring to prevent those not meeting the requirements from entering or using RVSM airspace.

The National Air-Traffic Controllers' Association (NATCA) opposed RVSM at that time because of the potential increase in traffic volume in RVSM airspace without a corresponding increase in the number of controllers. However, the NATCA speaker said the increase in oceanic capacity through RVSM implementation should be pursued when the FAA fully staffs the air traffic control system and provides adequate automation to aid the controllers.

(In the interim since the August, 1993 public meeting, the FAA conducted a series of real time simulations at the FAA Technical Center's National Simulation Capability (NSC). Simulations where conducted to assist the FAA's Air Traffic organizations in defining geographical areas for RVSM transitioning and establishing procedures to effect that transition. Controllers, and controllers representing NATCA, from New York, Boston and Miami Air Route Traffic Control Centers, participated in the simulations. As indicated in the National Simulation Capability RVSM Phase I Result Report, August 1995, the simulation results indicated that, while interval increases in controller workload occurred under RVSM traffic conditions when compared with conventional vertical separation minima (2000 feet) conditions, the overall controller workload did not increase. High interval workload did not interfere with a controller's ability to provide service to the aircraft. Based upon the Phase I RVSM simulation results, the introduction of RVSM in the New York Oceanic Airspace is feasible provided that certain procedures are well defined and agreed upon prior to implemention.)

The National Business Aircraft Association (NBAA) supported the reduced vertical separation concept. However, NBAA expressed concern over the cost of equipping aircraft to enter RVSM airspace. Also, NBAA was concerned that if the RVSM concept was to be considered for the Pacific area and domestic airspace, significant expense to operators could result from the requirement for all airplanes to be equipped, validated, and maintained to RVSM standards. NBAA viewed this as a significant long-range cost impact.

Reference Material

The FAA and other entities studying the issue of RVSM requirements have produced a number of studies and reports. The FAA used the following documents in the development of this amendment.

- Summary Report of United States Studies on 1,000-Foot Vertical Separation Above Flight Level 290 (FAA, July 1988).
- Initial Report on Minimum System Performance Standards for 1,000-Foot Vertical Separation Above Flight Level 290 (RTCA SC–150, November 1984); the report provides information on the methodology for evaluating safety, factors influencing vertical separation, and strawman system performance standards.
- Minimum System Performance Standards for 1,000-Foot Vertical Separation Above Flight Level 290 (Draft 7, RTCA, August 1990); the FAA concurred with the material developed by RTCA SC–150.
- The Report of RGCSP/6 (ICAO, Montreal, 28 November–15 December 1988) published in two volumes. Volume 1 summarizes the major conclusions reached by the panel and the individual States. Volume 2 presents the complete RVSM study reports of the individual States:
- European Studies of Vertical Separation Above FL 290—Summary Report (prepared by the Eurocontrol Vertical Studies Subgroup).

- Summary Report of United States Studies on 1,000-Foot Vertical Separation Above Flight Level 290 (prepared by the FAA Technical Center and ARINC Research Corporation).
- The Japanese Study on Vertical Separation.
- The Report of the Canadian Mode C Data Collection.
- The Results of Studies on the Reduction of Vertical Separation Intervals for USSR Aircraft at Altitudes Above 8,100 m (prepared by the USSR).
- Report of RGCSP/7 (Montreal, 30 October–20 November 1990) containing a draft Manual on Implementation of a 300 M (1,000 Ft) Vertical Separation Minimum (VSM) Between FL 290 and 410 Inclusive, approved by the ICAO Air Navigation Commission in February 1991 and published as ICAO Document 9574.
- Interim Guidance Material 91–RVSM, ''Approval of Aircraft and Operators for Flight in Airspace Above FL 290 Where a 1,000 Foot Vertical Separation is Applied'' (March 14, 1994). (The interim guidance continues to provide recommended procedural steps for obtaining FAA approval.)
- AC No. 91–70, ''Oceanic Operations'' (September 6, 1994).
- Flight Standards Handbook Bulletin for Air Transportation (HBAT) ''Approval of Aircraft and Operators for Flight in Airspace Above Flight Level 290 Where a 1,000 Foot Vertical Separation Minimum is Applied'' (HBAT 97–02).

Related Activity

The FAA plans to implement RVSM starting in the NAT MNPS airspace because of the data and operational controls available for this airspace, and because of the operational efficiency problems in that airspace. The FAA's groundwork for determining the feasibility of RVSM and developing this rule has been carried out in conjunction with the NATSPG's plans to implement RVSM in the NAT MNPS Airspace.

Implementation is occurring in two phases:

1. *Verification Phase*

During the verification phase, aircraft have continued to be vertically separated by 2,000 feet, and operators and aircraft have begun to receive RVSM approval in accordance with the FAA's ''Interim Guidance Material'' (91–RVSM).

The overall objectives of the verification phase are to:

1. Confirm that the NAT target level of safety (TLS) will continue to be met.
2. Confirm that aircraft approved for RVSM operation demonstrate altitude-keeping performance that meets RVSM standards. This will be achieved by:
- Identifying and eliminating any causes of out-of-tolerance altitude-keeping performance, in general or for specific aircraft groups; and
- Monitoring a sample of RVSM-approved aircraft and operators that is representative of the total NAT MNPS population.
3. Verify that operational procedures adopted for RVSM are effective and appropriate.
4. Confirm that the altitude-monitoring program is effective.

The principal purpose of this phase has been to gain confidence that the operational trial phase can begin.

2. *Operational Trial Phase*

As the objectives of the system verification phase have been met, NATSPG plans to implement RVSM at designated flight levels with separation of 1,000 feet on an operational trial basis starting March 27, 1997 for approximately one year. In the initial phase of implementation, the NATSPG plans to implement RVSM only at certain flight levels (FL 330 to FL 370). The objectives of the operational trial phase are to:

1. Continue to collect altitude-keeping performance data.
2. Increase the level of confidence that safety goals are being met.
3. Demonstrate operationally that there are no difficulties with RVSM implementation.

Starting March 27, 1997, aircraft that do not meet the RVSM requirements will be excluded from operations at flight levels where RVSM is applied. Provided that all requirements continue to be met, at the end of the operational trial period, RVSM will be declared fully operational.

To help operators prepare to comply with the requirements of this rule, the FAA has prepared two documents, which are available in the docket. The first of these documents, distributed at the ICAO meetings since April, 1994, is Interim Guidance Material on the Approval of Operators/Aircraft for RVSM Operations (91–RVSM). This document contains guidance for the approval of aircraft and operators to conduct RVSM operations. It is based on the ICAO manual on RVSM. It was developed in the NATSPG forum by technical and operational experts from the FAA, the European Joint Airworthiness Authorities (JAA), the aircraft manufacturers, and pilot associations. The FAA is taking steps to publish it as an advisory circular (AC). In the interim, a copy of 91–RVSM may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

The second document is a Flight Standards Handbook Bulletin (HBAT) 97–02 entitled Approval of Aircraft and Operators for Flight in Airspace Above Flight Level 290 Where 1,000 Foot Vertical Separation Minimum Is Applied, and has been distributed through Flight Standards offices.

The interim guidance material describes methods of complying with the airworthiness approval, maintenance program approval, and operations approval requirements in the rule. It discusses timing, process, and maintenance and operations material that the operator should submit for FAA review and evaluation normally at least 60 days before the planned operation in RVSM airspace. Operators under Title 14, Code of Federal Regulations (14 CFR) part 91 receive FAA approval in the form of a letter of authorization, and operators under 14 CFR parts 121, 125, and 135 receive operations specifications approval.

The HBAT contains background information on RVSM, directs inspectors to use the Interim Guidance 91–RVSM for operator approval, and contains specific direction on issuing operating authority.

Altitude-Keeping Performance

The FAA, in conjunction with the NATSPG, also has been monitoring aircraft altitude-keeping performance. The NATSPG, with industry participation, determined that the overall (i.e., accounting for equipment and human error) criterion for safety in the NAT region is the target level of safety (TLS) of no more than five fatal accidents in 1 billion flying hours. The FAA has determined that the appropriate method of assessing collision risk is the Reich collision risk model (CRM). As noted in AC No. 91–70, ''Oceanic Operations,'' collision risk refers to the number of midair accidents likely to occur due to loss of separation in a prescribed volume of airspace for a specific number of flight hours.

To ensure that the TLS considered acceptable in the NAT is met, the FAA and the NATSPG are monitoring the total vertical error (TVE) and the remaining CRM parameters that are critical for safety assessment (probability of lateral and longitudinal overlap). TVE is defined as the geometric difference between aircraft and flight level altitude. To monitor TVE, the FAA and the NATSPG have deployed measurement systems that will produce estimates of aircraft and flight level geometric altitude. The overall goal of monitoring is to ensure that airworthiness, maintenance, and operational approval requirements result in required system performance (and level of safety) in the flight environment on a continuing basis. Currently, two altitude-monitoring

systems are operating: a Global Positioning System (GPS)-based monitoring system and a Height monitoring unit (HMU) that uses a Mode C multilateration system. Data are currently being collected on both systems to determine technical and operational feasibility.

Collision Risk Methodology (CRM) (including an acceptable level of safety) was used to develop the requirements for safe implementation of a 1,000 foot vertical separation standard. The level of safety was developed using historical data on safety from global sources. One precedence used was a period of 100 to 150 years between midair collisions. When the NATSPG TLS of 5 accidents in a billion flying hours is projected in terms of a calendar year interval between accidents, it yields a theoretical interval of approximately 390 years between midair collisions. The accepted level of safety is consistent with the acceptable level for aircraft hull loss and is based on the precedence of extremely improbable events as they relate to system safety, the basis for certain requirements in certification regulations such as 14 CFR 25.1309. The United States supported the methodology used to derive the accepted level of safety for RVSM implementation.

Following the development of the accepted level of safety, the corresponding limits for TVE and altimetry system errors were developed. A detailed discussion of the mathematical rationale leading to the requirements for safe implementation of RVSM is available in the docket.

Current Requirements

In the Federal Aviation Regulations, 14 CFR 91.179(b)(3) establishes the 2,000 ft minimum separation in domestic airspace by requiring that flights in uncontrolled airspace at and above FL 290 on easterly magnetic courses (zero degrees through 179 degrees) be conducted at 4,000 ft intervals, starting at FL 290, (e.g., FL 290, 330, or 370). West-bound flights (magnetic courses of 180 degrees through 359 degrees) must be conducted at 4,000 ft intervals beginning at FL 310 (e.g., FL 310, 350, or 390). Flights in controlled airspace must be conducted at an altitude assigned by ATC.

For operations within a foreign country, 14 CFR 91.703 requires compliance with that country's regulations. For operations over the high seas outside the United States, 14 CFR 91.703 requires that aircraft of U.S. registry comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation. Annex 2, amendment 32, effective February 19, 1996, reflects the planned change from 2,000 feet to 1,000 feet vertical separation for Instrument Flight Rules (IFR) traffic between FL 290 and FL 410, based on appropriate airspace designation, international agreements, and conformance with specified conditions. By this amendment, Annex 2, through amendment 32, is incorporated by reference in § 91.703(b).

Regulatory requirements for operations within the NAT MNPS by U.S.-registered aircraft are contained in 14 CFR 91.705. The regulation states that the aircraft must have approved navigation performance capability that meets specified requirements, and that the operator have authorization from the Administrator for operations in the NAT MNPS.

The NAT MNPS is addressed in greater detail in appendix C to Part 91, Operations in the North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) Airspace. The appendix defines the airspace geographically and sets minimum navigation performance capability requirements.

General Discussion of the Amendment

This rule allows operations of civil aircraft of U.S. registration outside the U.S. in airspace where a 1,000 foot vertical separation is applied, based on improvements in altitude-keeping technology. These improvements include:

- Introduction of the air data computer (ADC), which provides an automatic means of correcting the known static source error of aircraft to improve aircraft altitude measurement capability.
- Development of altimeters with enhanced transducers or double aneroids for computing altitude.

Under this amendment, airspace or routes in which RVSM is applied are considered special qualification airspace. Both the operator and the specific types of aircraft that the operator intends to use in RVSM airspace would have to be approved by the appropriate FAA office before the operator conducts flights in RVSM airspace.

Implementation of a 1,000 foot vertical separation standard above FL 290 offers substantial operational benefits to operators, including:

- Greater availability of the most fuel-efficient altitudes. In the RVSM environment, aircraft are able to fly closer to their optimum altitude at initial level off and through step climbing to the optimum altitude during the enroute phase.
- Greater availability of the most time- and fuel-efficient tracks and routes (and an increased probability of obtaining these tracks and routes). Operators often are not cleared on the track or route that was filed due to demand for the optimum routes, and resultant traffic congestion on those routes. RVSM allows ATC to accommodate a greater number of aircraft on a given track or route. More time- and fuel-efficient tracks or routes would therefore be available to more aircraft.
- Increased controller flexibility. RVSM gives ATC greater flexibility to manage traffic by increasing the number of flight levels on each track or route.
- Enhanced safety in the lateral dimension. Studies indicate that RVSM produces a wider distribution of aircraft among different tracks and altitudes, resulting in less exposure to aircraft at adjacent separation standards. RVSM reduces the number of occasions when two aircraft pass each other separated by a single separation standard (e.g., 60 nm laterally). The benefit to safety is that, should an aircraft enter, as a result of gross navigation error, onto an adjacent track, and another aircraft is on that track, there is an increased probability that the two aircraft would be flying at different flight levels.

This rule amends § 91.703(a)(4) and continues to require that operations conducted within airspace designated as MNPS airspace be conducted in accordance with § 91.705. The rule also requires that operations conducted within airspace designated as Reduced Vertical Separation Airspace be conducted in accordance with a new § 91.706.

Section 91.705 has been edited to delete references to the North Atlantic. The revised section also corrects format errors.

Section 91.706 is added to prescribe the requirements for operations conducted in airspace designated as Reduced Vertical Separation Minimum Airspace. That section is similar in form to § 91.705. It requires that each operator obtain authorization from the FAA to operate in airspace designated as RVSM, and requires each operator to obtain RVSM approval for their aircraft in accordance with appendix G.

The new appendix G specifies essential aircraft equipment and capabilities, including altitude measurement systems; altitude control systems; and an altitude alert system. RVSM aircraft are required to meet requirements for altimetry system error containment, equipment installation, and equipment tolerances. The control systems are required to automatically

control aircraft altitude to within specified limits (in non-turbulent, non-gust conditions). The associated alert systems are required to alert flightcrews to deviations of more than 300 feet from selected altitudes, or 200 feet for aircraft for which application for type certification occurs after April 8, 1997.

Altitude system error (ASE) requirements are prescribed in part 91, appendix G, section 2, paragraph (e). The ASE that aircraft groups are required to exhibit in service for acceptable aircraft altitude-keeping performance to be achieved in the full RVSM flight envelope is:

The mean ASE of an aircraft group must not exceed 120 feet and the sum of mean ASE plus three standard deviations of ASE must not exceed 245 feet.

On the basis of studies documented in ICAO Document 9536, Volume 2, a margin was established between the ASE to be exhibited in service and the ASE criteria used for initial approval to allow for some degradation with increasing aircraft age. Thus, for initial aircraft approval, the following ASE requirements are established in the basic envelope (as defined below):

The mean ASE of the group must not exceed 80 feet, and the sum of ASE for the aircraft group plus three standard deviations must not exceed 200 feet.

For the purpose of approving in-service aircraft, the FAA divides the flight envelope into two parts to provide a reasonable method for applying the above criteria to currently type-certificated aircraft. The Basic RVSM flight envelope (see part 91, appendix G, section 1) represents the aircraft speeds, altitudes and weights at which the majority of aircraft operations are conducted. The Full RVSM flight envelope also includes portions of the operating flight envelope in which aircraft operate less frequently. The values of 80 feet for mean ASE and 200 feet for mean ASE plus three standard deviations of ASE must be met in the Basic RVSM flight envelope. The values of 120 feet for mean ASE and 245 feet for mean ASE plus three standard deviations must be met in the Full RVSM flight envelope.

For RVSM approval of aircraft for which a type certificate is requested after April 9, 1997, however, the FAA has determined that it is not necessary to continue designating two flight envelopes (i.e., Basic and Full flight envelopes). With values of 80 feet for mean ASE and 200 feet for mean ASE plus three standard deviations for ASE established during the design phase, the FAA has determined that those values can also be achieved throughout the Full RVSM flight envelope.

The ASE criteria for group aircraft will not be applied to non-group aircraft, because with non-group aircraft there is no data with which to measure airframe to airframe variability. Therefore, a single ASE value would be established to control the simple sum of altimetry errors. To control the overall population distribution, this limit would be set at a value less than that for group aircraft.

The new appendix G also provides for limited deviations to the operator and aircraft approval requirements. To accomplish this, the appendix states that an operator's request should normally be submitted at least 48 hours in advance of the proposed flight except under mitigating circumstances, so that ATC could then determine if proper separation could be provided without interference with normal RVSM operations. As with current appendix C to part 91, such deviations are considered as exceptions, not normal operations. For example, the operations envisioned that could be conducted in deviation from the RVSM requirements are the occasional part 91 flight in a business jet, or a maintenance ferry flight of a part 121 certificate holder's aircraft for the purpose of performing maintenance and returning the aircraft to RVSM-approved status.

Under this amendment, the new appendix G designates, in Section 8, those areas in which RVSM may be applied. Initially, as previously stated, RVSM will be applied only at designated flight levels in NAT MNPS airspace (e.g., FL 330 to FL 370). However, the appendix is otherwise structured in a generic format so that other airspace could be added to the designation when RVSM is expanded. By reviewing Section 8, operators are provided notification of areas where RVSM may be applied. (Operations still have the Annex 2 requirements to determine route requirements during preflight.)

NATSPG has agreed to change the floor and ceiling of MNPS airspace to FL 285 and FL 420. This change will enable the application of RVSM between FL 290 and FL 410, inclusive. The FAA does not consider this to be a substantive change.

The new appendix generally defines RVSM airspace as any airspace between FL 290 and FL 410 (inclusive) where aircraft are to be separated by a minimum of 1,000 feet vertically. The appendix also specifies that operators receive approval for RVSM operations either through operations specifications or a Letter of Authorization, as appropriate. Applicants for operation in RVSM airspace are required to submit supporting material for aircraft approval, including information on compliance with the performance and hardware requirements and on the operator's maintenance program, in connection with meeting RVSM minimum performance requirements. Operators are also required to implement policies and procedures related to RVSM operations and to show that their pilots have necessary knowledge of those policies and procedures.

Specific guidance on how to meet the requirements is available in Interim Guidance Material 91–RVSM, which addresses various aspects of RVSM requirements, including maintenance and operations programs. Operators can obtain authorization for RVSM from their local Flight Standards District Office (FSDO) or Certificate Management Office. Approval of aircraft may be given for aircraft groups or for individual aircraft. In the former case, the FAA expects that operators would need to enlist the assistance of the aircraft manufacturers to develop the necessary data on the aircraft group. In the latter case, the operator would work with the FAA to determine the accuracy of the altitude-keeping equipment on the individual aircraft.

This amendment results in more stringent vertical navigation standards in oceanic airspace; the standards will be applied in other airspace above FL 290 as they are designated as RVSM airspace in the future. In NAT MNPS airspace, aircraft and operators that do not meet the vertical navigation requirements of RVSM will be accommodated in 4 ways—First, RVSM will be implemented in stages. In Stage 1, RVSM approval will be required when operating between FL 33 to FL 370 inclusive. Unapproved operators will have the option of flying at FL 310 and below or FL 390 and above. The staged implementation plan was adopted to give operators more time and flexibility in their planning to gain RVSM approval (Note: NATSPG will evaluate user needs before implementing a second stage that applies RVSM requirements to other flight levels.). Second, unapproved operators will be allowed to climb or descend in MNPS airspace through flight levels where RVSM is applied to operate at FL's where RVSM is *not* applied. Third, the operator may be authorized to deviate from RVSM requirements in accordance with the provisions of Appendix G, Section 5. Though it is not intended to be the routine mode of operation, this section

does enable an operator that has not been RVSN approved (or an aircraft with an RVSM required system temporarily inoperative) to fly in MNPS airspace where RVSM is applied provided request is made in advance and ATC determines that appropriate separation can be applied without imposing a burden on other operators. And fourth, when RVSM is applied to all flight levels in MNPS airspace (FL 290 to 410 inclusive), the operator not wishing to gain RVSM approval will retain the option of crossing the North Atlantic at FL's above or below airspace where RVSM requirements apply. Such an operator will be able to fly at FL 280 and below or FL 430 and above. The FAA has determined that these are reasonable and adequate means to accommodate the transition to RVSM requirements, particularly for general aviation operators.

The Interim Guidance is intended to be applicable for RVSM aircraft and operator approval in continental, oceanic, and remote airspace. The FAA expects that RVSM eventually will be applied in other airspace, including the Pacific region, Europe, and eventually even U.S. airspace. The rule establishes requirements for operation of U.S. registered aircraft outside the U.S. in any airspace designated for RVSM; it specifically establishes that the NAT MNPS airspace is an area where RVSM may be applied.

Need for Immediate Adoption

This action is a product of international agreements. It is the implementation of a joint, ongoing action started in 1988 with the member States of ICAO. The international aviation community is prepared to and will begin operational testing of the RVSM procedures in certain altitudes on March 27, 1997.

The United States, as a member of ICAO, has an international commitment to participate in this action. Arriving air traffic, having departed Europe and separated at RVSM altitudes, as a practical matter, cannot arrive in oceanic airspace controlled by the United States, all needing to be reassigned to a pre-RVSM separation altitude. Unless this rule is implemented by March 27, 1997, to avoid a significant safety problem, there would have to be major delays for westbound NAT traffic in airspace the FAA does not control.

Additionally, U.S. operators will incur an economic disadvantage compared to their European competitors, if they are unable to utilize the benefits gained from operating at RVSM altitudes beginning on March 27, 1997,

Because of the imminent beginning of operational testing by all countries involved, good cause exists for making this final rule effective immediately.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) generates benefits that justify its costs and is not ''a significant regulatory action'' as defined in the Executive Order; (2) is significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) does not have a significant impact on a substantial number of small entities; and (4) does not constitute a barrier to international trade. These analyses, available in the docket are summarized below.

This rule establishes a new Federal Aviation Regulations (FAR) section that allows the vertical separation minimum from 2,000 feet to 1,000 feet between FL 290 and FL 410 to be reduced in certain designated airspace. This action is intended to increase the number of available flight levels, enhance airspace capacity, permit operators to fly more fuel/time efficient tracks and altitudes, and enhance air traffic controller flexibility by increasing the number of available flight levels, while maintaining an equivalent level of safety.

Assuming that operators with the capability of operating above FL 410 would do so in lieu of obtaining RVSM approval, the FAA estimates that this rule costs U.S. operators $28.1 million in constant 1995 dollars for the fifteen-year time period 1996–2010 or $20.4 million discounted. Benefits begin accruing in 1997. Benefits, based on fuel savings for the commercial aircraft fleet over the years 1997 to 2010, are estimated to be $35.8 million undiscounted in constant 1995 dollars or discounted at $24.0 million. The other benefits of implementing RVSM are: (1) availability of added tracks; (2) increased controller flexibility to clear aircraft for efficient step (enroute) climbs; and (3) increased controller flexibility to route aircraft to appropriate tracks. Therefore, based on a quantitative and qualitative evaluation of this action, the FAA believes that the amendment is cost-beneficial.

Regulatory Flexibility Act

The FAA has determined that these amendments do not significantly affect a substantial number of small entities.

International Trade Impact Analysis

This amendment does not affect the importation of foreign products or services into the United States or the exportation of U.S. products or services to foreign countries.

Federalism Implications

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

Paperwork Reduction Act of 1995

The reporting and recordkeeping requirements associated with this rule remain the same as under the current rules and have previously been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Numbers 2120–0026. The FAA believes that this rule does not impose any additional recordkeeping or reporting requirements.

Unfunded Mandates Reform Act of 1995

The FAA has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation Organization (ICAO), it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to maximum extent practicable. The operator and aircraft approval process was developed jointly by the FAA and the JAA under the auspices of NATSPG. The FAA has determined that this amendment does not present any difference.

Conclusion

For the reasons discussed in the Preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866. In addition, the FAA certifies that this regulation does not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act of 1990. This amendment is considered significant under Order DOT 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations due to the significant international ramifications of this rule. A regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and International Trade Impact Analysis, are available in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 91

Air-traffic control, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14 of the Code of Federal Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Section 91.703 is amended by revising paragraphs (a)(4) and (b) to read as follows:

§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.

(a)* * *

(4) When operating within airspace designated as Minimum Navigation Performance Specifications (MNPS) airspace, comply with § 91.705. When operating within airspace designated as Reduced Vertical Separation Minimum (RVSM) airspace, comply with § 91.706.

(b) Annex 2 to the Convention on International Civil Aviation, Ninth Edition—July 1990, with Amendments through Amendment 32 effective February 19, 1996, to which reference is made in this part, is incorporated into this part and made a part hereof as provided in 5 U.S.C. § 552 and pursuant to 1 CFR part 51. Annex 2 (including a complete historic file of changes thereto) is available for public inspection at the Rules Docket, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, Annex 2 may be purchased from the International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale, Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2.

3. Section 91.705 is revised to read as follows:

§ 91.705 Operations within airspace designated as Minimum Navigation Performance Specification Airspace.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft of U.S. registry in airspace designated as Minimum Navigation Performance Specifications airspace unless—

(1) The aircraft has approved navigation performance capability that complies with the requirements of appendix C of this part; and

(2) The operator is authorized by the Administrator to perform such operations.

(b) The Administrator may authorize a deviation from the requirements of this section in accordance with Section 3 of appendix C to this part.

4. New § 91.706 is added to read as follows:

§ 91.706 Operations within airspace designed as Reduced Vertical Separation Minimum Airspace.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft of U.S. registry in airspace designated as Reduced Vertical Separation Minimum (RVSM) airspace unless:

(1) The operator and the operator's aircraft comply with the requirements of appendix G of this part; and

(2) The operator is authorized by the Administrator to conduct such operations.

(b) The Administrator may authorize a deviation from the requirements of this section in accordance with Section 5 of appendix G to this part.

5. Section 1 of Appendix C to Part 91 is amended by removing the flight levels ''FL 275'' and ''FL 400'' cited in the first sentence and replacing them with ''FL 285'' ''FL 420'' respectively.

6. A new appendix G is added to read as follows:

Appendix G to Part 91—Operations in Reduced Vertical Separation Minimum (RVSM) Airspace

Section 1. Definitions

Reduced Vertical Separation Minimum (RVSM) Airspace. Within RVSM airspace, air traffic control (ATC) separates aircraft by a minimum of 1,000 feet vertically between flight level (FL) 290 and FL 410 inclusive. RVSM airspace is special qualification airspace; the operator and the aircraft used by the operator must be approved by the Administrator. Air-traffic control notifies operators of RVSM by providing route planing information. Section 8 of this appendix identifies airspace where RVSM may be applied.

RVSM Group Aircraft. Aircraft within a group of aircraft, approved as a group by the Administrator, in which each of the aircraft satisfy each of the following:

(a) The aircraft have been manufactured to the same design, and have been approved under the same type certificate, amended type certificate, or supplemental type certificate.

(b) The static system of each aircraft is installed in a manner and position that is the same as those of the other aircraft in the group. The same static source error correction is incorporated in each aircraft of the group.

(c) The avionics units installed in each aircraft to meet the minimum RVSM equipment requirements of this appendix are:

(1) Manufactured to the same manufacturer specification and have the same part number; or

(2) Of a different manufacturer or part number, if the applicant demonstrates that the equipment provides equivalent system performance.

RVSM Nongroup Aircraft. An aircraft that is approved for RVSM operations as an individual aircraft.

RVSM Flight envelope. An RVSM flight envelope includes the range of Mach number, weight divided by atmospheric pressure ratio, and altitudes over which an aircraft is approved to be operated in cruising flight within RVSM airspace. RVSM flight envelopes are defined as follows:

(a) The *full RVSM flight envelope* is bounded as follows:

(1) The altitude flight envelope extends from FL 290 upward to the lowest altitude of the following:

(i) FL 410 (the RVSM altitude limit);

(ii) The maximum certificated altitude for the aircraft; or

(iii) The altitude limited by cruise thrust, buffet, or other flight limitations.

(2) The airspeed flight envelope extends:

(i) From the airspeed of the slats/flaps-up maximum endurance (holding) airspeed, or the maneuvering airspeed, whichever is lower;

(ii) To the maximum operating airspeed (V_{mo}/M_{mo}), or airspeed limited by cruise thrust buffet, or other flight limitations, whichever is lower.

(3) All permissible gross weights within the flight envelopes defined in paragraphs (1) and (2) of this definition.

(b) The *basic RVSM flight envelope* is the same as the full RVSM flight envelope except that the airspeed flight envelope extends:

(1) From the airspeed of the slats/flaps-up maximum endurance (holding) airspeed, or the maneuver airspeed, whichever is lower;

(2) To the upper Mach/airspeed boundary defined for the full RVSM flight envelope, or a specified lower value not less than the long-range cruise Mach number plus .04 Mach, unless further limited by available cruise thrust, buffet, or other flight limitations.

Section 2. Aircraft Approval

(a) An operator may be authorized to conduct RVSM operations if the Administrator finds that its aircraft comply with this section.

(b) The applicant for authorization shall submit the appropriate data package for aircraft approval. The package must consist of at least the following:

(1) An identification of the RVSM aircraft group or the nongroup aircraft;

(2) A definition of the RVSM flight envelopes applicable to the subject aircraft;

(3) Documentation that establishes compliance with the applicable RVSM aircraft requirements of this section; and

(4) The conformity tests used to ensure that aircraft approved with the data package meet the RVSM aircraft requirements.

(c) *Altitude-keeping equipment: All aircraft.* To approve an aircraft group or a nongroup aircraft, the Administrator must find that the aircraft meets the following requirements:

(1) The aircraft must be equipped with two operational independent altitude measurement systems.

(2) The aircraft must be equipped with at least one automatic altitude control system that controls the aircraft altitude—

(i) Within a tolerance band of ±65 feet about an acquired altitude when the aircraft is operated in straight and level flight under nonturbulent, nongust conditions; or

(ii) Within a tolerance band of ±130 feet under nonturbulent, nongust conditions for aircraft for which application for type certification occurred on or before April 9, 1997 that are equipped with an automatic altitude control system with flight management/performance system inputs.

(3) The aircraft must be equipped with an altitude alert system that signals an alert when the altitude displayed to the flight crew deviates from the selected altitude by more than:

(i) ±300 feet for aircraft for which application for type certification was made on or before April 9, 1997; or

(ii) ±200 feet for aircraft for which application for type certification is made after April 9, 1997.

(d) *Altimetry system error containment: Group aircraft for which application for type certification was made on or before April 9, 1997.* To approve group aircraft for which application for type certification was made on or before April 9, 1997, the Administrator must find that the altimetry system error (ASE) is contained as follows:

(1) At the point in the basic RVSM flight envelope where mean ASE reaches its largest absolute value, the absolute value may not exceed 80 feet.

(2) At the point in the basic RVSM flight envelope where mean ASE plus three standard deviations reaches its largest absolute value, the absolute value may not exceed 200 feet.

(3) At the point in the full RVSM flight envelope where mean ASE reaches its largest absolute value, the absolute value may not exceed 120 feet.

(4) At the point in the full RVSM flight envelope where mean ASE plus three standard deviations reaches its largest absolute value, the absolute value may not exceed 245 feet.

(5) *Necessary operating restrictions.* If the applicant demonstrates that its aircraft otherwise comply with the ASE containment requirements, the Administrator may establish an operating restriction on that applicant's aircraft to restrict the aircraft from operating in areas of the basic RVSM flight envelope where the absolute value of mean ASE exceeds 80 feet, and/or the absolute value of mean ASE plus three standard deviations exceeds 200 feet; or from operating in areas of the full RVSM flight envelope where the absolute value of the mean ASE exceeds 120 feet and/or the absolute value of the mean ASE plus three standard deviations exceeds 245 feet.

(e) *Altimetry system error containment: Group aircraft for which application for type certification is made after April 9, 1997.* To approve group aircraft for which application for type certification is made after April 9, 1997, the Administrator must find that the altimetry system error (ASE) is contained as follows:

(1) At the point in the full RVSM flight envelope where mean ASE reaches its largest absolute value, the absolute value may not exceed 80 feet.

(2) At the point in the full RVSM flight envelope where mean ASE plus three standard deviations reaches its largest absolute value, the absolute value may not exceed 200 feet.

(f) *Altimetry system error containment: Nongroup aircraft.* To approve a nongroup aircraft, the Administrator must find that the altimetry system error (ASE) is contained as follows:

(1) For each condition in the basic RVSM flight envelope, the largest combined absolute value for residual static source error plus the avionics error may not exceed 160 feet.

(2) For each condition in the full RVSM flight envelope, the largest combined absolute value for residual static source error plus the avionics error may not exceed 200 feet.

(g) If the Administrator finds that the applicant's aircraft comply with this section, the Administrator notifies the applicant in writing.

Section 3. Operator Authorization

(a) Authority for an operator to conduct flight in airspace where RVSM is applied is issued in operations specifications or a Letter of Authorization, as appropriate. To issue an RVSM authorization, the Administrator must find that the operator's aircraft have been approved in accordance with Section 2 of this appendix and that the operator complies with this section.

(b) An applicant for authorization to operate within RVSM airspace shall apply in a form and manner prescribed by the Administrator. The application must include the following:

(1) An approved RVSM maintenance program outlining procedures to maintain RVSM aircraft in accordance with the requirements of this appendix. Each program must contain the following:

(i) Periodic inspections, functional flight tests, and maintenance and inspection procedures, with acceptable maintenance practices, for ensuring continued compliance with the RVSM aircraft requirements.

(ii) A quality assurance program for ensuring continuing accuracy and reliability of test equipment used for testing aircraft to determine compliance with the RVSM aircraft requirements.

(iii) Procedures for returning noncompliant aircraft to service.

(2) For an applicant who operates under part 121 or 135, initial and recurring pilot training requirements.

(3) Policies and Procedures. An applicant who operates under part 121 or 135 shall submit RVSM policies and procedures that will enable it to conduct RVSM operations safely.

(c) Validation and Demonstration. In a manner prescribed by the Administrator, the operator must provide evidence that:

(1) It is capable to operate and maintain each aircraft or aircraft group for which it applies for approval to operate in RVSM airspace; and

(2) Each pilot has an adequate knowledge of RVSM requirements, policies, and procedures.

Section 4. RVSM Operations

(a) Each person requesting a clearance to operate within RVSM airspace shall correctly annotate the flight plan filed with air traffic control with the status of the operator and aircraft with regard to RVSM approval. Each operator shall verify RVSM applicability for the flight planned route through the appropriate flight planning information sources.

(b) No person may show, on the flight plan filed with air traffic control, an operator or aircraft as approved for RVSM operations, or operate on a route or in an area where RVSM approval is required, unless:

(1) The operator is authorized by the Administrator to perform such operations; and

(2) The aircraft has been approved and complies with the requirements of Section 2 of this appendix.

Section 5. Deviation Authority Approval

The Administrator may authorize an aircraft operator to deviate from the requirements of § 91.706 for a specific flight in RVSM airspace if that operator has not been approved in accordance with Section 3 of this appendix, and if:

(2) The operator submits an appropriate request with the air traffic control center

controlling the airspace, (request should be made at least 48 hours in advance of the operation unless prevented by exceptional circumstances); and

(b) At the time of filing the flight plan for that flight, ATC determines that the aircraft may be provided appropriate separation and that the flight will not interfere with, or impose a burden on, the operations of operators who have been approved for RVSM operations in accordance with Section 3 of this appendix.

Section 6. Reporting Altitude-Keeping Errors

Each operator shall report to the Administrator each event in which the operator's aircraft has exhibited the following altitude-keeping performance:

(a) Total vertical error of 300 feet or more;

(b) Altimetry system error of 245 feet or more; or

(c) Assigned altitude deviation of 300 feet or more.

Section 7. Removal or Amendment of Authority

The Administrator may amend operations specifications to revoke or restrict an RVSM authorization, or may revoke or restrict an RVSM letter of authorization, if the Administrator determines that the operator is not complying, or is unable to comply, with this appendix or subpart H of this part. Examples of reasons for amendment, revocation, or restriction include, but are not limited to, an operator's:

(a) Committing one or more altitude-keeping errors in RVSM airspace;

(b) Failing to make an effective and timely response to identify and correct an altitude-keeping error; or

(c) Failing to report an altitude-keeping error.

Section 8. Airspace Designation

RVSM may be applied in the following ICAO Flight Information Regions (FIR's): New York Oceanic, Gander Oceanic, Sondrestrom FIR, Reykjavik Oceanic, Shanwick Oceanic, and Santa Maria Oceanic.

RVSM may be effective in the Minimum Navigation Performance Specification (MNPS) airspace with the NAT. The MNPS airspace within the NAT is defined by the volume of airspace FL 285 and FL 420 extending between latitude 27 degrees north and the North Pole, bounded in the east by the eastern boundaries of control areas Santa Maria Oceanic, Shanwick Oceanic, and Reykjavik Oceanic and in the west by the western boundaries of control areas Reykjavik Oceanic, Gander Oceanic, and New York Oceanic, excluding the areas west of 60 degrees west and south of 38 degrees 30 minutes north.

Issued in Washington, DC, on March 27, 1997.

Barry L. Valentine,

Acting Administrator.

[FR Doc. 97–8367 Filed 4–8–97; 8:45 am]

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federal register

Wednesday
April 9, 1997

Part IV

Department of Housing and Urban Development

24 CFR Part 570

Hispanic-Serving Institutions Work Study Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–4070–F–03]

RIN 2528–AA06

Hispanic-Serving Institutions Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Final rule.

SUMMARY: On October 2, 1996, HUD published for public comment a Notice of Proposed Rulemaking (NPRM) for the Hispanic-serving Institutions Work Study Program. A Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996 for the program was separately published on that date. The NPRM stated that the requirements contained in the NOFA would provide the basis for a new regulatory provision governing HSI–WSP. The NPRM also solicited comments on the FY 1996 NOFA which would be used in preparing a final rule for the program. This final rule establishes the regulatory provisions for the Hispanic-serving Institutions Work Study Program (HSI–WSP). Under HSI–WSP, HUD awards grants to public and private non-profit Hispanic-serving community colleges for the purpose of providing assistance to economically disadvantaged and minority students who participate in a community development work study program while enrolled in a full-time Community Building Academic program.

EFFECTIVE DATE: May 9, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 708–1537, extension 218. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708–1455, or 1–800–877–8399 (Federal Information relay Service TTY). (Other than the ''800'' number, these are not toll-free numbers. Ms. Karadbil can also be contacted via the Internet at Jane__R.__Karadbil@hud.gov .

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2528–0182. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

II. Background

A. Statutory Basis

The HSI–WSP is authorized by section 107(c) of the Housing and Community Development Act of 1974, as amended. 42 U.S.C. § 5307(c). This section (which was added by section 501(b)(2) of the Housing and Community Development Act of 1987) has served as authorization for the Department's Community Development Work Study Program (CDWSP) since that program's inception. It provides authority to, ''* * * make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.''

Since Fiscal Year 1996, legislative history accompanying the Department's appropriations acts has earmarked a portion of the work study funds for Hispanic-serving institutions. This final rule establishes regulations governing the award of those funds under the Hispanic-serving Institutions Work Study Program (HSI–WSP). While CDWSP and HSI–WSP are subject to the same statutory requirements, they are implemented by different regulatory provisions.

B. The October 2, 1996 NOFA and NPRM

The October 2, 1996 HSI–WSP NOFA (published at 61 FR 51566) announced the requirements that would govern the use of funds earmarked for HSI–WSP for fiscal year 1996. The NPRM (published on the same date at 61 FR 51557) incorporated the NOFA by reference, stated HUD's intention to use the requirements contained in the NOFA as the basis for a final rule amending 24 CFR part 570, and invited public comment on the announced requirements that were proposed to be used in subsequent funding rounds.

The key requirements of the NOFA were:

—Eligibility was limited to two-year public or private non-profit community colleges determined by the U.S. Department of Education to be Hispanic-serving Institutions.

—Eligible degree programs were limited to those related to community building. The term ''community building academic degree program'' was defined to include not only community or economic development, community planning, and community management, but also other academic programs that promote community or social services.

—Work experiences were required to be in a complementary community building job with a State or local government, areawide planning organization, Indian tribe, or private nonprofit organization involved in community building activities.

—All eligible students were required to be economically disadvantaged, regardless of whether they were members of minority groups. Eligible students were required to attend the institution full-time, be enrolled in an eligible community building degree program, not have attained more than half of the credits needed to graduate at the time they enter the program, and agree to work at an appropriate placement site 12–20 hours a week during the academic year and 35–40 hours a week during the summer.

—The amount of assistance to be provided per student was a maximum of $13,200, which could include tuition and fees for up to two years, a work stipend, books, and an allowance of $1,000 per student per year to cover the cost of the institution's administration of the program.

—The minimum number of students that could be assisted was three per participating institution of higher education and the maximum number was ten.

All of these requirements have been retained in the final rule.

C. Discussion of Public Comments on the NOFA and Clarifying Changes

There were two public comments—one from the United Cerebral Palsy Associations (UCPA) and one from Los Angeles Harbor College, one of the institutions eligible for the program.

UCPA urged applicants to consider work site experiences with United Cerebral Palsy affiliates. To the extent that the community building academic field may relate to the kind of work UCP affiliates and affiliates of other disability organizations are doing, HUD encourages applicants to consider these organizations as appropriate placement sites.

Los Angeles Harbor College recommended that the term ''Tuition and Fees'' be expanded to cover the cost of tutoring in order to enable students receiving assistance, especially those for whom English is a second language, to maintain the required B average. The Department agrees that such tutoring may be important for a student and, thus, should be an eligible program cost. However, rather than include this cost under ''Tuition and Fees,'' it will be included under ''Additional Support.''

In the NPRM and the FY 1996 NOFA, the Department specifically requested comments on the proposed rule's requirement that students participating in HSI-WSP maintain a B average (as defined by the institution), and its lack of a minimum graduation rate requirement. No comments were received on these issues, and they remain unchanged in the final rule.

While there were no public comments submitted on the eligibility of transfer programs (i.e., those that lead to transfer to a four-year institution of higher education for the student's junior year), as opposed to those programs that provide terminal degrees (i.e., associate degrees), comments concerning this issue were raised in several public meetings held on the program. The final rule has been clarified to note that transfer programs in community building academic disciplines are eligible only if the student is required to declare his/her major in this discipline while at the community college. Thus, general liberal arts associate degrees, without a major, would not be considered eligible transfer programs.

In addition, the Department has received requests that the definition of eligible institutions be amended to include Hispanic-serving institutions that award BOTH two-year AND four-year degrees. As indicated in the FY 1996 NOFA, the Department specifically decided to limit eligibility under HSI–WSP to the 89 community colleges providing only two-year degrees. Creating a program to serve both two-year and four-year institutions would mean two sets of policies and requirements because of the different natures of such institutions. In addition, many four-year HSIs are universities that are eligible for the general Community Development Work Study Program. Thus, the Department chose to target community colleges providing only two-year degrees, in order to encourage and assist the previously under-served economically disadvantaged student population of community colleges to gain entry to pre-professional community building career paths. In order to clarify the Department's intention that institutions providing BOTH two-year and four-year degrees are NOT eligible for HSI–WSP assistance, the definition of eligible institution has been modified accordingly. This modification is merely a clarification which effects no substantive change to the class of institutions that were eligible for HSI–WSP under the FY 1996 NOFA.

Finally, a number of other clarifications have been made which result in no substantive change to the rule.

III. Other Matters

A. Environmental Impact

In accordance with 24 CFR 50.19(b)(9) of the HUD regulations, the policies and procedures contained in this rule relate only to training grants and technical assistance, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Regulatory Flexibility

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing, certifies that it will not have a significant economic impact on a substantial number of small entities. The rule only affects applicants and participants in the Hispanic-serving Institutions Community Work Study Program and will not have any meaningful economic impact on any other entity.

C. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. Specifically, the notice solicits participation by institutions of higher education in creating community development work study programs for some of their economically disadvantaged and minority students. The notice does not impinge upon the relationships between the Federal government and State or local governments.

D. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this notice has the potential for beneficial impact on family formation, maintenance, and general well-being. The program will enable economically disadvantaged and minority students to get a college education, helping them to become self-sufficient. Accordingly, since the impact on the family is beneficial, no further review is necessary.

E. Executive Order 12866

This final rule was reviewed by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review. Any changes made to the final rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

F. The Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance program number is 14.513.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is amended as follows:

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

2. Subpart E is amended to add a new § 570.416 to read as follows:

§ 570.416 Hispanic-serving institutions work study program.

(a) *Applicability and objectives.* HUD makes grants under the Hispanic-serving Institutions Work Study Program (HSI–WSP) to public and private non-profit Hispanic-serving Institutions (HSI's) of higher education for the purpose of providing assistance to economically disadvantaged and minority students who participate in a work study program while enrolled in full-time community college programs in community building, and to provide entry to pre-professional careers in these fields.

(b) *Definitions.* The following definitions apply to HSI–WSP:

Applicant means a public or private non-profit Hispanic-serving institution of higher education that offers only two-year degree programs, including at least one community building academic degree program, and that applies for funding under HSI–WSP.

Community building means community and economic development, community planning, community management, public policy, urban economics, urban management, urban planning, land use planning, housing, and related fields. Related fields include, but are not limited to, administration of justice, child development, and human services.

Community building academic program or *academic program* means an undergraduate associate degree program whose purpose and focus is to educate students in community building. The terms ''community building academic program'' or ''academic program'' refer to the types of academic programs encompassed in the statutory phrase ''community or economic development, community planning or community management.'' For purposes of HSI–WSP, such programs include, but are not limited to, associate degree programs in community and economic development, community planning, community management, public administration, public policy, urban economics, urban management, urban planning, land use planning, housing, and related fields of study. Related fields of study that promote community building, such as administration of justice, child development, and human services are eligible, while fields such as natural sciences, computer sciences, mathematics, accounting, electronics, engineering, and the humanities (such as English or history) would not be eligible. A transfer program (i.e., one that leads to transfer to a four-year institution of higher education for the student's junior year) in a community building academic discipline is eligible only if the student is required to declare his/her major in this discipline while at the community college.

Community building field means any of the fields of study eligible under a community building academic program.

Economically disadvantaged and minority students means students who satisfy all the applicable guidelines established at the participating institution of higher education to measure financial need for academic scholarship or loan assistance, including, but not limited to, students with disabilities and students who are Black, American Indian/Alaska Native, Hispanic, Asian/Pacific Islanders, where such students satisfy the financial needs guidelines defined above.

Hispanic-serving institution is an institution of higher education that the U.S. Department of Education has determined meets the criteria set out at 20 U.S.C. 1059c(b)(1), including the following: an institution that has an enrollment of undergraduate full-time students that is at least 25 percent Hispanic; in which not less than 50 percent of the Hispanic students are low-income individuals (i.e., 150 percent of the poverty level) who are first generation college students and another 25 percent are either low-income individuals or first generation college students. The U.S. Department of Education has determined the eligibility of specific institutions as HSIs and has issued a list of institutions meeting this definition. A list of HSI–WSP-eligible community colleges that are included in the Department of Education's list of HSIs will appear with each Notice of Funding Availability (NOFA) for the program. Only institutions on this list, or HSI–WSP-eligible institutions subsequently added to the U.S. Department of Education's list prior to that NOFA's application deadline, are eligible to apply for HSI–WSP funds.

HSI–WSP or *HSI–WSP program* means the Hispanic-serving Institutions Work Study program.

Institution of higher education means a public or private educational institution that offers two-year associate degrees in a community building academic program and that is accredited by an accrediting agency or association recognized by the Secretary of Education. Institutions offering BOTH four-year and two-year degrees are not eligible for HSI–WSP.

Recipient means an approved applicant that executes a grant agreement with HUD.

Student means a person attending the institution of higher education on a full-time basis, as defined by that institution and pursuing an eligible community building degree. Students must have attained no more than half of the credits required for their degree at the time they first receive assistance under HSI–WSP.

Student with disabilities means a student who meets the definition of a ''person with disabilities'' in the Americans with Disabilities Act of 1990.

(c) *Assistance provided*—(1) *Types of assistance available.* HUD provides funding in the form of grants to recipients who make assistance available to eligible students. Grants are provided to cover the costs of student assistance and for an administrative allowance.

(2) *Maximum amount of assistance.* The maximum amount that can be provided to a student is $13,200 a year, including $1,000 for an administrative allowance, subject to the 20% limitation described at 570.416(c)(4) below. HUD will not set maximums on how much should be spent to each eligible expenditure, other than for administrative costs. The institution must be able to document that the amounts paid are customary for that institution and that it has actually paid that amount to the students. If a student is receiving a Pell grant, he/she may not receive funding for the same educational support through HSI–WSP. However, HSI–WSP can substitute for all or part of the Pell grant.

(3) *Student assistance.* Grants are provided in the form of student stipends, tuition support, and additional support.

(i) *Student stipend.* The amount of the student stipend should be based on the hourly rate for initial entry positions in the community building field and the number of hours worked by the student at the work placement assignment. The stipend should be sufficiently high to allow the student to earn the full stipend, as determined by the recipient, without working over 20 hours per week during the school year and 40 hours per week during the summer.

(ii) *Tuition support.* The amount of tuition support may not exceed the tuition and required fees charged at the participating institution of higher education.

(iii) *Additional support.* The recipient may provide additional support for books, tutoring, and travel related to the academic program or work placement assignment. Costs associated with reasonable accommodations for students with disabilities including, but not limited to, interpreters for the deaf/hard of hearing, special equipment, and braille materials are eligible under this category.

(4) *Administrative allowance.* HUD provides an allowance to recipients to cover the administrative costs of the program. The administrative allowance is $1,000 per year for each student participating in the program; however, no more than 20 percent of the grant may be used for planning and program administrative costs.

(5) *Number of students assisted.* The minimum number of students that may be assisted is three students per participating institution of higher education. The maximum number of students that may be assisted is ten students per participating institution of

higher education; however, a lower maximum or higher minimum may be established for a particular funding round by the NOFA announcing the availability of the funds.

(d) *Recipient eligibility and responsibilities*—(1) *Recipient eligibility*. Public or private Hispanic-serving institutions of higher education offering only undergraduate two-year degrees, including degrees in at least one community building academic program, are eligible for assistance under HSI–WSP. HSIs that offer BOTH two-year and four-year degrees are not eligible for HSI–WSP assistance.

(2) *Recipient responsibilities*. The recipient is responsible for administering the program, for compliance with all program requirements, and for coordination of program activities carried out by the work placement agencies. The recipient must:

(i) Recruit students for participation in HSI–WSP. The recipient shall establish recruitment procedures that identify eligible economically disadvantaged and minority students pursuing careers in community building, and make them aware of the availability of assistance opportunities. While the program is restricted to HSIs, the recipient may neither restrict the program to any particular minority group or groups, nor provide any preferential treatment in the selection process based on race or ethnicity. Only economically disadvantaged students, as defined herein, may be assisted.

(ii) Select students for participation in HSI–WSP. In selecting among the eligible students, the recipient must consider the extent to which each student has demonstrated financial need under the applicable guidelines established at the institution of higher education; an interest in, and commitment to, a career in community building; and the ability to satisfactorily complete the academic and work placement responsibilities under HSI–WSP. Students must be selected before the beginning of the semester for which funding is being provided. If a student's participation terminates, the student may not be replaced; the grant will be reduced by the amount of unused funds allotted for that student.

(iii) Provide the educational component for participating students.

(iv) Recruit and select work placement agencies, and negotiate and execute an agreement covering each work placement assignment.

(v) Refer participating students to work placement agencies and assist students in the selection of work placement assignments.

(vi) Assign sufficient staff to administer and supervise the program on a day-to-day basis.

(vii) Encourage participating students to either: obtain post-graduation employment with a unit of State or local government, an areawide planning organization (APO), Indian tribe or nonprofit organization engaged in community building; or transfer to a four-year institution of higher education to obtain a bachelor's degree in a community building academic discipline.

(viii) Maintain records by racial and ethnic categories for each economically disadvantaged and minority student participating in HSI–WSP.

(ix) Keep records and make such reports as HUD may require.

(x) Comply with all other applicable Federal requirements.

(e) *Work placement agencies eligibility and responsibilities*—(1) *Eligibility*. To be eligible to participate in HSI–WSP, the work placement agency must be an agency of a State or local government, an APO, an Indian tribe, or a private nonprofit organization involved in community building activities. A work placement site that is part of the institution of higher education (e.g., a child care center) can only be an eligible site if the services provided by that site are offered to people in the broader community outside the institution.

(2) *Responsibilities*. Work placement agencies must:

(i) Provide practical experience and training in the community building field to participating students through work placement assignments.

(ii) Consult with the institution of higher education to ensure that the student's work placement assignment provides the requisite experience and training to meet the required number of work hours specified in the student work placement agreement.

(iii) Provide a sufficient number and variety of work assignments to provide participating students with a wide choice of work experience.

(iv) Require each student to devote 12–20 hours per week during the regular school year, and 35–40 hours a week during the summer, to the work placement assignment. Work placement agencies may provide flexibility in the work period, if such a schedule is consistent with the requirements of the student's academic program. However, a participating student may receive a stipend payment only during the period when the student is placed with the work placement agency.

(v) Comply with all other applicable Federal requirements.

(vi) Maintain such records as HUD may require.

(f) *Student eligibility and responsibilities*. Students apply directly to recipients receiving grants under HSI–WSP.

(1) *Eligibility*. To be eligible for HSI–WSP, the student:

(i) Must satisfy all applicable guidelines established at the participating institution of higher education to measure financial need for academic scholarship or loan assistance.

(ii) Must be a full-time student enrolled in a community building associate degree program at the participating institution of higher education. The student must have attained no more than 50 percent of the credits required for his/her degree at the time the student first receives assistance under this program.

(iii) Must demonstrate an ability to maintain a satisfactory level of performance in community building academic program (i.e., maintain a B average, as defined by the institution) and in work placement assignments, and comply with the professional standards set by the recipient and the work placement agencies.

(iv) May not have previously participated in HSI–WSP.

(2) *Student responsibilities*. Participating students must:

(i) Enroll or be enrolled in a two-year community building associate degree program. A student's academic and work placement responsibilities include: Full-time enrollment in an approved academic program; maintenance of a satisfactory level of performance in the community building academic program and in work placement assignments; and compliance with the professional conduct standards set by the recipient and by the work placement agency. A satisfactory level of academic performance consists of maintaining a B average, as defined by the institution. A student's participation in HSI–WSP shall be terminated for failure to meet these responsibilities and standards. If the student's participation is terminated, the student is ineligible for further HSI–WSP assistance.

(ii) Devote 12–20 hours per week during the regular school year, and 35–40 hours a week during the summer, to the work placement assignment. Work placement agencies may provide flexibility in the work period, if such a schedule is consistent with the requirements of the student's academic program. However, a participating student may receive a stipend payment only during the period when the student is placed with the work placement agency.

(iii) Agree to make a good-faith effort to either: obtain employment in community building with a unit of State or local government, an APO, an Indian tribe, or a non-profit organization; or to transfer to a four-year institution of higher education to obtain a bachelor's degree in a community building academic discipline. However, if the student does not obtain such employment or transfer to a four-year institution, the student is not required to repay the assistance received.

(g) *Notice of funding availability.* HUD will solicit grant applications from eligible institutions of higher education by publishing a notice of funding availability in the **Federal Register**. The notice will:

(1) Explain how application kits providing specific application requirements and guidance may be obtained;

(2) Specify the place for filing completed applications, and the date by which applications must be physically received at that location;

(3) State the amount of funding available under the notice, which may include funds recaptured from previously awarded grants;

(4) Provide other appropriate program information and guidance.

(h) *Agreements.*—(1) *Grant agreement.* The responsibilities of the recipient under HSI–WSP will be incorporated in a grant agreement executed by HUD and the recipient.

(2) *Student agreement.* The recipient and each participating student must execute a written agreement incorporating their mutual responsibilities under HSI–WSP. The agreement must be executed before the student can be enrolled in the program. The Recipient shall terminate a student's participation in HSI–WSP for failure to meet the responsibilities and standards in the agreement.

(3) *Work placement assignment agreement.* The recipient, the student, and the work placement agency must execute a written agreement covering each work placement assignment. The agreement must address the responsibilities of each of the parties, the educational objectives, the nature of the supervision, the standards of evaluation, and the student's time commitments under the work placement assignment.

(i) *Grant administration.*—(1) *Initial obligation of funds.* When HUD selects an application for funding, HUD will obligate funds to cover the amount of the approved grant. The term of the award will be for two calendar years, unless subsequently altered by HUD at its discretion for good cause.

(2) *Disbursement.* Recipients will receive grant payments by direct deposit on a reimbursement basis. If that is not possible, grant payments will be made by U.S. Treasury checks.

(3) *Deobligation.* HUD may deobligate amounts for grants if proposed activities are not begun or completed within a reasonable period of time after selection.

(j) *Other Federal requirements.*—(1) *Applicability of part 570.* HSI–WSP shall be subject to the policies and procedures set forth in subparts A, K, and O of 24 CFR part 570, as applicable, except as modified or limited under the provisions of this Notice. The provisions of subparts C and J of part 570 shall not apply to HSI–WSP.

(2) *Uniform Administrative requirements.* Recipients under HSI–WSP shall comply with the requirements and standards of OMB Circular No. A–22, ''Cost Principles for Educational Institutions.'' Recipients that are private institutions of higher education shall comply with OMB Circular A–133, ''Non-Federal Audit Requirements for Institutions of Higher Education and Other Nonprofit Institutions,'' which is implemented at 24 CFR part 45. Recipients that are public institutions of higher education shall comply with OMB Circular A–128, ''Non-Federal Audit Requirements for State and Local Governments,'' which is implemented at 24 CFR part 44. Audits shall be conducted annually. In addition, all recipients under HSI–WSP shall comply with the provisions of OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,'' which is implemented at 24 CFR part 84. OMB Circular A–110 shall apply to recipients in its entirety.

Dated: April 2, 1997.

Michael A. Stegman,

Assistant Secretary for Policy, Development and Research

[FR Doc. 97–9035 Filed 4–8–97; 8:45 am]

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federal register

Wednesday
April 9, 1997

Part V

Department of Housing and Urban Development

Hispanic-Serving Institutions Work Study Program; Notice of Funding Availability for Fiscal Year 1997

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4206–N–01]

Notice of Funding Availability—Fiscal Year 1997 Hispanic-serving Institutions Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: *Purpose.* This notice invites applications for grants under the Hispanic-Serving Institutions Work Study Program (HSI–WSP), to assist economically disadvantaged and minority students participating in a community building work study program while enrolled in a full-time community building academic program. The Hispanic-serving Institutions Work Study Program (HSI–WSP) is authorized by section 107(c) of the Housing and Community Development Act of 1974, as amended. 42 U.S.C. § 5307(c).

Available Funds. Up to $1.5 million in grants from FY 1997 appropriations to fund HSI–WSP to be carried out from August 1997 to August 1999.

Eligible Applicants. Certain institutions of higher education, i.e., public and private non-profit Hispanic-serving community colleges.

EFFECTIVE DATE: April 9, 1997.

DATES: *Applications must be physically received by the Office of University Partnerships, in care of the Division of Budget, Contracts, and Program Control, in Room 8230, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, by 4:30 p.m. Eastern Time on June 5, 1997.* Facsimiles of the application will not be accepted. This deadline is *firm* as to *date, hour, and place.* In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submissions of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applicants hand-delivering applications are advised that considerable delays may occur in attempting to enter the building because of security procedures.

ADDRESSES: Because of the limited number of institutions eligible to apply for HSI–WSP, the Department will be sending an application kit directly to the President of each eligible institution, without requiring institutions to request them. Application kits may also be obtained by written request from the following address: HUD USER, ATTN: Hispanic-serving Institutions Work Study Program, P.O. Box 6091, Rockville, MD 20850. Requests for application kits may be faxed to: 301–251–5767. (This is not a toll-free number.) Such requests must include the applicant's name, mailing address (including zip code), telephone number (including area code), and must refer to ''Document FR–4206.'' In addition, the application kit is available on the Internet from the Office of University Partnerships Clearinghouse. The Clearinghouse can be accessed from the World Wide Web at: http://www.oup.org; or from a Gopher Server at: gopher://oup.org:78.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1537, extension 218. The TTY number for the hearing impaired is (202) 708–1455. (These are not toll-free numbers.) The Federal Information Relay Service toll free number is 800–877–8339. Ms. Karadbil can also be reached via the Internet at Jane__R.__Karadbil@HUD.GOV.

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2528–0182. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

With respect to education programs, HUD published on March 4, 1997, at 62 FR 9898, a NOFA for the Community Development Work Study Program for FY 1997.

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

A. Background

The Hispanic-serving Institutions Work Study Program is authorized by section 107(c) of the Housing and Community Development Act of 1974, as amended. 42 U.S.C. § 5307(c). This section, which was added by section 501(b)(2) of the Housing and Community Development Act of 1987, has served as authorization for the Department's Community Development Work Study Program (CDWSP) since that program's inception. It provides authority to, ''* * * make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.''

Since Fiscal Year 1996, legislative history accompanying the Department's appropriations acts has earmarked a portion of its section 107(c) work study funds for Hispanic-serving institutions. This final rule establishes regulations governing the award of those funds

under the Hispanic-serving Institutions Work Study Program (HSI–WSP). While CDWSP and HSI–WSP are subject to the same statutory requirements, they are implemented by different regulatory provisions.

Under HSI–WSP, Hispanic-serving community colleges may apply for funding to provide tuition support, stipends and other support to full-time students seeking two-year associate degrees in community building academic programs. HSI–WSP students are required to devote 12–20 hours per week during the regular school year and 35–40 hours per week during the summer, to a work placement assignment that complements the field of study the student is pursuing. Only economically disadvantaged students, as determined by the HSI's financial aid guidelines, may be assisted, and eligible students must not have attained more than half of the credits needed to graduate at the time they enter HSI–WSP. The amount of assistance to be provided is limited to a maximum of $13,200 per student, which includes an administrative allowance of $1,000 per student to cover the institution's costs for administration of the program (subject to the 20% limitation described at 24 CFR 570.416(c)(4)). Potential applicants should refer to 24 CFR 570.416, which appears elsewhere in today's **Federal Register** as the HSI–WSP final rule, for more specific information about program requirements not described herein.

B. Eligible Institutions

Public or private nonprofit Hispanic-serving Institutions offering only two-year degrees, including degrees in at least one community building academic program, are eligible for assistance under HSI–WSP. A community building academic program means an undergraduate associate degree program whose purpose and focus is to educate students in community building. The terms ''community building academic program'' or ''academic program'' refer to the types of academic programs encompassed in the statutory phrase ''community or economic development, community planning or community management.'' For purposes of HSI–WSP, such programs include but are not limited to associate degree programs in community and economic development, community planning, community management, public administration, public policy, urban economics, urban management, urban planning, land use planning, housing, and related fields of study. Related fields of study that promote community building, such as administration of justice, child development, and human services are eligible, while fields such as natural sciences, computer sciences, mathematics, accounting, electronics, engineering, and the humanities (such as English or history) would not be. A transfer program (i.e., one that leads to transfer to a four-year institution of higher education for the student's junior year) in a community building academic discipline is eligible only if the student is required to declare his/her major in this discipline while at the community college.

Hispanic-serving institutions are those institutions of higher education that the U.S. Department of Education has determined meet the criteria set out in Title III of the Higher Education Act of 1965. Title III of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(1)) defines an HSI generally as an eligible institution of education that has an enrollment of undergraduate full-time students that is at least 25 percent Hispanic; in which not less than 50 percent of the Hispanic students are low-income individuals (i.e., their families' taxable income for the preceding year did not exceed 150 percent of the poverty level) who are first generation college students; and in which another 25 percent of the Hispanic students are either low-income individuals or first generation college students. Further, the U.S. Department of Education has issued a list of all institutions meeting the statutory HSI definition and HUD uses this list to determine eligibility for HSI–WSP. However, eligibility for HSI–WSP is further limited to community colleges offering two-year associate degrees in community building fields. Institutions offering both two-year and four-year degrees are not eligible for HSI–WSP. A list of the community colleges on the Department of Education's list of HSIs appears as Appendix A to this Notice of Funding Availability. Only institutions on this list, or HSI–WSP-eligible institutions subsequently added to the U.S. Department of Education's list of qualified HSI's, prior to the application deadline, are eligible to apply for HSI–WSP funds under this Notice.

C. Number of Students To Be Assisted

Although the HSI–WSP final rule published elsewhere in today's **Federal Register** allows up to 10 students to be assisted by each recipient, the Department has decided to limit the number of students to be assisted under this NOFA by any one school to five students. Funds available for FY 1997 are substantially less than in FY 1996 and the Department would like to ensure that almost as many schools are funded in FY 1997 as were funded in FY 1996. However, HUD may still provide assistance to support a number of students that is less than the number requested under an application in order to provide assistance to as many highly ranked applications as possible.

D. Threshold

To be eligible for rating and ranking, an applicant must meet all of the following threshold requirements:

(1) The application must be filed in the application form prescribed by HUD, must not be inconsistent with the requirements of this NOFA or 24 CFR 570.416, which is published elsewhere in today's **Federal Register** as the HSI–WSP final rule, and must be physically received at the appropriate location by the required due date;

(2) The applicant must demonstrate that it is eligible to participate in HSI–WSP, by demonstrating that it is a public or private nonprofit Hispanic-serving Institution offering only two-year degrees, including degrees in at least one community building academic program.

E. Selection Factors (100 Points)

All applications that meet the threshold requirements will be rated according to the following selection factors.

1. Quality of the Academic Program (40 Points)

In rating this factor, HUD will evaluate:

(i) the quality of the academic program in terms of the community building course offerings and academic requirements for students, including the likelihood of the academic program to prepare students to work with the designated populations in their community building careers (25 points). Applicants should describe the specific courses offered in the academic program, the populations to be served in the careers these academic programs lead to, and how the courses will equip the students to work with these designated populations.

(ii) the qualifications of the faculty members and the percentage of time they will teach in the academic program and the qualifications of the academic supervisor to direct and manage the program (15 points).

2. Quality of the Proposed Student Work Placement Assignments (20 Points)

In rating this factor, HUD will evaluate the extent to which the participating students will receive a sufficient number and variety of work placement assignments that will provide

practical and useful experience and further the participating students' preparation for professional careers in community building. In assessing the number and variety of assignments, HUD will consider both the number and variety of placement sites available to each student and the number and variety of work assignments available to a student working at any site.

3. Likelihood of Fostering Students' Permanent Post-Graduation Employment in Community Building or Transfer to a Four-Year Institution of Higher Education to Obtain a Bachelor's Degree in a Community Building Academic Discipline (10 Points)

In rating this factor, HUD will evaluate the extent to which the institution's educational program (based on past experience), including the assistance it provides to its students in finding post graduation permanent employment or transfer to a four-year institution for a bachelor's degree in a community building academic discipline, has led to career opportunities in community building fields.

4. Effectiveness of Program Administration (20 Points)

In rating this factor, HUD will evaluate:

(i) the degree to which the Program Director has clear responsibility, ample percentage of time, and sufficient institutional or academic authority to coordinate the overall administration of the program; and

(ii) the adequacy of the applicant's plan for placing students in work placement assignments and keeping track of students during the two-year academic period and work placement assignments.

5. Demonstrated Commitment of the Applicant to Meeting Economically Disadvantaged and Minority Students' Needs (10 Points)

In rating this factor, HUD will evaluate the extent to which the applicant's recruitment activities, special education programs, and other means, including the provision of reasonable accommodations for students with disabilities, demonstrates an active, aggressive, and imaginative effort to identify, attract, and retain qualified minorities and economically disadvantaged students, including students with disabilities; and the extent to which the HSI–WSP award will not result in a decrease in the amount of the institution's own financial support available for minority and economically disadvantaged students, including students with disabilities, in the academic areas or the institution as a whole.

F. Application Content and Review Procedures

Applicants must complete and submit applications in accordance with instructions contained in the application kit, and must include all certifications, assurances, and budget information requested in the kit. Following the expiration of the application submission deadline, HUD will review, rate, and rank applications in a manner consistent with the procedures described in this Notice and the provisions of the program regulations at 24 CFR 570.416, which are published elsewhere in today's **Federal Register**.

G. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD may disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA. Substantive deficiencies or errors may not be corrected.

H. Final Selection

All applications that are rated will be rank ordered based on their total scores on the selection factors. Applications will be considered for selection based on their rank order. HUD may make awards out of rank order to achieve geographic diversity, and may provide assistance to support a number of students that is less than the number requested under an application in order to provide assistance to as many highly ranked applications as possible.

If there is a tie in the point scores of two applications, the rank order will be determined by the applicants' scores on selection factor (1). The application with the most points on selection factor (1) will be given the higher rank. If there is still a tie, the rank order will be determined by the applicants' scores on selection factor (5). The application with the most points for selection factor (5) will be given the higher rank.

I. Findings and Certifications

1. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This notice merely invites applications from certain institutions of higher education for grants under the Hispanic-serving Institutions Work Study Program. As a result, the notice is not subject to review under the Order.

2. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will likely have a beneficial impact on family formation, maintenance, and general well-being. This notice invites applications from certain institutions of higher education for grants under the Hispanic-serving Institutions Work Study Program. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

3. Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the

Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

4. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee or other authorized representative of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD's Ethics Law Division (202) 708–3815 (voice), (202) 708–1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

5. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. In addition, applicants subject to the Byrd Amendment must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

6. Environmental Review

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321). In addition, the provision of assistance under this NOFA is categorically excluded from environmental review under § 50.19(b)(3) and (b)(9).

J. The Catalog of Federal Domestic Assistance Number:

The Catalog of Federal Domestic Assistance Number is 14.513.

Dated: April 2, 1997.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

APPENDIX A.—HISPANIC-SERVING COMMUNITY COLLEGES

[As Designated by the U.S. Department of Education]

State	Institution
AZ	Arizona Western College.
AZ	Central Arizona College.
AZ	Cochise College.
AZ	Pima Community College.
AZ	South Mountain Community College.

APPENDIX A.—HISPANIC-SERVING COMMUNITY COLLEGES—Continued

[As Designated by the U.S. Department of Education]

State	Institution
CA	Bakersfield College.
CA	Cerritos College.
CA	Chaffey Community College.
CA	Citrus College.
CA	College of the Desert.
CA	College of the Sequioas.
CA	Compton Community College.
CA	Don Bosco Technical Institute.
CA	East Los Angeles College.
CA	Evergreen Valley College.
CA	Fresno City College.
CA	Gavilan College.
CA	Hartnell College.
CA	Imperial Valley College.
CA	Kelsey-Jenney Business College.
CA	Kings River Community College.
CA	Los Angeles City College.
CA	Los Angeles Harbor College.
CA	Los Angeles Mission College.
CA	Los Angeles Southwest College.
CA	Los Angeles Trade Technical College.
CA	Los Angeles Valley College.
CA	Merced College.
CA	Mount San Antonio College.
CA	Fullerton College.
CA	Oxnard College.
CA	Palo Verde College.
CA	Pasadena City College.
CA	Porterville College.
CA	Rancho Santiago College.
CA	Rio Hondo College.
CA	San Bernardino Valley College.
CA	San Diego City College.
CA	San Jose City College.
CA	Skyline College.
CA	Southwestern College.
CA	West Hills Community College.
CO	Community College of Denver.
CO	Otero Junior College.
CO	Pueblo Community College.
CO	Trinidad State Junior College.
FL	Miami-Dade Community College/North Campus (Main).
FL	Miami-Dade Community College/Homestead College.
FL	Miami-Dade Community College/Medical Center Campus.
FL	Miami-Dade Community College/Wolfson Campus.
IL	City Colleges of Chicago-Harry S Truman College.
IL	City Colleges of Chicago-Malcolm X College.
IL	City Colleges of Chicago-Richard J. Daley College.
IL	City Colleges of Chicago-Wilbur Wright College.
IL	Lexington Institute of Hospitality Careers.
IL	MacCormac Junior College.
IL	Morton College.
IL	Saint Augustine College.
NJ	Hudson County Community College.
NJ	Passaic County Community College.
NM	Albuquerque Technical Vocational Institute.
NM	Eastern New Mexico University-Roswell Campus.

APPENDIX A.—HISPANIC-SERVING COMMUNITY COLLEGES—Continued

[As Designated by the U.S. Department of Education]

State	Institution
NM	New Mexico State University-Carlsbad Campus.
NM	New Mexico State University-Dona Ana Campus.
NM	New Mexico State University-Grants Campus.
NM	Northern New Mexico Community College.
NM	Santa Fe Community College.
NM	University of New Mexico-Los Alamos Campus.
NM	University of New Mexico-Valencia Campus.
NY	CUNY Bronx Community College.
NY	CUNY Hostos Community College.

APPENDIX A.—HISPANIC-SERVING COMMUNITY COLLEGES—Continued

[As Designated by the U.S. Department of Education]

State	Institution
NY	CUNY F.H. La Guardia Community College.
PR	Collegio Tecnologico Del Municipio de San Juan.
PR	Collegio Universitario Del Este.
PR	University of Puerto Rico-Aguadilla Regional College.
PR	University of Puerto Rico-Carolina Regional College.
PR	University of Puerto Rico-La Montana Regional College.
TX	Bee County College.
TX	Del Mar College.
TX	El Paso Community College.
TX	Laredo Community College.

APPENDIX A.—HISPANIC-SERVING COMMUNITY COLLEGES—Continued

[As Designated by the U.S. Department of Education]

State	Institution
TX	Odessa Community College.
TX	Palo Alto College.
TX	San Antonio College.
TX	Southwest Texas Junior College.
TX	St. Philips College.
TX	Texas Southmost College.
TX	Texas State Technical College-Harlingen.

SOURCE: 1993 Integrated Post-Secondary Education Data System (IPEDS) of the U.S. Department of Education.

[FR Doc. 97–9036 Filed 4–8–97; 8:45 am]

BILLING CODE 4210–62–P

federal register

Wednesday
April 9, 1997

Part VI

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51856; FRL–5585–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from October 1, 1996 to October 31, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51856]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51856]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51856]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 95 Premanufacture Notices Received From: 10/01/96 to 10/31/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0001	10/01/96	12/25/96	CBI	(G) Component of coating with open use	(G) Hydroxy functional aliphatic phenol
P–97–0002	10/01/96	12/30/96	Dystar L.P.	(S) Reactive dye for cellulose- power formulation & liquid formulation	(G) Trisubstituted anthraquinone salt
P–97–0003	10/01/96	12/30/96	CBI	(G) UV/EB resin coating	(G) Propolymer component
P–97–0004	10/01/96	12/30/96	CBI	(S) Raw material for manufacture of light stabilizers	(G) Substituted diphenylmethane
P–97–0005	10/01/96	12/30/96	BASF Corporation	(S) Aprotic solvent	(S) 2(1*H*)-pyrimidimine, tetrahydro-1,3-dimethyl
P–97–0006	10/03/96	12/30/96	CBI	(G) Chemical intermediate having destructive use	(G) Hydroxy functional acrylate
P–97–0007	10/03/96	01/01/97	Stepan Company	(G) Additive for adhesive	(G) Polyester polyol
P–97–0008	10/03/96	01/01/97	I C & S Distributing Company	(S) An ingredient of a wood coating	(S) Polymer of: ethanol,2,2′-oxybis; 1,2-propanediol; 2-butenedioic acid; 1,3,-isobenzofurandione, 3a,4,7,7a-tetrahydro-; 1-butanol, 2,2-bis[(2-propenyoloxy)methyl]-
P–97–0009	10/02/96	12/31/96	CBI	(G) Plasticizer	(G) Alcohol capped dibasic acid glycol polyester
P–97–0010	10/03/96	01/01/97	Ashland Chemical Company	(G) Open, non dispersive manufacture of reinforced plastics	(G) Unsaturated polyester
P–97–0011	10/03/96	01/01/97	Hanse Chemie USA, Inc	(S) Binding resin for photo resists	(G) Acidic epoxy acrylate
P–97–0012	10/03/96	12/30/96	CBI	(G) Component of coating with open use	(G) Hydroxy functional acrylic polymer
P–97–0013	10/03/96	12/30/96	CBI	(G) Component of coating with open use	(G) Hydroxy functional acrylic polymer
P–97–0014	10/04/96	01/02/97	BASF Corporation	(G) Colorant	(G) Substituted triazolopyridinecarbonitrile, substituted thiazolyl amino
P–97–0015	10/08/96	01/06/97	Cerestar USA, Inc.	(G) Inclusion-complexation agent	(G) Chemically modified alpha cyclodextrin
P–97–0016	10/04/96	01/02/97	AKZO Nobel Resins	(S) Resin used to manufacture industrial coatings	(S) Polymer of: hexahydrophthalic anhydride; neopentyl glycol; dimethylol propionic acid; rosin; trimethylolpropane; isophthalic acid; fatty acids, C_{18}-unsaturated, dimers; 2-ethylehexanoic acid; 2-dimethylamino ethanol
P–97–0017	10/10/96	01/08/97	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Benzenesulfonic acid amino trizinyl amino substituted yalkyl amino substituted anthracene compound
P–97–0018	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0019	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0020	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0021	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0022	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0023	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0024	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0025	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0026	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0027	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0028	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0029	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–97–0030	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer

I. 95 Premanufacture Notices Received From: 10/01/96 to 10/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0031	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0032	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0033	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0034	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0035	10/08/96	01/06/97	S.C.Johnson & Son, Inc	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0036	10/11/96	01/09/97	Ciba Geigy Corporation Pigments Division	(G) Open, non-dispersive use	(G) Heterocyclic metal complex with aromatic rings having aliphatic substitutions
P–97–0037	10/10/96	01/08/97	CBI	(G) Ingredient for use in consumer products; highly dispersive use	(G) C_{25} monoester
P–97–0038	10/08/96	01/06/97	CBI	(G) Lubricant additive	(G) Calcuim phophosulfurized polyolefin
P–97–0039	10/07/96	01/05/97	CBI	(G) Open non-dispersive use. photoluminescent pigment for use in paints, plastics and resins	(G) Strontium-dysprosium-europium aluminate
P–97–0040	10/08/96	01/06/97	Huls America Inc	(S) Surface modifier for industrial minerals	(G) Vinylalkylalkoxysilane
P–97–0041	10/10/96	01/08/97	Gateway Additive Company	(S) Metalworking fluids, water extendable; cutting oils; industrial lubricants	(S) Fatty acids, coco, polymers with adipic acid, pentaerythritol, stearic acid and tall-oil fatty acids
P–97–0042	10/16/96	01/14/97	CBI	(G) Petroleum additive	(G) Substituted phenylazoalkoxy napthylamine
P–97–0043	10/16/96	01/14/97	CBI	(G) Petroleum additive	(G) Phenylazoalkoxy naphthylamine
P–97–0044	10/16/96	01/14/97	CBI	(G) Plasticizer	(G) Dibasic acid/glycol polyester, organic acid capped
P–97–0045	10/16/96	01/14/97	Angus Chemical Company	(S) Site-limited intermediate	(S) 2-methyl-2-[(2-methyl-2-nitropropyl)amino]-1-propanol
P–97–0046	10/17/96	01/15/97	Heterene Inc	(S) Personal care formulations	(S) 3,6,9,12-tetraoxaoctacosan-1-ol, 11-methyl-, acetate
P–97–0047	10/16/96	01/14/97	Olin Corporation	(S) Surfactant/rinse aid household automatic dishwashing; sufrfactant/rinse aid industrial and institutional automatic dishwashing; surfactant-general household cleaning	(G) Alcohol alkoxylate
P–97–0048	10/16/96	01/14/97	CBI	(S) Emulsifier for paint; emulsifier for adhesive; emulsifier for coating paper; emulsifier for coating textile	(G) Substituted alkylphenyloxypolyocyethylene
P–97–0049	10/16/96	01/14/97	CBI	(G) Open, non-dispersive (coatings additive)	(G) Aliphatic polyisocyanate
P–97–0050	10/16/96	01/14/97	CBI	(G) Processing aid	(G) Derivative of substituted dimethylamine
P–97–0051	10/18/96	01/16/97	Ciba-Geigy Corporation, Chemicals Division	(S) Intermediate in the manufacture of a pesticide	(G) Substituted aromatic ketone
P–97–0052	10/17/96	01/15/97	Ciba-Geigy Corporation, Chemicals Division	(G) Textile dye	(G) Substituted phenyl azo substituted naphthalene azo substituted phenyl amino triazinyl amino substituted phenyl compound
P–97–0053	10/21/96	01/19/97	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–97–0055	10/18/96	01/16/97	CBI	(G) Pigment	(G) Pyrazole azo dye
P–97–0056	10/17/96	01/15/97	Asahi Chemical Industry America Inc.	(S) Flame retardant for plastics	(S) Phosphoric trichloride, reaction products with bisphenol a and phenol
P–97–0057	10/17/96	01/15/97	Hoechst Celanese	(G) Surface active agent	(G) Alkyl substituted, modified amine
P–97–0058	10/17/96	01/15/97	Hoechst Celanese	(G) Surface active agent	(G) Alkyl substituted, modified amine
P–97–0059	10/17/96	01/15/97	Hoechst Celanese	(G) Surface active agent	(G) Alkyl substituted, modified amine
P–97–0060	10/17/96	01/15/97	Hoechst Celanese	(G) Surface active agent	(G) Alkyl substituted, modified amine
P–97–0061	10/17/96	01/15/97	Hoechst Celanese	(G) Surface active agent	(G) Alkyl substituted, modified amine
P–97–0063	10/18/96	01/16/97	Dover Chemical Corporation	(S) Additive for lubricants	(G) Aliphatic ester
P–97–0064	10/17/96	01/15/97	Parker Amchem	(G) Process intermediate	(S) Nitriles, rosin
P–97–0065	10/21/96	01/19/97	Angus Chemical Company	(S) Chemical intermediate	(S) 2-[(2-amino-2-methylpropyl)-amino]-1-propanol

I. 95 Premanufacture Notices Received From: 10/01/96 to 10/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0066	10/22/96	01/20/97	CBI	(S) Conditioning polymer	(G) Polymer of derivatized methacrylamide and dimethyl sulfate
P–97–0067	10/22/96	01/20/97	CBI	(S) Reactive thinner for radiation cured lacquer system; comonomer for lacquer polymers	(G) Cycloaliphatic acrylate
P–97–0069	10/22/96	01/20/97	CBI	(G) Coating component	(G) Modified isocyanate propolymer
P–97–0070	10/22/96	01/20/97	CBI	(G) This material is an aid in adsorption of heavy metal ions	(G) Vinylimidazole copolymer
P–97–0071	10/22/96	01/20/97	Bedoukian Research, Inc.	(G) Chemical intermediate	(S) 1-decanol, 9,10-dibromo
P–97–0072	10/22/96	01/20/97	Bedoukian Research, Inc	(G) Chemical intermediate	(S) 9-decyn-1-ol
P–97–0073	10/22/96	01/20/97	Bedoukian Research, Inc.	(G) Chemical intermediate	(G) Monohalo substituted alkenol
P–97–0074	10/23/96	01/21/97	Dow Corning Corporation	(G) Starting material recovery	(S) 1,2 ethanediamine, monohydrochloride
P–97–0075	10/23/96	01/21/97	CBI	(G) Synethetic lubricant basestock	(S) Hexanedioic acid, mixed esters with C_{10}-rich C_9-C_{11} isoalcohol, and trimethylol propane
P–97–0076	10/23/96	01/21/97	CBI	(G) Product from scavenging of formaldehyde	(G) Reaction product of formaldehyde and ethyl acetoacetate
P–97–0077	10/25/96	01/23/97	CBI	(G) Raw material used in the formalation of uv industrial coating for wood or plastic	(G) Vinyl ether urethane
P–97–0078	10/25/96	01/23/97	CBI	(G) UV/EB resin coating	(G) Acrylated oligomer
P–97–0079	10/25/96	01/23/97	E.i. Dupont De Nemours & Company, Inc	(G) Contained process, heat transfer, and test media	(S) Pentane, 1,1,1,2,3,4,4,5,5,5-decafluro
P–97–0080	10/24/96	01/22/97	Lion Industries, Inc	(S) Antifoam agent for processing in the dissolving pulp market	(S) Amines, castor oil, hydrogenated, ethoxylated, *N,N'*-ethylenebis-
P–97–0081	10/25/96	01/23/97	Cerestar USA, Inc.	(G) Inclusion-complexation agent	(G) Chemically modified alpha cyclodextrin
P–97–0082	10/28/96	01/26/97	CBI	(G) Resin coating	(G) Acrylated oligomer
P–97–0083	10/28/96	01/26/97	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–97–0084	10/28/96	01/26/97	CBI	(S) Ingredient in (fragrance) compounds	(S) 6-octen-3-one, 2,4,4,7-tetramethyl
P–97–0085	10/25/96	01/23/97	CBI	(S) Fabric softener; hair conditioner	(G) Esterquat
P–97–0086	10/25/96	01/23/97	CBI	(S) Fabric softener; hair conditioner	(G) Esterquat
P–97–0087	10/25/96	01/23/97	CBI	(S) Fabric softener; hair conditioner	(G) Esterquat
P–97–0088	10/25/96	01/23/97	CBI	(S) Fabric softener; hair conditioner	(G) Esterquat
P–97–0089	10/28/96	01/26/97	PCR Incorporated	(S) Chemical intermediate	(G) Aminosiloxane
P–97–0090	10/30/96	01/28/97	Ciba-Geigy Corporation	(G) Texitile chemical	(G) Substituted diphenyl triazine
P–97–0091	10/30/96	01/28/97	Reichhold Chemicals Inc	(S) Uv curable inks & coatings	(G) Tofa epoxy acrylate
P–97–0092	10/29/96	01/27/97	CBI	(S) Thickener, primarily for the cosmetic and detergents industies	(G) Sodium salt of acrylic acid/ vinyl ester copolymer
P–97–0093	10/30/96	01/28/97	Eastman Chemical Company	(S) Chemical intermediate	(G) Di-substituted acetophenone
P–97–0094	10/30/96	01/28/97	Eastman Chemical Company	(G) Chemical intermediate	(G) Di-substituted propanedione
P–97–0095	10/30/96	01/28/97	CBI	(G) Dispersing agent	(G) Ammonium benzophenone carboxylate
P–97–0096	10/30/96	01/28/97	Ciba-Geigy Corporation,	(G) Textile chemical	(G) Substituted phenyl triazine
P–97–0097	10/30/96	01/28/97	Dupont Specialty Chemicals	(G) Isolated intermediate	(G) Copolymer of an alpha-olefin with an unsaturated dicarboxylic acid
P–97–0099	10/30/96	01/28/97	Dic Trading (USA) Inc	(G) Open, non-disperdive (UV curables coatings)	(G) Aromatic urethane acrylate

II. 60 Notices of Commencement Received From: 10/01/96 to 10/31/96

Case No.	Received Date	Commencement/Import Date	Chemical
P–86–0099	10/28/85	10/03/96	(G)Polyamide resin
P–90–0545	03/08/25/90	10/28/96	(G)Mixed salt of a triazinyl pyridine

II. 60 Notices of Commencement Received From: 10/01/96 to 10/31/96—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–92–0848	10/03/96	09/26/96	(G) Bis-(alkoxyalkoxy)-phenylenediamine
P–92–1033	10/09/96	10/07/96	(G) Alkoxyphenol, 4-dihydro alkylpyran, isomer mix
P–92–1369	10/22/96	09/25/96	(G) Fatty acid ester
P–94–0037	10/01/96	09/03/96	(G) Fluoroalkyl mercaptoalkyl siloxane
P–94–0209	10/21/96	10/09/96	(S) Phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-
P–94–0512	10/17/96	09/23/96	(G) Tannin, sodium salt, polymer with acrylic monomers
P–94–1926	10/17/96	10/15/96	(G) Alkyd resin
P–95–0109	10/01/96	09/03/96	(G) Substituted pyrimidine
P–95–0111	10/08/96	09/07/96	(G) Substituted pyrimidine
P–95–0115	10/08/96	09/04/96	(G) Substituted aniline
P–95–0680	10/28/96	10/21/96	(G) Hydroxy functional cyclic ether
P–95–1582	10/02/96	09/23/96	(G) Aromatic lactone derivative
P–95–1769	10/29/96	10/09/96	(G) Hydroxy acrylic resin
P–95–2066	10/16/96	09/23/96	(G) Substituted naphthalene compound
P–95–2067	10/16/96	09/30/96	(G) Xanthene dye
P–95–2068	10/16/96	09/24/96	(G) Substituted naphthalene compound
P–95–2080	10/25/96	09/13/96	(S) 4,8,12,17,21,25-Hexa azaoctacosane-1,28-diamine, 4,25-bis(3-aminopropyl)-12,17-[3-[bis[3-[bis(3-aminopropyl) amino]propyl]amino]propyl]-8,21-bis[3-[bis(3-aminopropyl)amino]propyl]
P–95–2081	10/25/96	09/13/96	(S) 2-Propenenitrile, dendrimer, 1,4-butanediamine-core, amino-terminated, 32-functional
P–95–2082	10/25/96	09/13/96	(S) 2-Propenenitrile, dendrimer, 1,4-butanediamine-core, amino-terminated, 64-functional
P–95–2110	10/08/96	09/25/96	(G) Formaldehyde, polymer with dodecyl phenol, ethyleneamine, and substituted alkyl phenol
P–96–0031	10/09/96	09/18/96	(G) Fluoroalkyl sulfonic acid mixture
P–96–0035	10/09/96	09/16/96	(G) Fluoroalkyl thiocyanate
P–96–0125	10/08/96	09/19/96	(G) Plasticized urea-formaldehyde
P–96–0228	10/28/96	10/13/96	(G) Water thinnable polyacrylate containing hydroxyl groups.
P–96–0266	10/23/96	09/21/96	(G) Plant acid salt
P–96–0364	10/31/96	10/08/96	(G) Pentaerythritol tetraester with mixed fatty acids
P–96–0416	10/02/96	09/24/96	(G) Polyether polyol, salt of
P–96–0593	10/02/96	09/19/96	(G) Alkyl substituted phenyl glycidyl ether
P–96–0618	10/28/96	10/02/96	(G) Neutralized polyacrylic resin
P–96–0787	10/08/96	09/27/96	(S) Phosphonium, octadecyltriotyl-, iodide (9cl)
P–96–0813	10/21/96	09/23/96	(G) Phenothiazine derivative
P–96–0818	10/11/96	09/25/96	(G) Substituted aryl dicarboxylic acid/diol copolymer
P–96–0852	10/17/96	10/01/96	(S) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, reaction products with C_{14} alcs. and hexamethylenediamine
P–96–0898	10/03/96	09/17/96	(G) Acrylic/aromatic copolymer
P–96–0899	10/23/96	10/08/96	(G) Ammonium salt of an acrylic/aromatic copolymer
P–96–0979	10/16/96	09/12/96	(G) Substituted aromatic hafnium dichloride
P–96–0980	10/16/96	09/18/96	(G) Aromatic substituted hafnium dimethyl
P–96–0987	10/07/96	09/22/96	(G) Phenol, polymer with formaldehyde and substituted resorcinols.
P–96–0990	10/07/96	09/11/96	(G) Substituted resorcinols
P–96–1009	10/16/96	09/12/96	(S) 5-butyl-2-chloro-5-ethyl,-1,3,2-dioxaphosphorinane
P–96–1058	10/17/96	09/30/96	(G) Halogenated-substituted-cycloalkane
P–96–1059	10/17/96	09/30/96	(G) Halogenated-substituted-cycloalkane
P–96–1060	10/17/96	09/30/96	(G) Halogenated-substituted-cycloalkane
P–96–1061	10/17/96	09/30/96	(G) Halogenated-substituted-cycloalkane
P–96–1082	10/31/96	10/15/96	(G) Glycolysis product of polyurethane foam
P–96–1084	10/10/96	10/03/96	(S) Iodonium, [4-[(2-hydroxytetradecyl)oxy]phenyl]phenyl-, (oc-6-11)-hexanfluoroantimonate (1-)
P–96–1142	10/22/96	10/08/96	(S) Fatty acids, tall-oil, polumer with tetraethylenepentamine acetates, mercaptoacetates; fatty acids, tall-oil, polymer with tetraethylenepentamine, acetates; fatty acids, tall-oil, polymer with tetra ethylenepentamine, mercaptoacetates
P–96–1180	10/22/96	09/30/96	(G) Amine functional polyester polyol
P–96–1190	10/04/96	09/18/96	(G) Acrylate polymer
P–96–1198	10/02/96	09/25/96	(G) Silsesquioxane resin
P–96–1199	10/02/96	09/25/96	(G) Organo-modified silses quioxane resin
P–96–1202	10/01/96	09/16/96	(G) Urethane acrylate
P–96–1219	10/22/96	09/27/96	(G) Amino benzaldehyde
P–96–1231	10/25/96	10/22/96	(G) Isocyanate functional poly carbomoyl (polyalkylene oxide)
P–96–1253	10/10/96	09/27/96	(S) Tall oil fatty acid, C_{11-14} branched alkyl esters, C_{13}-rich
P–96–1340	10/22/96	10/10/96	(G) Vinyl functional silicone fluid
Y–92–0197	10/28/96	10/12/96	(G) Substituted phenol ester
Y–92–0204	10/28/96	10/14/96	(G) Carboxylated styrene butadiene copolymer latex

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 21, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

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Part VII

Securities and Exchange Commission

17 CFR Part 270

Privately Offered Investment Companies; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–22597, International Series Release No. 1071, File No. S7–30–96]

RIN 3235–AH09

Privately Offered Investment Companies

AGENCY: Securities and Exchange Commission

ACTION: Final rules.

SUMMARY: The Commission is adopting rules under the Investment Company Act of 1940 to implement provisions of the National Securities Markets Improvement Act of 1996 that apply to privately offered investment companies. The rules define certain terms for purposes of the new exclusion from regulation under the Investment Company Act for privately offered investment companies whose investors are all highly sophisticated investors, termed ''qualified purchasers.'' The rules also address certain transition issues relating to existing privately offered investment companies that have no more than 100 investors and other matters concerning privately offered investment companies.

EFFECTIVE DATE: The rules become effective on June 9, 1997.

FOR FURTHER INFORMATION CONTACT: David P. Mathews, Senior Counsel, Nadya B. Roytblat, Assistant Office Chief, or Kenneth J. Berman, Assistant Director, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Mail Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Requests for formal interpretative advice should be directed to the Office of Chief Counsel at (202) 942–0659, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 10–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting rules 2a51–1, 2a51–2, 2a51–3, 3c–1, 3c–5 and 3c–6 [17 CFR 270.2a51–1, .2a51–2, .2a51–3, .3c–1, .3c–5 and .3c–6] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Investment Company Act'' or ''Act'').

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Executive Summary

The Commission is adopting rules to implement certain provisions of the National Securities Markets Improvement Act of 1996 (the ''1996 Act''). The 1996 Act, among other things, added section 3(c)(7) to the Investment Company Act to create a new exclusion from regulation under the Act for privately offered investment companies that sell their securities solely to ''qualified purchasers'' owning or investing on a discretionary basis a specified amount of ''investments'' (''Section 3(c)(7) Funds''). The 1996 Act also amended section 3(c)(1) of the Investment Company Act, which excludes from regulation under the Act privately offered investment companies with 100 or fewer ''beneficial owners'' (''Section 3(c)(1) Funds''). Reflecting a relationship between section 3(c)(1) and new section 3(c)(7), the 1996 Act contains provisions that permit an existing Section 3(c)(1) Fund to convert into a Section 3(c)(7) Fund or invest in a Section 3(c)(7) Fund as a qualified purchaser, subject to certain requirements designed to protect the Section 3(c)(1) Fund's existing ''beneficial owners.''

The 1996 Act requires the Commission to prescribe rules defining the terms ''investments'' and ''beneficial owner'' relevant to the new provisions by April 9, 1997. Other changes to the provisions of the Investment Company Act relating to privately offered investment companies require Commission rulemaking as well. The Commission is adopting rules under the Investment Company Act that:

- Define the term ''investments'' for purposes of the qualified purchaser definition;
- Define the term ''beneficial owner'' for purposes of the provisions that permit an existing Section 3(c)(1) Fund to convert into a Section 3(c)(7) Fund or to be treated as a qualified purchaser;
- Clarify certain interpretative issues under section 3(c)(7);
- Permit certain Section 3(c)(1) Funds to rely on the pre-1996 Act provisions of section 3(c)(1) rather than restructure their existing relationships with investors;
- Permit knowledgeable employees of a Section 3(c)(1) Fund or a Section 3(c)(7) Fund (referred to collectively in this Release as ''privately offered funds'' or ''funds''), and knowledgeable employees of certain affiliates of these Funds, to invest in the Funds; and
- Address transfers of securities in a privately offered fund when the transfer was a gift or caused by divorce or death.

The rules reflect modifications suggested by commenters that are designed to make the rules less complex and easier to apply, consistent with the policies underlying the Investment Company Act and the 1996 Act's provisions relating to privately offered funds.

I. Background

A. Statutory Exclusions for Privately Offered Funds

Section 3(c)(1) of the Investment Company Act excludes from regulation under the Act certain privately offered investment companies ''whose

outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons.''[1] A wide variety of investment vehicles rely on section 3(c)(1), ranging from small groups of individual investors, such as investment clubs, to venture capital and other investment pools designed primarily for sophisticated investors.[2]

The 1996 Act[3] added new section 3(c)(7) of the Investment Company Act to create an alternative exclusion for investment companies that sell their securities solely to investors who are ''qualified purchasers.''[4] As is the case for a Section 3(c)(1) Fund, a Section 3(c)(7) Fund cannot make, or propose to make, a public offering of its securities.[5]

New section 2(a)(51)(A) of the Investment Company Act defines the term qualified purchaser as (i) any natural person who owns not less than $5 million in investments (as defined by the Commission),[6] (ii) a family-owned company (''Family Company'') that owns not less than $5 million in investments,[7] (iii) certain trusts,[8] and (iv) any other person (*e.g.*, an institutional investor) that owns and invests on a discretionary basis not less than $25 million in investments.[9]

Section 3(c)(7)(B) includes a ''grandfather'' provision (''Grandfather Provision'') that permits an existing Section 3(c)(1) Fund to convert into a Section 3(c)(7) Fund (''Grandfathered Fund'').[10] The outstanding securities of a Grandfathered Fund may be beneficially owned by as many as 100 persons that are not qualified purchasers, provided that these persons acquired the securities of the Grandfathered Fund on or before September 1, 1996.[11] The Grandfather Provision is designed to allow an existing Section 3(c)(1) Fund wishing to avail itself of section 3(c)(7) to continue its existing relationships with investors that are not qualified purchasers.[12]

The Grandfather Provision requires the Grandfathered Fund, prior to the conversion, to provide each beneficial owner of its securities (i) notice of the Fund's intention to become a Section 3(c)(7) Fund and (ii) an opportunity to redeem the owner's interest in the Fund.[13] The 1996 Act directs the Commission to define the term ''beneficial owner'' for this purpose.[14] The 1996 Act also requires an existing privately offered fund that wishes to become a qualified purchaser to obtain the consent of certain beneficial owners of its securities and certain other persons (the ''Consent Provision'').[15]

B. Amendments to Section 3(c)(1)

To prevent circumvention of the 100-investor limit, section 3(c)(1)(A) (the ''Look-Through Provision'') requires, in some instances, that a fund seeking to rely on section 3(c)(1) ''look through'' certain companies (*e.g.*, corporations, partnerships and other investors that are not natural persons) that hold its voting securities and count the company's security holders as beneficial owners of the fund's securities.[16] Prior to the 1996 Act,[17] the Look-Through Provision applied (i) if a company owned 10% or more of a Section 3(c)(1) Fund's voting securities (''First 10% Test'') and (ii) more than 10% of the company's total assets consisted of securities of Section 3(c)(1) Funds generally (''Second 10% Test'').[18]

The 1996 Act's amendments to section 3(c)(1) were designed, in part, to simplify the way in which the number of investors in a fund is calculated for purposes of the 100-investor limit. The amended Look-Through Provision does not apply to an investor that is an operating company. In other words, a Section 3(c)(1) Fund must only look through an investor to count its shareholders if the investor is an investment company or a privately offered fund.[19] In addition, the Second

[1] 15 USC 80a-3(c)(1). In addition, the Section 3(c)(1) Fund must be an issuer that ''is not making and does not presently propose to make a public offering of its securities.'' *Id.*

[2] *See* Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment Company Regulation (hereinafter Protecting Investors Report) at 104 (1992).

[3] The National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290 (1996) (codified in scattered sections of the United States Code).

[4] 15 U.S.C. 80a-3(c)(7). For the history of the development of section 3(c)(7), *see* Private Investment Companies, Investment Company Act Release No. IC–22405 (Dec. 18, 1996) [61 FR 68100 (Dec. 26, 1996)] (hereinafter Proposing Release) at nn.3–9 and accompanying text.

[5] Section 3(c)(7) of the Act. While the legislative history of the 1996 Act does not explicitly discuss section 3(c)(7)'s limitation on public offerings by Section 3(c)(7) Funds, the limitation appears to reflect Congress's concerns that unsophisticated individuals not be inadvertently drawn into a Section 3(c)(7) Fund. *See The Investment Company Act Amendments of 1995: Hearing on H.R. 1495 before the Subcomm. on Telecommunications and Finance of the Comm. on Commerce, House of Representatives*, 104th Cong., 1st Sess. 53 (1995) (hereinafter House Hearings) (testimony of Matthew P. Fink, President, Investment Company Institute, urging that section 3(c)(7) include a public offering limitation). Section 3(c)(1)'s limitation on public offerings has been interpreted to permit ''transactions by an issuer not involving any public offering'' under section 4(2) of the Securities Act of 1933 (''Securities Act'') [15 U.S.C. 77d(2)]. *See, e.g.*, Engelberger Partnerships (Dec. 7, 1981). The Commission believes that section 3(c)(7)'s public offering limitation should be interpreted in the same manner as the limitation in section 3(c)(1).

[6] Section 2(a)(51)(A)(i) of the Act [15 U.S.C. 80a-2(a)(51)(A)(i)]. The 1996 Act directed the Commission to prescribe rules defining the term ''investments'' by April 9, 1997. 15 U.S.C. 80a–2 note.

[7] A Family Company is a company ''that is owned directly or indirectly by or for 2 or more natural persons who are related as siblings or spouse (including former spouses), or direct lineal descendants by birth or adoption, spouses of such persons, the estates of such persons, or foundations, charitable organizations, or trusts established by or for the benefit of such persons * * * *'' Section 2(a)(51)(A)(ii) of the Act [15 U.S.C. 80a-2(a)(51)(A)(ii)].

[8] A trust may be a qualified purchaser if (i) it was not formed for the specific purpose of acquiring the securities offered, and (ii) the trustee or other person authorized to make decisions with respect to the trust, and each settlor or other person who has contributed assets to the trust, are qualified purchasers. Section 2(a)(51)(A)(iii) of the Act [15 U.S.C. 80a-2(a)(51)(A)(iii)].

[9] A qualified purchaser that meets the $25 million threshold may act for its own account or for the accounts of other qualified purchasers. *See* section 2(a)(51)(A)(iv) of the Act [15 U.S.C. 80a-2(a)(51)(A)(iv)].

[10] 15 U.S.C. 80a–3(c)(7)(B).

[11] Section 3(c)(7)(B)(i)(I) of the Act [15 U.S.C. 80a–3(c)(7)(B)(i)(I)].

[12] *See* S. Rep. No. 293, 104th Cong., 2d Sess. 23 (1996) (hereinafter Senate Report); H.R. Rep. No. 622, 104th Cong., 2d Sess. 51 (1996) (hereinafter House Report). These Reports relate to bills that were eventually enacted as the 1996 Act.

[13] Section 3(c)(7)(B)(ii) of the Act [15 U.S.C. 80a–3(c)(7)(B)(ii)].

[14] 15 U.S.C. 80a–3 note.

[15] Section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)].

[16] 15 U.S.C. 80a–3(c)(1)(A). Section 2(a)(42) of the Investment Company Act [15 U.S.C. 80a–2(a)(42)] defines a voting security as any security ''presently entitling the owner or holder thereof to vote for the election of a company.'' *See* Thomas P. Lemke and Gerald T. Lins, *Private Investment Companies Under Section 3(c)(1)*, 44 Bus. Law. 401, 416–18 (Feb. 1989) (discussing the types of non-voting interests that have been treated as voting securities).

[17] The 1996 Act was signed into law by President Clinton on October 11, 1996. The provisions relating to privately offered funds do not become effective until the earlier of April 9, 1997 or the date on which the rule defining the term investments is published in the **Federal Register**. For purposes of convenience, this Release assumes that the amendments to section 3(c)(1) are now effective.

[18] To illustrate the operation of the pre-1996 Act Look-Through Provision, assume Company A is seeking to rely on section (3)(c)(1). If one of Company A's security holders, Company B, beneficially owned 10% or more of Company A's voting securities (the First 10% Test), then the security holders of Company B would have been counted as security holders of Company A, unless no more than 10% of Company B's assets consisted of securities of Section 3(c)(1) Funds (the Second 10% Test). The operation of the pre-1996 Act Look-Through Provision also is relevant to determining who is a beneficial owner of a Section 3(c)(1) Fund's securities for purposes of the Grandfather and Consent Provisions. *See* section II.B. of this Release.

[19] This approach recognizes that an investment in a Section 3(c)(1) Fund by a company that is not itself an investment company generally does not

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10% Test has been eliminated. As a result, a Section 3(c)(1) Fund must count all of the shareholders of an investment company or fund investor that owns 10% or more of the Section 3(c)(1) Fund's voting securities even if the investor does not have more than 10% of its assets invested in Section 3(c)(1) Funds.[20] These revisions, while generally narrowing the scope of the Look-Through Provision, have raised questions regarding the regulatory status of existing Section 3(c)(1) Funds that have relied on the Second 10% Test.

C. The Commission's Rule Proposals

On December 26, 1996, the Commission published a release proposing several rules under the Investment Company Act to implement the provisions of the 1996 Act relating to privately offered funds (''Proposing Release'').[21] Proposed rule 2a51–1 would define the term ''investments'' for purposes of the qualified purchaser definition. Proposed rule 2a51–2 would define the term ''beneficial owner'' for purposes of the Grandfather and Consent Provisions. Proposed rule 2a51–3 would provide that a company could not be a qualified purchaser if it was formed for the specific purpose of acquiring the securities of a Section 3(c)(7) Fund unless each beneficial owner of the company's securities is a qualified purchaser. Proposed rule 3c–7 would address certain issues related to a Grandfathered Fund and an affiliated Section 3(c)(1) Fund.

The Commission also proposed two other rules that the 1996 Act directed the Commission to adopt. The 1996 Act directed the Commission to prescribe rules permitting ''knowledgeable employees'' of a privately offered fund (or knowledgeable employees of the fund's affiliates) to invest in the fund without causing the fund to lose its exclusion from regulation under the Investment Company Act.[22] The Commission proposed rule 3c–5 to permit knowledgeable employees to make such investments.

The 1996 Act also directed the Commission to prescribe rules implementing section 3(c)(1)(B) of the Act.[23] Section 3(c)(1)(B) provides that beneficial ownership of securities of a Section 3(c)(1) Fund by any person who acquires the securities as a result of ''a legal separation, divorce, death, or other involuntary event'' will be deemed to be beneficial ownership by the person from whom the transfer was made, pursuant to such rules and regulations as the Commission prescribes.[24] The Commission proposed rule 3c–6 to implement section 3(c)(1)(B) of the Act. The proposed rule also would address similar transfers of securities issued by Section 3(c)(7) Funds.[25]

The Commission received letters from 48 commenters concerning the proposals. While commenters generally supported the proposed rules, many suggested changes designed to simplify the rules, make them more flexible or resolve technical issues. The Commission is adopting the proposed rules with several modifications that reflect, in part, many of the commenters' suggestions.

II. Rules Relating to Section 3(c)(7) Funds

A. Investments and Other Matters

Rule 2a51–1 under the Investment Company Act defines the term investments for purposes of determining whether a prospective investor in a Section 3(c)(7) Fund (''Prospective Qualified Purchaser'') meets the $5 million/$25 million thresholds.[26] Rule 2a51–1 also contains provisions designed to clarify how the amount of a Prospective Qualified Purchaser's investments should be determined.

1. Qualified Institutional Buyers as Qualified Purchasers

Many commenters suggested that the determination of qualified purchaser status could be made significantly easier if qualified institutional buyers (''QIBs''), as defined in rule 144A under the Securities Act of 1933 (''Securities Act''), were deemed to be qualified purchasers. Rule 144A generally defines QIBs as certain institutions (including registered investment companies) that own and invest on a discretionary basis $100 million of securities of issuers that are not affiliated with the institution (''QIB Securities''); banks that own and invest on a discretionary basis $100 million of QIB Securities and that have an audited net worth of at least $25 million; and certain registered dealers.[27] The Commission believes that it is generally appropriate to treat QIBs as qualified purchasers for purposes of section 3(c)(7) in light of the high threshold of securities ownership that these institutions must meet under rule 144A, a threshold much higher than the investment ownership threshold required for qualified purchasers under section 2(a)(51)(A) of the Act.

Rule 2a51–1 therefore provides that, with two exceptions, a QIB is deemed to be a qualified purchaser.[28] The first exception relates to dealers. Under rule 144A, a dealer (other than a dealer acting for a QIB in a riskless principal transaction) must own and invest on a discretionary basis $10 million of QIB Securities.[29] In order to coordinate the definition of QIB with the statutory definition of qualified purchaser, rule 2a51–1 requires the dealer to own and invest on a discretionary basis $25 million of QIB Securities.[30]

The second exception relates to employee benefit plans. Rule 144A includes in its QIB definition certain employee benefit plans, as well as certain trusts that hold assets of employee benefit plans.[31] A self-directed employee benefit plan (such as a ''401(k)'' plan) generally would not be

implicate the concerns that the Look-Through Provision was intended to address—that the investor may be a conduit that was created to enable a Section 3(c)(1) Fund to have indirectly more than 100 investors. *See The Securities Investment Promotion Act of 1996: Hearing on S. 1815 before the Senate Comm. on Banking, Housing and Urban Affairs*, 104th Cong., 2d Sess. 40 (1995) (testimony of Arthur Levitt, Chairman, SEC).

[20] This change reflects the view that the private nature of a Section 3(c)(1) Fund may be brought into question when an investment company has a substantial investment in the Section 3(c)(1) Fund. *See, e.g.*, Protecting Investors Report, *supra* note 2, at 106–09. See section III.A.2 of this Release for a discussion of when a Section 3(c)(1) Fund should determine whether an investor is subject to the amended Look-Through Provision.

[21] Proposing Release, *supra* note 4.

[22] 15 U.S.C. 80a–3 note. The purpose of this provision appears to be to allow privately offered funds to offer persons who participate in the funds' management the opportunity to invest in the fund as a benefit of employment. *See* House Hearings, *supra* note 5, at 22–23 (testimony of Barry P. Barbash, Director, Division of Investment Management, SEC).

[23] 15 USC 80a–3 note.

[24] 15 USC 80a–3(c)(1)(B).

[25] *See* section 3(c)(7)(A) of the Act [15 USC 80a–3(c)(7)(A)] (permitting certain transfers by qualified purchasers).

[26] The 1996 Act provides that the term investments is to be defined by Commission rule. 15 USC 80a–2 note. Section 2(a)(51)(B) of the Act [15 USC 80a–2(a)(51)(B)] also gives the Commission authority to prescribe such rules and regulations governing qualified purchasers as the Commission determines are necessary or appropriate in the public interest or for the protection of investors.

[27] 17 CFR 230.144A(a). In each case, the QIB must be acting for its own account or the account of another QIB.

[28] Rule 2a51–1(g)(1) [17 CFR 270.2a51–1(g)(1)]. The QIB must be acting for its own account, the account of another QIB or the account of a qualified purchaser. A person's status as a QIB would be determined based on QIB Securities, not investments as defined by rule 2a51–1.

[29] Rule 144A(a)(1)(ii) [17 CFR 230.144A(a)(1)(ii)].

[30] Rule 2a51–1(g)(1)(i) [17 CFR 270.2a51–1(g)(1)(i)]. A dealer that does not own and invest on a discretionary basis $25 million of QIB Securities could still be a qualified purchaser if the dealer owns and invests on a discretionary basis $25 million of investments, determined in accordance with rule 2a51–1.

[31] Rule 144A(a)(1)(i)(D) (government employee benefit plans), (E) (any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974), and (F) (trust funds whose participants are exclusively plans of the types identified in paragraphs (D) and (E)) [17 CFR 230.144A(a)(1)(i)(D),(E), and (F)].

considered to be a qualified purchaser for purposes of rule 2a51–1; rather, an employee could invest in a Section 3(c)(7) Fund through a self-directed plan only if the employee is a qualified purchaser.[32] This provision therefore is not available to a self-directed plan.[33]

2. Definition of Investments

Rule 2a51–1, as proposed, would have defined investments broadly to include securities (other than controlling interests in certain issuers), and real estate, futures contracts, physical commodities, and cash and cash equivalents held for investment purposes. The Commission believes that this approach is consistent with the legislative history of the 1996 Act, which suggests that Congress expected that the definition of investments would be broader than securities, but that not every asset be treated as an investment.[34] Rather, the legislative history suggests that the asset should be held for investment purposes and that the nature of the asset should indicate that its holder has the investment experience and sophistication necessary to evaluate the risks of investing in unregulated investment pools.[35]

Commenters generally supported the approach of the proposal, although many commenters suggested alternative approaches to addressing particular issues. The Commission is adopting the definition of investments substantially as proposed, with modifications made in view of the commenters' suggestions, as discussed below.

a. Securities

Rule 2a51–1(b)(1) includes securities within the definition of investments.[36] This approach should result in a broad range of assets being treated as investments for purposes of the qualified purchaser definition. Many investment opportunities, such as limited partnerships and limited liability companies, are offered in the form of securities.[37]

Under the rule, securities that constitute a ''control interest'' in an issuer generally do not come within the definition of investments.[38] Limiting the definition in this manner is designed to exclude, among other things, controlling ownership interests in family-owned and other closely-held businesses. These holdings may not demonstrate the degree of financial sophistication necessary to invest in unregulated investment pools.

The Commission proposed certain exceptions from the control interest exclusion. The Commission is broadening these exceptions in certain respects, in light of the suggestions of commenters as discussed below.

Investment Vehicles. The rule permits control interests in ''investment vehicles'' excluded or exempted from the definition of investment company by sections 3(c)(1) through 3(c)(9) of the Act or rule 3a–6 or 3a–7 under the Act to be treated as investments.[39] Sections 3(c)(1) through 3(c)(9) and rules 3a–6 and 3a–7 except from the definition of investment company, in addition to privately offered funds, certain types of issuers that engage in significant investment-related activities (*i.e.*, brokers and other financial intermediaries, banks, insurance companies, finance companies, and certain structured finance vehicles).[40]

A control interest in these types of companies generally suggests a significant degree of investment experience. In a change from the proposal, the rule also specifies that a control interest in a commodity pool may be treated as an investment.[41] As in the case of a control interest in an investment company, a control interest in a commodity pool may suggest a significant degree of investment experience on the part of the Prospective Qualified Purchaser.

Public Companies. The rule, as proposed, would have included in the definition of investments a control interest in a ''listed'' company that is not a majority-owned subsidiary of the Prospective Qualified Purchaser. A listed company would have been defined as a company whose equity securities are listed on a national securities exchange, traded on the National Association of Securities Dealers Automated Quotation System (NASDAQ), or listed on a designated offshore securities market. Commenters generally supported treating control interests in listed companies as investments, but suggested that the category should be broadened to include control interests (including majority ownership interests) in any public company.

The Commission agrees, and has revised the rule to include in the definition of investments a control interest in a company that files periodic reports in accordance with the Securities Exchange Act of 1934.[42] The Commission has concluded that a person that holds a control interest in a reporting company is likely to have significant experience in financial matters and investments. The fact that the control interest is a majority interest should not affect this analysis. As proposed, a control interest in an issuer whose securities are listed on a designated offshore securities market (as defined by Regulation S under the Securities Act) also may be treated as an investment.[43]

Large Private Companies. Many commenters suggested that a control interest in a large private operating company should be treated as an investment. These commenters asserted that the very size of such a company suggests that a person who controls it is sophisticated and has significant financial acumen.[44] The commenters

[32] *See infra* section II.A.8 of this Release (discussing the circumstances under which pension and retirement plans can be treated as qualified purchasers).

[33] Rule 2a51–1(g)(1)(ii) [17 CFR 270.2a51–1(g)(1)(ii)] provides that a plan will not be deemed to be acting for its own account if investment decisions with respect to the plan are made by the beneficiaries of the plan. In other words, the investment decision must be made by a qualified purchaser.

[34] *See* Proposing Release, *supra* note 4, at nn.29–31 and accompanying text.

[35] *Id.* The legislative history was confined to addressing new section 3(c)(7), and should not be viewed as suggesting how issues of investor sophistication should be analyzed in other contexts under the federal securities laws. Although Section 3(c)(7) Funds are not subject to regulation under the Investment Company Act, these Funds and persons who sell their securities are subject to the antifraud, civil liability, and other applicable provisions of the federal securities laws. Persons who sell the securities issued by Section 3(c)(7) Funds should also consider the applicability of the broker-dealer registration provisions of the Securities Exchange Act of 1934 [15 USC 78a-78jj] (''Exchange Act'').

[36] 17 CFR 270.2a51–1(b)(1).

[37] *See* section 2(a)(1) of the Securities Act [15 USC 77b(a)(1)].

[38] The rule excludes from the definition of investments securities of an issuer that ''controls, is controlled by, or is under common control with, the person that owns the securities.'' The term ''control'' is defined in section 2(a)(9) of the Act [15 USC 80a–2(a)(9)] as ''the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company.'' Section 2(a)(9) also provides that a person who owns beneficially, ''either directly or through one or more controlled companies, more than 25 per centum of the voting securities of a company shall be presumed to control such company.'' *Id.*

[39] Rule 2a51–1(a)(3) [17 CFR 270.2a51–1(a)(3)] (defining the term ''investment vehicle'').

[40] 15 USC 80a–3(c)(1) through (9); 17 CFR 270.3a–6 (exemption for foreign banks and insurance companies) and .3a–7 (exemption for certain structured finance vehicles).

[41] Rule 2a51–1(a)(3).

[42] Rule 2a51–1(b)(1)(ii) [17 CFR 270.2a51–1(b)(1)(ii)]. A control interest in an issuer may be treated as an investment if the issuer files reports pursuant to section 13 or 15(d) of the Exchange Act [15 USC 78m and 78o(d)].

[43] Rule 2a51–1(a)(7)(ii) [17 CFR 270.2a51–1(a)(7)(ii)]; 17 CFR 230.901 through .904.

[44] Commenters did not agree, however, on how to identify such a company. Several commenters suggested that the definition be based on the company's shareholders' equity (*e.g.*, $25 million or $50 million). Other commenters suggested that the

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also pointed out that sophisticated investors, such as venture capital investors, often hold control interests in private companies, and that *not* treating these holdings as investments could result in these investors not being treated as qualified purchasers.

Under the rule as adopted, a control interest in a company that has shareholders' equity of $50 million or more may be treated as an investment.[45] The Commission believes that this change should respond to the concerns of the commenters in a manner consistent with the legislative history indicating Congress' view that control interests in family-owned and other small businesses may not evidence investment sophistication.

b. Real Estate

Rule 2a51–1(b)(2) includes real estate held for investment purposes within the definition of investments.[46] Most commenters strongly supported treating real estate as an investment.

Consistent with the examples provided by the legislative history of the 1996 Act, real estate is not considered to be held for investment purposes if the real estate is used by the Prospective Qualified Purchaser or a member of the Prospective Qualified Purchaser's family (''Related Person'') for personal purposes (*e.g.*, as a personal residence).[47] The term ''personal purposes'' is derived from the Internal Revenue Code provision that addresses circumstances under which a taxpayer is allowed deductions with respect to certain ''dwelling units.''[48] Thus, residential property may be treated as an investment if it is not treated as a residence for tax purposes. Many commenters agreed that the reference to the Internal Revenue Code provisions is appropriate because it would allow a Prospective Qualified Purchaser to determine whether residential real estate is an investment based on the same provisions he or she would apply in determining whether certain expenses related to the property are deductible for purposes of his or her tax returns.

Property owned by a Prospective Qualified Purchaser that has been used by the Prospective Qualified Purchaser or a Related Person as a place of business or in connection with the conduct of a trade or business (''Business-Related Property'') also is not considered to be held for investment purposes.[49] While Business-Related Property may have been acquired with an investment goal in mind, these holdings may not be indicative of extensive experience in the financial or real estate markets and may have been acquired for reasons other than the potential investment merits of the property.[50]

c. Commodity Interests, Commodities and Financial Contracts

Rule 2a51–1(b)(3) includes contracts for the purchase or sale of a commodity for future delivery (''Commodity Interests'') held for investment purposes within the definition of investments.[51] Most commenters agreed that Commodity Interests should be treated as investments.

The rule also includes in the definition of investments commodities that are held in physical form and for investment purposes.[52] This provision recognizes that many investors hold gold, silver or other commodities as part of their investment portfolios. While some commenters suggested that the definition include any commodity, other commenters stated that the rule's definition would include most commodities held as investments.

The rule has been revised from the proposal to include ''swaps'' and similar financial contracts in the definition of investments.[53] The Commission agrees with the commenters that, because these instruments often are used in connection with investments, it is appropriate to treat them as investments.[54]

d. Cash and Cash Equivalents

Rule 2a51–1(b)(7) includes cash and cash equivalents held for investment purposes (''Cash'') in the definition of investments.[55] Most commenters agreed that treating Cash as an investment was appropriate because many investors are likely at any given time to have a component of their investment portfolio in Cash.[56] In response to a request for comment in the Proposing Release whether the ''investment purposes'' test for Cash needed further elaboration, many commenters responded that the

definition be based on the company's revenues, assets or going concern value. Still other commenters suggested that a control interest should be included if its value was in excess of a specified amount.

[45] Rule 2a51–1(b)(1)(iii) [17 CFR 270.2a51–1(b)(1)(iii)]. The company must have had $50 million of shareholders' equity on its most recent financial statements (whether annual or quarterly). *Id*.

[46] 17 CFR 270.2a51–1(b)(2).

[47] Rule 2a51–1(c)(1) [17 CFR 270.2a51–1(c)(1)]. Rule 2a51–1(a)(8) [17 CFR 270.2a51–1(a)(8)] defines ''related person'' as a sibling, spouse or former spouse of the prospective qualified purchaser, or a direct lineal descendant or ancestor by birth or adoption of the Prospective Qualified Purchaser, or a spouse of the descendant or ancestor.

[48] Internal Revenue Code (''IRC'') section 280A(d) [26 USC 280A(d)]. Rule 2a51–1(c) [17 CFR 270.2a51–1(c)] treats residential real estate as an investment if it is not treated as a dwelling unit used as a residence in determining whether deductions for depreciation and other items are allowable under the IRC. Section 280A provides, among other things, that a taxpayer uses a dwelling unit during the taxable year as a residence if he or she uses such unit for personal purposes for a number of days that exceeds the greater of 14 days or 10 percent of the number of days during which the unit is rented at a fair market value.

[49] Rule 2a51–1(c)(1).

[50] Real property held by a Prospective Qualified Purchaser primarily engaged in the real estate investment and development business as part of that business may be treated as an investment. *Id*.

[51] 17 CFR 270.2a51–1(b)(3). Paragraph (a)(1) of rule 2a51–1 [17 CFR 270.2a51–1(a)(1)] defines Commodity Interests to mean commodity futures contracts, options on commodity futures contracts, and options on physical commodities traded on or subject to the rules of (a) any contract market designated for trading such transactions under the Commodity Exchange Act (the ''CEA'') [7 USC 1] and the rules thereunder; or (b) any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the CEA. 17 CFR 30.1 through 30.11. Commodity Interests held as part of a business by a Prospective Qualified Purchaser that is primarily engaged in the business of investing or trading in Commodity Interests may be treated as investments. Rule 2a51–1(c)(2) [17 CFR 270.2a51–1(c)(2)].

[52] Rule 2a51–1(b)(4) [17 CFR 270.2a51–1(b)(4)]. Physical commodities, for purposes of the rule, are defined as any commodity with respect to which a Commodity Interest is traded on a domestic or foreign commodities exchange. Rule 2a51–1(a)(5) [17 CFR 270.2a51–1(a)(5)].

[53] Rule 2a51–1(b)(5) [17 CFR 270.2a51–1(b)(5)] includes in the definition of investments ''financial contracts'' as defined by section 3(c)(2) of the Act [15 USC 80a–3(c)(2)]. This definition was added to section 3(c)(2) by the 1996 Act in order to expand the exclusion from the definition of investment company applicable to securities brokers to include certain other market intermediaries (*e.g.*, ''swap'' dealers). Section 3(c)(2) provides, in pertinent part, that a financial contract is any arrangement that—

(I) takes the form of an individually negotiated contract, agreement, or option to buy, sell, lend, swap, or repurchase, or other similar individually negotiated transaction commonly entered into by participants in the financial markets;

(II) is in respect of securities, commodities, currencies, interest or other rates, other measures of value, or any other financial or economic interest similar in purpose or function to any of the foregoing; and

(III) is entered into in response to a request from a counter party for a quotation, or is otherwise entered into and structured to accommodate the objectives of the counter party to such arrangement.

Some ''financial contracts'' are also securities, and thus investments under rule 2a51–1(b)(1). *See* In re BT Securities Corp., Exchange Act Release No. 35136 (Dec. 22, 1994).

[54] As with other investments, a financial contract can be valued at its fair market value or cost. *See* section II.A.3.a of this Release. The rule does not permit a financial contract to be valued at its notional amount (*e.g.*, the principal amount upon which the interest payments in a swap transaction are based).

[55] 17 CFR 270.2a51–1(b)(7).

[56] For example, an investor may have a significant amount of Cash as a result of a recent sale of an investment or because market conditions resulted in the investor taking a ''defensive'' position. Cash also may be integral to certain sophisticated investment strategies (such as hedging).

''investment purposes'' test was an appropriate formulation.

The rule clarifies certain issues related to Cash that were addressed in the Proposing Release or raised by commenters. The rule specifies that the net cash surrender value of an insurance policy may be considered to be Cash.[57] The rule also specifies that, for purposes of the rule, bank deposits, certificates of deposit, bankers acceptances and similar bank instruments may be treated as Cash.[58]

The rule also provides that a Prospective Qualified Purchaser that is a privately offered fund or a commodity pool may treat as investments unfunded capital commitments (*i.e.*, firm agreements by investors to provide these Prospective Qualified Purchasers with cash upon request).[59] Several commenters noted that privately offered funds often do not require their investors to provide the moneys the investors have committed to invest in the fund until investment opportunities become available to the fund. The fund therefore has access to cash that will be used for investment purposes, through commitments that reflect investors' assessment of the fund sponsor's investment expertise. The Commission thus considers it appropriate to treat these capital commitments in a manner similar to Cash.

e. Other Types of Investments

The Commission requested comment whether certain assets (such as jewelry, artwork, antiques and other collectibles) that may be held by some for investment purposes should be treated as investments. While several commenters suggested that such assets should be included in the definition of investments, others agreed that they should be excluded because these holdings do not necessarily suggest any experience in the financial markets or investing in unregulated investment pools.[60] The Commission agrees with this analysis and the rule therefore does not include such assets in the definition of investments.

3. Determining the Amount of Investments

Rule 2a51–1 permits the amount of a Prospective Qualified Purchaser's investments to be based either on the market value of the investments or on their cost. In either case, the rule requires indebtedness incurred to acquire investments to be deducted from the amount of investments owned as discussed below.

a. Value of Investments

Rule 2a51–1(d) specifies that the value of an investment may be either its market value on the most recent practicable date or its cost.[61] Most commenters supported this approach. The rule as adopted has been reformulated to state that the value of an investment may be either its cost or ''fair market value'' on the most recent practicable date. This change is designed to clarify that, in the absence of a recent market value, an investment's value could be determined by an appraisal by an independent third party.[62]

The rule does not specify which valuation methodology should be used in a particular circumstance. A Section 3(c)(7) Fund could allow Prospective Qualified Purchasers to provide the amount of their investments based on either methodology, since either methodology is an appropriate way to measure a Prospective Qualified Purchaser's investment experience.

b. Deductions from Amount of Investments

i. Certain Indebtedness

The rule, as proposed, would have required the deduction from the amount of a Prospective Qualified Purchaser's investments (i) of any indebtedness incurred to acquire the investments and (ii) of certain mortgage-related indebtedness incurred during the preceding 12 months (''Mortgage Deduction''). These provisions, (collectively, the ''Indebtedness Deduction Provision'') reflected the Commission's belief that, in establishing the $5 million/$25 million investment thresholds, Congress intended that qualified purchasers generally be limited to persons who own a specified amount of investments. This intention would appear to be inconsistent with permitting a Prospective Qualified Purchaser to accumulate the requisite amount of investments through borrowing or similar means.

Most commenters objected to the Indebtedness Deduction Provision as unnecessary and inconsistent with Congress's intent. Some commenters, however, believed that the provision was appropriate and consistent with the policies underlying section 3(c)(7). Many commenters, whether opposing or supporting the provision, suggested that it be revised in certain respects to make it easier to apply.

After considering all of the comments received and the 1996 Act's legislative history, the Commission continues to believe that the Indebtedness Deduction Provision appropriately implements Congress's intent. The Commission is therefore adopting this provision substantially as proposed with one change designed to simplify its application. The rule, as adopted, does not include the Mortgage Deduction. This deduction was designed to preclude a personal residence or a vacation home from, in effect, being converted into Cash or another type of investment for purposes of meeting the $5 million threshold. Some commenters suggested that this provision was overly complex and would be difficult to administer. Other commenters suggested generally that the Indebtedness Deduction Provision, if included in the rule, be limited to indebtedness incurred to acquire investments. These commenters noted that indebtedness secured by a mortgage could be incurred for various reasons other than to acquire investments and that the provision was therefore overbroad.

Upon reflection, the Commission has concluded that the Mortgage Deduction is unnecessary. As discussed above, the rule requires that indebtedness incurred to acquire an investment be deducted.[63] If a mortgage loan (or any other type of loan) is incurred to acquire, or for the purpose of acquiring, an investment, the outstanding amount of such loan would have to be deducted.[64]

Consistent with these changes to the Indebtedness Deduction Provision, the rule's provision with respect to indebtedness deductions by Family Companies has been significantly simplified. Certain proposed deductions relating to indebtedness incurred by a

[57] Rule 2a51–1(b)(7). *See also* Proposing Release, *supra* note 4, at n.48.

[58] Rule 2a51–1(b)(7). One commenter suggested that the rule be specific on this point because certain bank instruments with longer maturities might not be considered to be either cash equivalents or securities. The rule does not specify that securities of a money market fund are Cash because they are securities and would be investments under rule 2a51–1(b)(1).

[59] Rule 2a51–1(b)(6) [17 CFR 270.2a51–1(b)(6)].

[60] *See also* American Bar Association, Section of Business Law, Committee on Federal Regulation of Securities, Task Force on Hedge Funds, Report on Section 3(c)(1) of the Investment Company Act of 1940 and Proposals to Create an Exception for Qualified Purchasers, 51 Bus. Law. 773, 778 (Dec. 5, 1995) (hereinafter Hedge Funds Task Force Report) (suggesting that automobiles, jewelry and art be excluded from investments for purposes of measuring financial sophistication).

[61] 17 CFR 270.2a51–1(d). In the case of a security, market value could be determined in the manner described in rule 17a–7(b) under the Investment Company Act [17 CFR 270.17a–7(b)].

[62] *See* Proposing Release, *supra* note 4, at n.53.

[63] Rule 2a51–1(e) [17 CFR 270.2a51–1(e)].

[64] It also should be noted that Cash held for investment purposes is an investment. Therefore, if the cash proceeds of a loan are treated as an investment, the outstanding amount of the loan must be deducted.

Family Company or its owners are not required by the adopted rule.[65] The rule, as adopted, requires a Family Company to deduct the amount of any outstanding indebtedness incurred by the Family Company or any of the Family Company's owners to acquire the investments held by the Family Company.[66]

ii. Other Payments

The rule, as proposed, would have required a Prospective Qualified Purchaser who is a natural person to deduct certain payments that he or she received during the preceding 12 months relating to, among other things, lawsuits, insurance policies, divorce and separation agreements, and gifts and bequests. This provision (''Other Payments Provision'') was designed to assure that Prospective Qualified Purchasers who are natural persons would be required to deduct from the amount of their investments certain amounts received during the preceding 12 months that could inflate the amount of their investments (particularly Cash) without reflecting any investment experience.

As with the Indebtedness Deduction Provision, most commenters objected to the Other Payments Provision as overly complex and potentially difficult to administer. One commenter, however, believed that the Other Payments Provision was consistent with the policies underlying section 3(c)(7) and suggested that the Commission consider additional deductions (such as the proceeds from the sale of a family-owned business).

After considering the comments received, the Commission has determined not to adopt the Other Payments Provision at this time. Similarly, the provision that would have required Other Payments received by owners of a Family Company to be deducted by the Family Company is not being adopted. At this time, the burdens that might be associated with the Other Payments Provision appear to outweigh its benefits to investors. The Commission may revisit this issue in the future if experience with section 3(c)(7) suggests that a provision similar to the Other Payments Provision is necessary or appropriate in the public interest or for the protection of investors.

4. Jointly Held Investments

The rule provides that, in determining whether a natural person is a qualified purchaser, the person may include in the amount of his or her investments any investments held jointly with the person's spouse (''Joint Investments'').[67] Thus, a person who owns $3 million of investments individually and $2 million of Joint Investments would be a qualified purchaser. The spouse also would be a qualified purchaser if he or she owned, individually, an additional $3 million of investments.

A spouse who is not a qualified purchaser can hold a joint interest in a Section 3(c)(7) Fund with his or her qualified purchaser spouse.[68] The Commission requested comment whether spouses who hold $5 million in investments in the aggregate (regardless of whether the investments are held jointly) should be treated as qualified purchasers if they make a joint investment in a Section 3(c)(7) Fund. All the commenters that addressed this issue agreed that permitting such investments would be appropriate. The rule as adopted reflects this approach.[69] The Commission believes that this approach will simplify the determination of whether spouses making a joint investment are qualified purchasers.

5. Investments Held by Certain Affiliated Entities

The rule, as proposed, would have permitted a parent company that is a Prospective Qualified Purchaser to aggregate investments it owns with those owned by its majority-owned subsidiaries, provided that the subsidiaries' investments were managed under the direction of the parent company.[70] Most commenters agreed with this approach, but suggested that the provision should address a broader range of corporate and other inter-company structures. Commenters suggested, for example, that when a company that is part of a group of related companies is making an investment in a Section 3(c)(7) Fund, it is not necessary to focus on which of these companies actually owns or manages the investments.

The Commission agrees with this analysis. The rule as adopted permits the investments of a parent company and its majority-owned subsidiaries to be aggregated, regardless of which company is the Prospective Qualified Purchaser.[71]

6. Reasonable Belief

The rule, as proposed, would have permitted a Section 3(c)(7) Fund or a person acting on its behalf, when determining whether a Prospective Qualified Purchaser is a qualified purchaser, to rely upon audited financial statements, brokerage account statements and other appropriate information and certifications provided by the Prospective Qualified Purchaser or its representatives, as well as upon publicly available information as of a recent date.[72] The rule would have required that reliance on this information be reasonable and that the Section 3(c)(7) Fund or its representatives, after reasonable inquiry, have no basis for believing that the information is incorrect in any material respect.

Commenters generally agreed that the proposed rule was consistent with the suggestion in the 1996 Act's legislative history that the Commission use its rulemaking authority to adopt rules with respect to ''reasonable care defenses.'' [73] The commenters suggested,

[65] Under the proposed rule, a Family Company also would have been required to deduct (i) the amount of any real estate loans that any owner of the Family Company would have had to deduct if the owner were the Prospective Qualified Purchaser; (ii) the amount of any indebtedness incurred by the Family Company during the preceding 12 months to the extent that the principal amount of the indebtedness exceeded the fair market value of any assets of the Family Company other than investments; and (iii) the amount of any indebtedness incurred during the preceding 12 months by an owner of the Family Company or by a related person of an owner of the Family Company and guaranteed by the Family Company. *See* Proposing Release, *supra* note 4, at nn.59–61 and accompanying text.

[66] Rule 2a51–1(f) [17 CFR 270.2a51–1(f)].

[67] Rule 2a51–1(g)(2) [17 CFR 270.2a51–1(g)(2)]. Joint Investments also include investments in which the person shares with his or her spouse a community property or similar shared ownership interest. *Id.* In determining the amount of Joint Investments, the Prospective Qualified Purchaser must deduct from the amount of any Joint Investments any outstanding indebtedness incurred by the spouse to acquire the investments. *Id.*

[68] Section 2(a)(51)(A)(i) of the Act.

[69] Rule 2a51–1(g)(2). Consistent with this approach, the Commission believes that, for purposes of determining the number of beneficial owners of voting securities of a Section 3(c)(1) Fund, securities of the Section 3(c)(1) Fund jointly owned by both spouses should be considered to be owned by one beneficial owner. This approach is a departure from an earlier staff position on this issue. *See, e.g.,* Joseph H. Moss (Feb. 27, 1984).

[70] This approach is designed to recognize, for example, holding company structures necessitated by legal, tax or other factors that may require or make advantageous the holding of investments in separate corporate entities. *See, e.g.,* Resale of Restricted Securities; Changes To Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145, Securities Act Release No. 6862 (Apr. 23, 1990) [55 FR 17933 (Apr. 30, 1990)] (describing bank holding company structures).

[71] Rule 2a51–1(g)(3) [17 CFR 270.2a51–1(g)(3)]. Several commenters noted that the rule, as proposed, would not have extended to non-corporate structures. The rule as adopted refers generally to ''companies'' rather than ''corporations.'' *Id.*

[72] Proposed rule 2a51–1(j).

[73] The legislative history of the 1996 Act indicates that the Commission can use its rulemaking authority provided in section 2(a)(51) of the Act [15 USC 80a–2(a)(51)] to ''develop reasonable care defenses when an issuer relying on the qualified

however, that the rule should conform to the provisions of other Commission rules under the Securities Act that address transactions involving certain categories of sophisticated investors, such as rule 506 of Regulation D (offerings to ''accredited investors'' and ''sophisticated investors'') and rule 144A (sales to QIBs).[74] These rules focus on whether an issuer ''reasonably believes'' that a purchaser of securities satisfies certain criteria for investors specified in the rules.[75] Rule 2a51–1, as adopted, reflects this approach.[76]

The Commission requested comment whether the rule should contain a list of the types of documents (similar to the list included in rule 144A) that a Section 3(c)(7) Fund could rely on in determining whether a Prospective Qualified Purchaser was a qualified purchaser. Commenters had mixed reactions to this approach. Some commenters objected to the inclusion of a list, while others argued that the types of documents set forth in rule 144A were not sufficiently inclusive. Although the Commission understands that the list provided in rule 144A has been useful in that context, that list reflects the type of information that usually is publicly available concerning institutional investors (the only type of investor that can be a QIB). Commenters suggested that similar information typically is not available for individual investors. Because a list similar to that included in rule 144A would be of limited use, it is not included in rule 2a51–1.

7. Retirement Plans and Other Forms of Holding Investments

The Commission requested comment whether there are other structures for holding ownership interests in investments that should be addressed by the rule. Many commenters requested clarification on various issues related to assets held in individual retirement accounts (''IRAs'') and employee benefit plans. The rule provides that a Prospective Qualified Purchaser who is a natural person may include investments held in his or her IRA or in other retirement accounts (such as a ''401(k)'' plan) when the Prospective Qualified Purchaser makes all of the investment decisions for the account.[77]

The Commission understands that there are other forms of holding investments that may raise interpretative issues concerning whether a Prospective Qualified Purchaser ''owns'' an investment.[78] For instance, when an entity that holds investments is the ''alter ego'' of a Prospective Qualified Purchaser (as in the case of an entity that is wholly owned by a Prospective Qualified Purchaser who makes all the decisions with respect to such investments), it would be appropriate to attribute the investments held by such entity to the Prospective Qualified Purchaser.

8. Pension and Retirement Plans as Qualified Purchasers

A number of commenters raised interpretative questions concerning the circumstances under which a pension or other type of employee benefit plan that holds $25 million of investments in the aggregate could be treated as a qualified purchaser. Most of these questions concerned 401(k) plans that allow an employee to direct the investment of his or her account balance (which may consist of amounts contributed by the employee, the employer, or both) to specified investment alternatives available through the plan. Some commenters suggested that if such a plan holds $25 million of investments in the aggregate, participants in the plan should have an opportunity to invest in a Section 3(c)(7) Fund offered as an investment option. Other commenters argued that the Section 3(c)(7) Fund should ''look through'' the 401(k) plan to its participants for purposes of determining whether each investor in the Fund is a qualified purchaser.

The latter approach reflects the Commission's interpretation of section 3(c)(7). The legislative history of the 1996 Act indicates that Section 3(c)(7) Funds are to be limited to investors who own a specified amount of investments.[79] The critical issue, therefore, is not whether the employee is directing his or her investments through a 401(k) plan or a similar intermediary, but whether the employee owns the requisite amount of investments. Congress determined generally that the person making the investment decision to invest in a Section 3(c)(7) Fund had to own a requisite amount of investments; the Act generally does not permit a person who does not own the requisite amount of investments to be treated as a qualified purchaser even if he or she received advice from a third party concerning the investment.

The approach described above would not apply to a defined benefit or other retirement plan that owns $25 million of investments and does not permit participants to decide whether or how much to invest in particular investment alternatives. If the decision to invest in a Section 3(c)(7) Fund is made by the plan trustee or other plan fiduciary that makes investment decisions for the plan, and the plan owns at least $25 million of investments that is not subject to participant direction, the plan would be a qualified purchaser with respect to investments made by the plan trustee.

9. Other Issues Relating to Qualified Purchasers

Section 3(c)(7)(A) of the Act provides that the outstanding securities of a Section 3(c)(7) Fund must be owned ''exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers.'' The Commission believes that, as a general matter, this provision requires the determination whether a person is a qualified purchaser to be made or

purchaser exception in good faith sells securities to a purchaser that does not meet the qualified purchaser definition.'' House Report, *supra* note 12, at 53.

[74] 17 CFR 230.144A, .506.

[75] 17 CFR 230.144A(d)(1), .501(a).

[76] Rule 2a51–1(h) [17 CFR 270.2a51–1(h)] provides, in relevant part, that the term ''qualified purchaser'' as used in section 3(c)(7) of the Act includes a person who a Section 3(c)(7) Fund or its representative ''reasonably believes'' is a qualified purchaser.

[77] Rule 2a51–1(g)(4) [17 CFR 270.2a51–1(g)(4)]. A 401(k) plan is established in accordance with section 401(k) of the IRC [26 USC 401(k)]. If a 401(k) plan provides several options in which an employee can choose to invest his or her account, the employee would be making the investment decision with respect to the account even though the plan's trustee or sponsor selects the range of options from which the employee can choose.

[78] Many of the issues raised by commenters have been addressed by the provision of the rule dealing with ownership of investments by certain affiliated companies. *See* rule 2a51–1(g)(3); *supra* section II.A.5 of this Release.

[79] *See* Senate Report, *supra note* 12, at 10. The Commission staff has taken a similar position under section 3(c)(1) of the Act, with which the Commission agrees, with respect to how to ''count'' 401(k) plans for purposes of determining whether a Section 3(c)(1) Fund has 100 or fewer investors. Thus, each participant in the plan who chooses to invest in the Fund, as opposed to the plan itself, should be treated as a separate investor in the Section 3(c)(1) Fund for purposes of determining the number of beneficial owners of the Fund's securities. *See* The PanAgora Group Trust (Apr. 29, 1993).

The Commission is aware that the staff has taken the position under section 3(c)(1) that a self-directed employee benefit plan can be considered to be a single investor under certain circumstances. In particular, the staff has indicated that such a plan would be a single investor for purposes of section 3(c)(1) if the plan operates in a manner resembling that of a defined benefit plan. *See* The Standish Ayer & Wood, Inc. Stable Value Group Trust (Dec. 28, 1995). In adopting the analysis set forth in the PanAgora letter, the Commission is not endorsing the analysis set forth in the Standish Ayer letter for purposes of section 3(c)(7). The Commission has requested the staff to consider whether the position taken in the Standish Ayer letter is appropriate in the context of section 3(c)(7) and to reconsider whether the position taken in the Standish Ayer letter is consistent with that reflected in the PanAgora letter for purposes of section 3(c)(1).

reaffirmed each time the person acquires securities of a Section 3(c)(7) Fund.

Commenters noted that privately offered funds often allow investors to make their investment in a fund in installments or as the fund's manager needs capital to make investments. These commenters requested that the Commission clarify whether section 3(c)(7) requires the investor to be a qualified purchaser at the time each installment is paid. The Commission would interpret section 3(c)(7) as not requiring a Section 3(c)(7) Fund to determine whether the investor is a qualified purchaser each time the investor makes additional investments in the Fund pursuant to a binding commitment to make such payments, provided the investor was a qualified purchaser at the time the investor made the commitment. The Commission believes that this approach is consistent with section 3(c)(7).

Commenters also requested guidance whether affiliates of a Section 3(c)(7) Fund's sponsor that hold interests in the Fund are required to be qualified purchasers. A privately offered fund is often organized as a limited partnership with the fund's sponsor or investment adviser (or one of their affiliates) serving as the general partner. In these circumstances, if the general partnership interest is not a security [80] and is not being used as a device to evade the provisions of section 3(c)(7) limiting security holders of the Section 3(c)(7) Fund to qualified purchasers, the general partner need not be a qualified purchaser.[81]

B. Definitions of Beneficial Ownership and Other Issues Relating to the Grandfather and Consent Provisions

Rule 2a51–2 defines the term ''beneficial owner'' for purposes of the Grandfather Provision governing Section 3(c)(1) Funds that wish to convert into Section 3(c)(7) Funds and the Consent Provision governing Section 3(c)(1) and Section 3(c)(7) Funds that wish to become qualified purchasers. The rule also addresses what types of ownership constitute ''indirect'' beneficial ownership for purposes of the Consent Provision.

1. The Grandfather Provision

a. Background

Under the Grandfather Provision, a Grandfathered Fund may convert into a Section 3(c)(7) Fund without requiring investors that are not qualified purchasers to dispose of their interests in the Fund.[82] The Grandfather Provision requires the Grandfathered Fund, prior to the conversion, (i) to disclose to each ''beneficial owner'' that future investors will be limited to qualified purchasers, and that ownership in the Grandfathered Fund will no longer be limited to 100 persons, and (ii) concurrently with or after the disclosure, to provide each beneficial owner with a reasonable opportunity to redeem any part or all of its interests in the Fund for that beneficial owner's proportionate share of the Fund's ''net assets.'' [83]

The 1996 Act directs the Commission to define the term ''beneficial owner'' for purposes of the Grandfather Provision. The legislative history of the 1996 Act suggests that the Commission was to use this authority to alleviate any unnecessary burdens that might arise as a result of the application of section 3(c)(1)'s Look-Through Provision.[84] Specifically, Congress appears not to have intended to require a Grandfathered Fund to provide the notice and redemption opportunity to security holders of its institutional investors, even when those security holders would be deemed beneficial owners of the Grandfathered Fund's voting securities under the Look-Through Provision.[85] Rather, the notice and redemption opportunity generally are intended to be provided only to the institutional investor, unless the institutional investor is controlled by or under common control with the Grandfathered Fund.[86]

Consistent with the purposes indicated in the legislative history of the 1996 Act, the Commission believes that the grandfather notice and redemption opportunity requirements were intended not only for the purposes described above, but for the benefit of certain persons who were deemed to be beneficial owners prior to the 1996 Act's amendments to the Look-Through Provision.[87] These persons may have relied on the then-existing Look-Through Provision as a way to limit the Grandfathered Fund's ability to sell its securities to additional investors.[88] Allowing the Grandfathered Fund to raise substantial new capital from an unlimited number of qualified purchasers could significantly alter the nature of an investment in the Grandfathered Fund. Most commenters agreed that the manner in which the proposed rule defined beneficial ownership for purposes of the Grandfather Provision is consistent with the 1996 Act's legislative history and supported the rule.

b. Operation of the Rule

Paragraph (a) of rule 2a51–2 provides generally that beneficial ownership is to be determined in accordance with section 3(c)(1) of the Act.[89] Paragraph (b) of the rule provides a special rule for determining beneficial ownership of securities held by a company.[90] Paragraph (b) provides that securities of a Grandfathered Fund beneficially owned by a company (without giving effect to the Look-Through Provision) are deemed to be beneficially owned by one person (the ''Owning Company'') unless (i) on October 11, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the Grandfathered Fund were deemed to be beneficially owned by the holders of the Owning Company's outstanding securities,[91] (ii) the Owning Company

[80] *See, e.g., Williamson* v. *Tucker*, 645 F.2d 404 (5th Cir.), *cert. denied*, 454 U.S. 897 (1981).

[81] *See, e.g.,* Shoreline Fund, L.P and Condor Fund International, Inc. (Nov. 14, 1994) (taking a similar approach under section 3(c)(1)).

[82] *See* 142 Cong. Rec. at E1929 (Oct. 4, 1996) (Remarks of Hon. Thomas J. Bliley, Jr.). These non-qualified purchasers must have acquired all or a portion of their investment in the Grandfathered Fund on or before September 1, 1996. The Grandfather Provision was designed to enable existing Section 3(c)(1) Funds to preserve their arrangements with these non-qualified purchasers, and does not limit additional purchases by these non-qualified purchasers of the Grandfathered Fund's securities. Any person owning a security of the Grandfathered Fund who acquired the security after September 1, 1996 must be, either on the date of the acquisition or on the date that the Fund avails itself of section 3(c)(7), a qualified purchaser.

[83] The opportunity must be provided ''notwithstanding any agreement to the contrary between the [Grandfathered Fund] and such beneficial owner.'' Section 3(c)(7)(B)(ii)(II) of the Act [15 USC 80a-3(c)(7)(B)(ii)(II)].

[84] *See supra* note 18 and accompanying text (describing section 3(c)(1)(A) of the Investment Company Act).

[85] *See* Remarks of Hon. Thomas J. Bliley, *supra note* 82.

[86] *Id.*

[87] *See supra* note 19 and accompanying text (discussing the elimination of the Second 10% Test).

[88] This reliance can be illustrated by the following example. An investor invested in a Section 3(c)(1) Fund (''Fund A'') through another Section 3(c)(1) Fund (''Fund B'') that was subject to the Look-Through Provision as then in effect. The investor may have made its investment in Fund B (or Fund B may have made its investment in Fund A) recognizing that under section 3(c)(1)(A) as then in effect, each security holder of Fund B was deemed to be a beneficial owner of Fund A's voting securities. In this way, the Look-Through Provision would have limited the number of additional persons that could invest in Fund A. As noted above, however, even in these circumstances, Congress appears to have intended that investors in Fund B not be deemed beneficial owners of Fund A's securities for purposes of the Grandfather Provision unless there is a control relationship between Fund A and Fund B.

[89] 17 CFR 270.2a51–2(a).

[90] 17 CFR 270.2a51–2(b).

[91] The applicability of the Look-Through Provision is determined as of October 11, 1996 to

has a control relationship with the Grandfathered Fund,[92] and (iii) the Owning Company is itself an investment company or a privately offered fund.[93] If these conditions do not apply, the grandfather notice and redemption opportunity should be provided to the Owning Company. If the conditions do apply, the grandfather notice and redemption opportunity should be provided to the Owning Company's security holders as the beneficial owners of the Grandfathered Fund's securities.

The application of the rule can best be illustrated by the following example. Assume Company A is a Grandfathered Fund and that Company B, a Section 3(c)(1) Fund, owned more than 10% of the voting securities of Company A on October 11, 1996. If Company B does not have a control relationship with Company A, the grandfather notice and redemption opportunity can be provided directly to Company B. If a control relationship does exist, and on October 11, 1996, the security holders of Company B were deemed to be the beneficial owners of Company A's voting securities (because of the Second 10% Test),[94] Company A must provide the grandfather notice and redemption opportunity to each of Company B's security holders.

c. Interpretative Issues Relating to the Grandfather Provision

i. Scope of the Grandfather Provision

The Commission believes that the notice and redemption opportunity requirements of the Grandfather Provision were intended for the benefit of all persons who are beneficial owners of the securities of a Grandfathered Fund. The Commission noted in the Proposing Release that, consistent with this legislative intent, it believed that the conditions in the Grandfather Provision must be complied with by any Section 3(c)(1) Fund that wishes to rely on the Grandfather Provision, even if each beneficial owner of the Fund meets the definition of qualified purchaser. While several commenters objected to this interpretation, the Commission believes that it clearly reflects the legislative history of the Grandfather Provision. If the notice and redemption opportunity requirements had been intended only for the benefit of beneficial owners who are not qualified purchasers, Congress could have limited the Grandfather Provision accordingly.[95]

ii. ''Net Assets''

The Grandfather Provision states that a redeeming beneficial owner of a Grandfathered Fund is entitled to receive its proportionate share of the Fund's ''net assets.''[96] The Act does not define the term ''net assets.'' In the Proposing Release, the Commission noted that the term ''current net assets'' is used in the Investment Company Act and defined by Commission rule.[97] The Commission requested comment whether ''net assets,'' for purposes of the Grandfather Provision, should be determined based upon the methods used to determine ''current net assets,'' or the methods that would have been used to determine the amount that the beneficial owner would have received in accordance with existing withdrawal provisions in the Grandfathered Fund's governing documents. Most commenters suggested that ''net assets'' be determined in accordance with the latter approach.

The Commission does not believe that the term ''net assets'' as used in the Grandfather Provision was intended to be identical to the term ''current net assets'' as used in the Act. The Commission believes that the term ''net assets'' should be interpreted in a manner consistent with the legislative purposes of the notice and redemption opportunity requirements of the Grandfather Provision. The Grandfather Provision was designed to afford investors in the Grandfathered Fund an opportunity to redeem their investment, without penalty, before the Grandfathered Fund raises substantial new capital by increasing the number of the Fund's security holders above the limit in section 3(c)(1), thereby possibly altering the nature of an investment in the Grandfathered Fund.[98]

It would be consistent with the Grandfather Provision for a Grandfathered Fund to conclude that it could redeem a beneficial owner's pro rata share of the net asset value of the Fund in accordance with the methods specified in the Fund's governing documents. Valuation methods that ''hold back'' certain amounts (*e.g.*, reserves for contingent liabilities) may be consistent with the Grandfather Provision to the extent that they do not act as a penalty for exercising the redemption right afforded by section 3(c)(7). If a fund is unable to conclude that the hold back is not a penalty, the fund could continue to comply with section 3(c)(1) until all amounts due to redeeming beneficial owners have been paid.

Commenters requested guidance concerning how to determine the pro rata share of net assets to which debt and senior securities redeemed in accordance with the Grandfather Provision would be entitled. The Commission believes that the ''net assets'' attributable to these securities would generally be determined by the repayment or redemption provisions governing such instruments. In most cases, this amount could be the principal amount of the securities (or, in the case of preferred stock, the liquidation preference or other amount payable upon redemption), any accrued and unpaid interest or dividends, and any premium due upon prepayment or redemption.

The Commission also notes that the Grandfather Provision does not override provisions in fund documents, other agreements or applicable law that could have the effect of preventing a fund from converting into a Section 3(c)(7) Fund.[99] For example, if a fund's

assure that the Grandfathered Fund did not engage in transactions subsequent to the enactment of the 1996 Act designed to limit the applicability of the Look-Through Provision (such as the issuance of additional voting securities so that the percentage of voting securities owned by an Owning Company falls below 10%).

[92] *See supra* note 38 (describing the Act's definition of control).

[93] Limiting the application of the Look-Through Provision in this context to Owning Companies that are investment companies or privately offered funds is consistent with amended section 3(c)(1)(A). If the Owning Company is not an investment company or a privately offered fund, its security holders are unlikely to have a sufficient interest in its investment in the Grandfathered Fund to justify providing them with the grandfather notice and redemption opportunity. *See supra* note 19 and accompanying text.

[94] *See supra* section I.B. of this Release.

[95] *Compare* House Report, *supra* note 12, at 51 (describing original provision in H.R. 3005, as reported by the Committee on Commerce, which limited the notice and redemption opportunity to investors that were not qualified purchasers) *and* Senate Report, *supra* note 12, at 23 (''The issuer must allow section 3(c)(1) fund owners 'of record' to redeem their interests in the fund in either cash or a proportionate share of the fund's assets.''); *see also supra* note 82.

[96] Section 3(c)(7)(B)(ii)(II) of the Act. Each person electing to redeem must receive its proportionate share of the Grandfathered Fund's net assets in cash, unless the person agrees to accept such amount in kind (*i.e.*, in assets of the Grandfathered Fund). If the Grandfathered Fund elects to provide investors with an opportunity to receive an in-kind distribution, this election must be disclosed in the grandfather disclosure.

[97] *See, e.g.*, section 2(a)(32) of the Investment Company Act [15 U.S.C. 80a–2(a)(32)] (defining the term redeemable security as a ''security * * * under the terms of which the holder * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof'') and rule 2a–4 [17 CFR 270.2a–4] (definition of current net asset value for certain purposes).

[98] *See* Proposing Release, *supra* note 4, at n.76 and accompanying text.

[99] The Grandfather Provision requires that a Grandfathered Fund afford its beneficial owners a redemption opportunity ''notwithstanding any agreement to the contrary between'' the Fund and

Continued

partnership agreement prohibits the fund from having more than 100 investors, the fund may have to seek to amend the agreement before selling its securities to qualified purchasers (if the fund already has 100 investors).[100]

Many commenters observed that in the case of certain privately offered funds, providing the redemption opportunity required by the Grandfather Provision could have significant adverse effects on a fund's investment strategy.[101] The Grandfather Provision does not override the fiduciary duties that a sponsor of a Grandfathered Fund may have to the beneficial owners of the Fund's securities under the Fund's governing documents or applicable law. Thus, the general partner or other fiduciary of a privately offered fund may have to consider whether effecting the notice and redemption required by the Grandfather Provision in order to be able to open the fund to new investors (and increase the amount of assets in the fund and the general partner's fee) is in the best interests of the fund's security holders.

2. The Consent Provision

Section 2(a)(51)(C) of the Act requires that a privately offered fund that wishes to become a qualified purchaser (''Purchasing Fund'') obtain the consent of all of its beneficial owners that had invested in the Purchasing Fund on or before April 30, 1996.[102] The beneficial owners of the securities of any privately offered fund that is a direct or indirect beneficial owner of the securities of the Purchasing Fund also must consent to the treatment of the Purchasing Fund as a qualified purchaser.[103]

a. Definition of Beneficial Owner

Paragraph (c) of rule 2a51–2 clarifies the meaning of the term ''beneficial owner'' for purposes of the Consent Provision.[104] The rule provides that securities of a Purchasing Fund beneficially owned by a company (''Owning Company''), without giving effect to the Look-Through Provision, are deemed to be beneficially owned by one person unless (i) on April 30, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the Purchasing Fund were deemed to be beneficially owned by the holders of the Owning Company's outstanding securities, (ii) the Owning Company has a control relationship with *either* the Purchasing Fund or the Section 3(c)(7) Fund with respect to which the Purchasing Fund will be a qualified purchaser (''Target Fund''), and (iii) the Owning Company itself is a privately offered fund. If these conditions do not apply, the consent must be obtained from the Owning Company. If the conditions do apply, the consent must be obtained from the Owning Company's security holders as the beneficial owners of the Purchasing Fund's securities under the rule.

As in the case of the definition of beneficial owner for purposes of the Grandfather Provision, the rule relating to the Consent Provision is intended to allow an institutional investor to provide the required consent even if, under the Look-Through Provision, the security holders of the institutional investor are deemed to be beneficial owners of the Purchasing Fund's securities. If there is a control relationship between the Purchasing Fund and either the Owning Company or the Target Fund, and the Owning Company is a privately offered fund whose security holders were deemed beneficial owners of the Purchasing Fund on April 30, 1996, then the consent must be obtained from those security holders.

b. Required Consent

As proposed, paragraph (d) of the rule clarifies what constitutes ''indirect'' ownership with regard to the requirement in section 2(a)(51)(C) of the Act that the consent be obtained from the security holders of a privately offered fund that is an *indirect* beneficial owner of the Purchasing Fund.[105] The rule provides that the privately offered fund would not be considered to own the securities of the Purchasing Fund indirectly unless the privately offered fund has a control relationship with either the Purchasing Fund or the Target Fund. Commenters generally supported this approach.

Several commenters also suggested that the rule generally should limit the circumstances under which a Purchasing Fund must obtain the consent of the beneficial owners of the securities of a privately offered fund that directly owns the securities of the Purchasing Fund (''Owning Fund'').[106] These commenters stated that if the rule did not contain such a limitation, consent would have to be obtained from security holders who would not be entitled to receive the notice and redemption opportunity required by the Grandfather Provision.

As noted in the Proposing Release, the Consent Provision appears to be designed to prohibit an existing Section 3(c)(1) Fund from avoiding the notice and redemption opportunity requirements of the Grandfather Provision by investing its assets in a Section 3(c)(7) Fund, either directly or indirectly through another privately offered fund.[107] This purpose is served if the scope of the Consent Provision is the same as that of the Grandfather Provision.[108] Paragraph (e) of the rule, as adopted, clarifies that the consent of the beneficial owners of the Owning Fund is not required unless the Owning Fund directly or indirectly controls, is controlled by, or is under common control with, the Purchasing Fund or the Target Fund.[109]

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its investors. Section 3(c)(7)(B)(ii)(II) of the Act. This provision is designed to assure that the Grandfathered Fund affords the redemption opportunity prior to admitting qualified purchasers in accordance with section 3(c)(7), notwithstanding contractual provisions that only require redemption opportunities to be provided periodically.

[100] Similarly, if a Grandfathered Fund has issued debt securities pursuant to an indenture that requires a prepayment premium if the debt securities are repaid before a specified date (or precludes prepayment), the Grandfather Provision does not override these provisions.

[101] For example, commenters suggested that in order to meet redemption requests, a fund might be required to sell illiquid portfolio positions at a loss or when it would not otherwise be in the best interests of the fund's investors to do so.

[102] The legislative history of the 1996 Act does not explain the purpose of the Consent Provision.

Section 2(a)(51)(C) uses the term ''excepted company'' to refer to Section 3(c)(1) and Section 3(c)(7) Funds. The inclusion of Section 3(c)(7) Funds in this provision was presumably designed to require the consent to be obtained by any Grandfathered Fund that wished to be a qualified purchaser.

[103] *Id.*

[104] 17 CFR 270.2a51–2(c).

[105] 17 CFR 270.2a51–2(d).

[106] Many of these commenters believed that such consent was not required under the provision of the proposed rule defining indirect beneficial ownership.

[107] Such conduct also may raise issues under section 48(a) of the Investment Company Act [15 USC 80a-47(a)] (prohibiting violations of the Act's provisions by indirect means).

[108] The Consent Provision also may have been designed to give investors in an existing privately offered fund the opportunity to review what could be a significant change in the manner in which the fund makes investments as a result of the regulatory changes effected by the 1996 Act. In the absence of a control relationship, however, it is unlikely that the investors in the Owning Fund would have a significant interest in the Purchasing Fund's decision to invest in a Section 3(c)(7) Fund.

[109] 17 CFR 270.2a51–2(e). The following example illustrates the operation of the rule. Assume Company A is a Purchasing Fund that wishes to invest in Company B as a qualified purchaser, and that Companies C and D are beneficial owners of Company A's voting securities. Company C is an operating company that does not have a control relationship with Company A, but whose security holders were deemed to be beneficial owners of Company A's voting securities on April 30, 1996. Company D is a privately offered fund that was deemed to own beneficially Company A's voting securities on April 30, 1996 (in other words, the Look-Through Provision did not apply). Each of Company D's investors (Companies E through G) are themselves privately offered funds, but none has a control relationship with Company D or Company A.

Under the rule, the Purchasing Fund could obtain a general consent with respect to most transactions in which it will be a qualified purchaser. Whether a specific consent would be required when there is a control relationship between the Purchasing Fund or certain of its beneficial owners and the Target Fund would depend upon whether the general consent provided sufficient information to elicit an informed consent from the appropriate investors.

C. Conforming Rule

Rule 2a51–3(a) under the Investment Company Act clarifies an interpretative issue concerning companies that are qualified purchasers.[110] The statutory definition of qualified purchaser specifies that a trust that is a qualified purchaser must not have been formed ''for the specific purpose of acquiring the securities offered.'' [111] The rule makes the same condition applicable to any other company that is a Prospective Qualified Purchaser (whether a Family Company or another type of company) unless each beneficial owner of the company's securities is a qualified purchaser. The rule thus limits the possibility that a company will be able to do indirectly what it is prohibited from doing directly (*i.e.*, organize a ''qualified purchaser'' entity for the purpose of making an investment in a particular Section 3(c)(7) Fund available to investors that themselves did not meet the definition of qualified purchaser).[112]

As suggested by several commenters, the scope of the rule has been expanded to permit a company to be a qualified purchaser (even if the company did not own $5 million of investments, in the case of a Family Company, or $25 million of investments in the case of any other type of company) if each beneficial owner of the company's securities is a qualified purchaser.[113]

D. Non-Exclusive Safe Harbor for Certain Section 3(c)(7) Funds

The legislative history of the 1996 Act indicates that a sponsor of an existing Section 3(c)(1) Fund could establish a new Section 3(c)(7) Fund.[114] Section 3(c)(7)(E) of the Act (the ''Non-Integration Provision) provides that the Commission may not ''integrate'' the two Funds—that is, treat the two Funds as a single issuer for purposes of determining the number of beneficial owners of the Section 3(c)(1) Fund or whether the outstanding securities of the Section 3(c)(7) Fund are owned by anyone who is not a qualified purchaser.[115] The Non-Integration Provision, however, is not intended to allow a sponsor of an existing Section 3(c)(1) Fund nominally to convert that fund into a Section 3(c)(7) Fund, and then to create another Section 3(c)(1) Fund (''Related Section 3(c)(1) Fund'') thereby avoiding the 100-investor limit.[116] The Non-Integration Provision, thus, was not designed to preclude the Commission from treating a nominally converted Section 3(c)(1) Fund and a Section 3(c)(1) Fund organized by the same sponsor as a single issuer for certain purposes.

Prior to the publication of the Proposing Release, representatives of hedge funds and other investment pools raised concerns regarding the ability of a sponsor of a Section 3(c)(1) Fund that undergoes a *bona fide* conversion into a Section 3(c)(7) Fund (*i.e.*, provides the grandfather notice and redemption opportunity and sells its securities to new investors that are qualified purchasers) to then create a new Section 3(c)(1) Fund. The Commission proposed rule 3c–7 to respond to these concerns. The rule would have provided that a Grandfathered Fund will be treated as an issuer excluded under section 3(c)(7) of the Act if, at the time the new Section 3(c)(1) Fund offers its securities, 25% or more of the value of all securities of the Grandfathered Fund is held by qualified purchasers that acquired these securities after October 11, 1996.

Commenters had mixed reactions to the proposed rule. Several commenters supported the rule as proposed or with modifications that would base availability of the safe harbor on securities held by qualified purchasers regardless of when acquired. Other commenters believed that the proposed rule was unnecessary, that the percentage threshold for qualified purchasers investing in the fund would preclude *bona fide* conversions, and that the Commission could rely on its anti-fraud authority to address ''sham'' grandfathering transactions.

Upon further consideration of the issue, and after considering the views of the commenters, the Commission does not believe that a safe harbor rule is necessary. In the Commission's view, the Non-Integration Provision was not designed to permit a fund to rely on section 3(c)(7) if the fund's compliance with the Grandfather Provision was designed to evade the 100-investor limitation of section 3(c)(1). A fund that purports to rely on section 3(c)(7) based on the Grandfather Provision must have the *bona fide* purpose of selling its securities to qualified purchasers. At this time, the Commission does not believe that it is necessary to set forth a test based on the percentage of securities owned by qualified purchasers to establish the *bona fides* of a conversion for purposes of determining compliance with the Act. Whether a conversion to a Grandfathered Fund is *bona fide* and undertaken in good faith would depend upon the facts and circumstances. The relevant facts would include, among others, whether the fund has taken steps to sell its securities to qualified purchasers, and whether the fund is

Company C would have to consent to Company A being a qualified purchaser. Because Company C is not a privately offered fund, Company C's shareholders would not be treated as beneficial owners of Company A's voting securities, and their consent would not be required. (The consent of Company C's shareholders would not be required even if Company C had a control relationship with Company A.)

Company D would have to consent to Company A being a qualified purchaser. Even though Company D is a privately offered fund, the beneficial owners of its outstanding securities (*i.e.*, Companies E through G) would not have to consent to Company A being a qualified purchaser unless there was a control relationship between Company D and either Company A or Company B. Security holders of Companies E through G would not be required to consent even if they are considered to be beneficial owners of Company D's securities under the Look-Through Provision because there is no control relationship. Similarly, Companies E through G would not be deemed to indirectly own voting securities of Company A.

[110] 17 CFR 270.2a51–3(a).

[111] Section 2(a)(51)(A)(iii) of the Act.

[112] *See supra* note 107 and accompanying text (discussing section 48(a) of the Act). The rule, as proposed, would have required all interests in the company to be owned by qualified purchasers. The rule, as adopted, recognizes that such a company may be organized as a limited partnership, with a person or company serving as the general partner. In these circumstances, if the general partnership interest is not being used as a device to evade the provisions of section 3(c)(7) limiting security holders of the Section 3(c)(7) Fund to qualified purchasers, the general partner need not be a qualified purchaser. *See supra* notes 78–79 and accompanying text.

[113] Rule 2a51–3(b) [17 CFR 270.2a51–3(b)]; *see supra* note 112.

[114] *See* 142 Cong. Rec. at E1938 (Oct. 21, 1996) (Remarks of Hon. John D. Dingell); House Hearings, *supra* note 5, at 71 (prepared statement of Marianne Smythe); *see also* Hedge Funds Task Force Report, *supra* note 60, at 779.

[115] The Non-Integration Provision states, in part, that an issuer that is otherwise excepted under section 3(c)(7) and an issuer that is otherwise excepted under section 3(c)(1) are not to be treated by the Commission as being a single issuer for purposes of determining the number of beneficial owners of the Section 3(c)(1) Fund or whether the outstanding securities of the Section 3(c)(7) Fund are owned by anyone who is not a qualified purchaser. The Commission staff has addressed the possibility of integrating Section 3(c)(1) Funds established by the same sponsor for purposes of determining whether they constitute the same issuer and have exceeded the 100-investor limit of section 3(c)(1). *See, e.g.*, Shoreline Fund (Apr. 11, 1994) (the staff considers several factors in determining whether funds should be integrated and generally will require integration if ''a reasonable purchaser would view an interest in an offering as not materially different from another'').

[116] *See* Remarks of Hon. John D. Dingell, *supra* note 114.

subject to legal or other impediments that would preclude it from selling its securities to qualified purchasers.

III. Other Rules Relating to Privately Offered Funds

A. Section 3(c)(1) Funds

1. Transition Rule

The 1996 Act amended section 3(c)(1)(A) of the Investment Company Act, the Look-Through Provision, which governs the way in which a Section 3(c)(1) Fund calculates the number of its beneficial owners for purposes of complying with the 100-investor limit. Under amended section 3(c)(1)(A), a Section 3(c)(1) Fund must include among its beneficial owners the underlying security holders of any investment company or privately offered fund that owns 10% or more of the Section 3(c)(1) Fund (collectively, ''10%+ Security Holders''). The pre-1996 Act Look-Through Provision did not apply unless the 10%+ Security Holder also had more than 10% of its assets invested in Section 3(c)(1) Fund securities generally. The amendment, in effect, limits the ability of certain types of investors to own more than 10% of a Section 3(c)(1) Fund.[117]

Some existing Section 3(c)(1) Funds have 10%+ Security Holders in reliance on the pre-amendment application of the Look-Through Provision. As a result of the 1996 Act, such a fund may be required to treat a 10% Security Holder as more than one beneficial owner for purposes of the 100-investor limit. The Commission believes that the amendment to the Look-Through Provision was designed primarily to simplify the application of the Provision and was not intended to disrupt existing investment arrangements. The Commission, therefore, proposed rule 3c–1 under the Investment Company Act to provide that the amended Look-Through Provision will not apply in the case of a pre-1996 Act 10%+ Security Holder, provided that the 10%+ Security Holder continues to satisfy the Second 10% Test.[118]

The rule is adopted with one change. The rule, as proposed, would have applied only to a 10%+ Security Holder that acquired its interest in the fund before the 1996 Act was signed by the President. Several commenters suggested that the rule should apply to any 10%+ Security Holder that acquired its securities prior to the effective date of the amendments to the Look-Through Provision. These commenters noted that Section 3(c)(1) Funds that admitted new investors near the end of 1996 may not have known, or appreciated the significance, of the 1996 Act's amendments. In view of the commenters' suggestions, the rule as adopted applies to 10%+ Security Holders that acquired their securities on or before April 1, 1997.

2. Applicability of the Amended Look-Through Provision

The Commission believes that, as a general matter, the determination of whether an investor is subject to the amended Look-Through Provision must be made each time the investor acquires a voting security of a Section 3(c)(1) Fund. Thus, an investor would not become subject to the Look-Through Provision if its proportionate ownership of the Fund's voting securities increased solely because another investor redeemed its securities in the Fund. This analysis would not apply if the redemption (or other transaction) were part of a series of transactions designed to avoid the Look-Through Provision.[119]

B. Investments by Knowledgeable Employees

As directed by Congress, the Commission is adopting rule 3c–5 under the Investment Company Act to permit ''knowledgeable employees'' of a fund and certain of its affiliates to acquire securities issued by the fund without being counted for purposes of section 3(c)(1)'s 100-investor limit.[120] In addition, as directed by Congress, the rule permits knowledgeable employees to invest in a Section 3(c)(7) Fund even though they do not meet the definition of qualified purchaser.[121] Commenters generally supported the rule, although several commenters suggested that the scope of the rule's definition of knowledgeable employees be expanded.

Rule 3c–5 defines knowledgeable employees as the directors, executive officers, and general partners of the fund or an affiliated person of the fund that oversees the fund's investments (''Management Affiliate'').[122] The rule also encompasses persons who serve in capacities similar to directors, such as trustees and advisory board members.[123]

The rule as proposed also would have included as knowledgeable employees other employees of the fund or its Management Affiliate who, in connection with their regular functions or duties, participate in, or obtain information regarding, the investment activities of the fund or other investment companies managed by the Management Affiliate. One commenter suggested that including employees who ''obtain information'' regarding the investment activities could include employees, such as compliance personnel, who may not have any investment experience. The Commission agrees, and the rule as adopted includes only employees who ''participate in'' the investment activities of the fund or other investment companies managed by the fund's Management Affiliate.[124]

The rule, as proposed, would have required employees who are knowledgeable employees by virtue of their participation in investment activities to have been engaged in these activities on behalf of the fund or the Management Affiliate for a period of at least 12 months. Several commenters suggested that the 12 month period would unnecessarily limit the ability of new employees who had equivalent experience with their previous employer to invest in the fund. The Commission has concluded that it is not necessary to require that an employee work for the particular fund or Management Affiliate for the entire 12-month period as long as the employee has the requisite experience to appreciate the risks of investing in the fund. The rule, as adopted, therefore includes as knowledgeable employees those employees who performed substantially similar functions or duties

[117] The amended Look-Through Provision applies only when an investment company or a privately offered fund invests in a Section 3(c)(1) Fund. The 1996 Act expands the ability of corporate, non-investment company investors to participate in Section 3(c)(1) Funds by no longer requiring Section 3(c)(1) Funds to count the underlying shareholders of these investors under any circumstances.

[118] The rule does not limit additional acquisitions of securities by a 10%+ Security Holder, as long as it satisfies the Second 10% Test on the date of acquisition. For the purpose of the rule, securities of Section 3(c)(7) Funds would be included in applying the Second 10% Test, since a Section 3(c)(7) Fund probably would have been a Section 3(c)(1) Fund but for the new exclusion created by the 1996 Act. The rule also applies to ownership interests of 10% or more that are acquired as a result of a conversion of convertible non-voting securities.

[119] *See supra* note 107 (discussing section 48(a) of the Act).

[120] The rule specifies that these persons must be knowledgeable employees at the time they acquire the fund's securities. They do not have to dispose of these securities (or be counted as security holders for purposes of section 3(c)(1)'s 100-investor limit) upon termination of employment.

[121] The fund will have to determine whether a knowledgeable employee's acquisition of the securities is a transaction exempt from the registration requirements of the Securities Act. *See, e.g.,* Regulation D under the Securities Act [17 CFR 230.501 through .508].

[122] Rule 3c–5(a)(4) [17 CFR 270.3c–5(a)(4)]. The rule specifies that a fund's investment adviser is considered to be an affiliated person of the fund for purposes of the rule. Rule 3c–5(a)(1) [17 CFR 270.3c–5(a)(1)].

[123] Rule 3c–5(a)(4)(i) [17 CFR 270.3c–5(a)(4)(i)].

[124] Rule 3c–5(a)(4)(ii) [17 CFR 270.3c–5(a)(4)(ii)].

for or on behalf of another person during the preceding 12 months.[125]

The rule permits the acquisition of privately offered fund securities by a company all of whose owners are knowledgeable employees.[126] This change is consistent with rule 2a51–3, which permits a company all of whose securities are owned by qualified purchasers to itself be treated as a qualified purchaser. In addition, the rule permits knowledgeable employees to transfer their securities of a privately offered fund on the same terms as those governing transfers by other owners of fund securities in rule 3c–6 discussed below.[127]

Several commenters suggested that the rule permit purchases by broader categories of employees. The provision in the 1996 Act directing Commission rulemaking with regard to investments in privately offered funds by knowledgeable employees appears to be intended to encompass persons who actively participate in the management of a fund's investments. At this time, the Commission believes that the rule as adopted is consistent with this legislative purpose.

C. Involuntary Transfers

Section 3(c)(1)(B) of the Act provides that beneficial ownership of securities of a Section 3(c)(1) Fund by any person who acquires the securities as a result of a ''legal separation, divorce, death, or other involuntary event'' will be deemed to be beneficial ownership by the person from whom the transfer was made, pursuant to such rules and regulations as the Commission prescribes. This provision was designed to address situations in which section 3(c)(1)'s 100-investor limit is exceeded ''because of transfers which are neither within the issuer's control nor are voluntary on the part of the present beneficial owner.'' [128]

The 1996 Act directed the Commission to prescribe rules to implement section 3(c)(1)(B). [129] The Commission is adopting rule 3c–6 under the Investment Company Act to provide that beneficial ownership by a person (''Transferee'') who acquired securities of a Section 3(c)(1) Fund pursuant to a gift, bequest, or an agreement relating to a legal separation or divorce will be deemed to be beneficial ownership by the person from whom the transfer was made (''Transferor'').[130] Rule 3c–6, as proposed, would have permitted such transfers of fund securities only to certain persons, generally family members. Commenters suggested that the categories of Transferees were unnecessarily limited. These commenters also noted that, as long as the transfer is in the form of a gift, the relationship of the Transferee to the Transferor was not particularly important for purposes of the policies underlying section 3(c)(1). The rule as adopted reflects this approach.[131]

Unlike the proposed rule, the rule as adopted does not limit subsequent transfers by Transferees that are in the form of a gift or bequest. Several commenters suggested that this limitation would be unnecessarily restrictive. As noted by commenters, it is not necessary for the rule to contain restrictions on non-donative transfers since the effect of the transfer may be to cause the Section 3(c)(1) Fund to lose its exclusion from Investment Company Act regulation.[132]

Rule 3c–6 also deals with transfers of securities by qualified purchasers under section 3(c)(7)(A) of the Act. That section provides that securities of a Section 3(c)(7) Fund that are owned by persons who received them from a qualified purchaser as a gift or bequest, or when the transfer was caused by legal separation, divorce, death or other involuntary event, will be deemed to be owned by a qualified purchaser, subject to such rules as the Commission may prescribe. Rule 3c–6 permits transfers of securities of a Section 3(c)(7) Fund under essentially the same conditions as those governing transfers under section 3(c)(1)(B).[133] The rule treats a person who acquires securities of a Section 3(c)(7) Fund in accordance with the rule as qualified purchasers only for purposes of those securities. If the person acquires additional securities of the Fund other than in accordance with the rule, the person would have to meet the definition of qualified purchaser (without regard to the rule) at that time.

IV. Cost/Benefit Analysis and Effects on Competition, Efficiency and Capital Formation

Consistent with legislative intent and the protection of investors, the rules benefit privately offered funds and their investors in a number of ways. The rules define certain terms necessary to effectuate the new exclusion from regulation under the Investment Company Act for Section 3(c)(7) Funds; enable Section 3(c)(1) Funds that wish to convert into Section 3(c)(7) Funds or become qualified purchasers to do so without being subject to unduly burdensome notice and consent requirements; enable knowledgeable employees of a privately offered fund to invest in the fund without causing the fund to relinquish its exclusion from regulation under the Act; permit certain transfers of privately offered fund securities; and clarify certain interpretative issues for privately offered funds. The Commission believes that the rules would not impose any additional costs on privately offered funds. Rather, the rules would clarify the statutory requirements for privately offered funds in order to reduce any unnecessary burdens without jeopardizing investor protection.

Section 2(c) of the Investment Company Act provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. [134] The Commission believes that the rules will promote efficiency, competition and capital formation. The rules define terms and clarify certain provisions of the new statutory exclusion for Section 3(c)(7) Funds and clarify other statutory requirements applicable to privately offered funds. The Commission believes that the rules do so in a way that will reduce unnecessary burdens and provide greater flexibility, consistent with investor protection.

[125] Id.

[126] Rule 3c–5(b)(2) [17 CFR 270.3c–5(b)(2)].

[127] Rule 3c–5(b)(3) [17 CFR 270.3c–5(b)(3)].

[128] H.R. Rep. No. 1341, 96th Cong., 2d Sess. at 36 (1980).

[129] 15 U.S.C. 80a–3 note.

[130] Transferees are not limited to natural persons. Donative transfers to charitable organizations are therefore permitted by the rule.

[131] The rule, as proposed, would have permitted transfers to the specified categories of Transferees pursuant to ''other involuntary events.'' Given the breadth of the rule and the elimination of restrictions on the classes of Transferees, the Commission does not believe that it is necessary at this time to address other involuntary transfers of Section 3(c)(1) Fund securities.

[132] A person that acquires securities from a Transferee for consideration or from the Section 3(c)(1) Fund would have to be counted toward the 100-investor limitation as a beneficial owner (or more than one beneficial owner, if the amended Look-Through Provision is applicable).

[133] Other involuntary transfers of Section 3(c)(7) Fund securities may occur even if they are not covered by rule 3c–6. *See* section 3(c)(7)(A) of the Act (''securities that are owned by persons who received the securities from a qualified purchaser * * * in a case in which the transfer was caused by * * * other involuntary event, shall be deemed to be owned by a qualified purchaser, subject to such rules, regulations and orders as the Commission may prescribe * * *''). The Commission does not contemplate adopting additional rules concerning involuntary transfers under section 3(c)(7) at the present time.

[134] 15 U.S.C. 80a-2(c).

V. Summary of Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Act Analysis (''IRFA''), which was prepared in accordance with 5 U.S.C. 603, was published in Investment Company Act Release No. 22405. No comments were received on the IRFA.

The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with 5 U.S.C. 604 regarding rules 2a51–1, 2a51–2, 2a51–3, 3c–1, 3c–5 and 3c–6 under the Investment Company Act. The FRFA indicates that the rules comply with the provisions of the 1996 Act directing the Commission to prescribe certain rules concerning privately offered funds, and address certain interpretive issues raised by the 1996 Act's amendments relating to privately offered funds. The FRFA states that the rules, among other things, are designed to assure that investors in Section 3(c)(7) Funds are the types of investors that Congress determined do not need the protections of the Investment Company Act. The FRFA further states that the rules give privately offered funds greater flexibility as well as minimize certain compliance burdens imposed by the applicable provisions of the Investment Company Act.

The FRFA also discusses the effect of the rules on small entities that are Section 3(c)(7) or Section 3(c)(1) Funds. For purposes of the rules, small entities are those with assets of $50 million or less at the end of their most recent fiscal year. The FRFA states that the rules make possible the creation of small entities that are Section 3(c)(7) Funds, and provide greater flexibility and minimize certain compliance burdens imposed by the provisions of the Investment Company Act on small entities that are Section 3(c)(1) Funds. It is estimated that there are approximately 600 U.S. venture capital pools that are Section 3(c)(1) Funds, of which about 50% may be considered small entities. The number of U.S. hedge funds has been estimated as being between 800 and 3,000. Based on a sample of 250 hedge funds, it is estimated that approximately 75% may be small entities.

The FRFA states that the rules do not impose any new reporting, recordkeeping or compliance requirements, and that the Commission believes that there are no rules that duplicate, overlap or conflict with the adopted rules.

The FRFA discusses the various alternatives considered by the Commission in connection with the rules that might minimize the effect on small entities, including: (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation or simplification of compliance and reporting requirements under the rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any part of the rule, for small entities. The Commission believes that it would be inconsistent with the purposes of the Act to exempt small entities from the rules or to use performance standards to specify different requirements for small entities. Different compliance or reporting requirements for small entities are not necessary because the rules do not establish any new reporting, recordkeeping or compliance requirements. The Commission has determined that it is not feasible to further clarify, consolidate or simplify the rules for small entities.

Cost-benefit information reflected in the ''Cost/Benefit Analysis'' section of this Release also is reflected in the FRFA. A copy of the FRFA may be obtained by contacting David P. Mathews, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 10–2, Washington, D.C 20549.

VI. Statutory Authority

The Commission is adopting rules 2a51–1, 2a51–2 and 2a51–3 pursuant to the authority set forth in sections 2(a)(51)(B), 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–2(a)(51)(B), –6(c) and –37(a)] and sections 209(d) (2) and (4) of the 1996 Act [15 U.S.C. 80a–2 note and –3 note). The Commission is adopting rule 3c–1 pursuant to the authority set forth in sections 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–6(c) and –37(a)]. The Commission is adopting rule 3c–5 pursuant to the authority set forth in sections 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–6(c) and –37(a)] and section 209(d)(3) of the 1996 Act [15 U.S.C. 80a–3 note]. The Commission is adopting rule 3c–6 pursuant to the authority set forth in sections 3(c)(1), 3(c)(7), 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–3(c)(1), –3(c)(7), –6(c) and –37(a)] and section 209(d)(1) of the 1996 Act [15 U.S.C. 80a–3 note].

List of Subjects in 17 CFR Part 270

Investment companies, Securities.

Text of Rules

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

2. Section 270.2a51–1 is added to read as follows:

§ 270.2a51–1. Definition of investments for purposes of section 2(a)(51) (definition of ''qualified purchaser''); certain calculations.

(a) *Definitions.* As used in this section:

(1) The term *Commodity Interests* means commodity futures contracts, options on commodity futures contracts, and options on physical commodities traded on or subject to the rules of:

(i) Any contract market designated for trading such transactions under the Commodity Exchange Act and the rules thereunder; or

(ii) Any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the Commodity Exchange Act [17 CFR 30.1 through 30.11].

(2) The term *Family Company* means a company described in paragraph (A)(ii) of section 2(a)(51) of the Act [15 U.S.C. 80a–2(a)(51)].

(3) The term *Investment Vehicle* means an investment company, a company that would be an investment company but for the exclusions provided by sections 3(c)(1) through 3(c)(9) of the Act [15 U.S.C. 80a–3(c)(1) through 3(c)(9)] or the exemptions provided by §§ 270.3a–6 or 270.3a–7, or a commodity pool.

(4) The term *Investments* has the meaning set forth in paragraph (b) of this section.

(5) The term *Physical Commodity* means any physical commodity with respect to which a Commodity Interest is traded on a market specified in paragraph (a)(1) of this section.

(6) The term *Prospective Qualified Purchaser* means a person seeking to purchase a security of a Section 3(c)(7) Company.

(7) The term *Public Company* means a company that:

(i) Files reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m or 78o(d)]; or

(ii) Has a class of securities that are listed on a ''designated offshore

securities market'' as such term is defined by Regulation S under the Securities Act of 1933 [17 CFR 230.901 through 230.904].

(8) The term *Related Person* means a person who is related to a Prospective Qualified Purchaser as a sibling, spouse or former spouse, or is a direct lineal descendant or ancestor by birth or adoption of the Prospective Qualified Purchaser, or is a spouse of such descendant or ancestor, *provided that,* in the case of a Family Company, a Related Person includes any owner of the Family Company and any person who is a Related Person of such owner.

(9) The term *Relying Person* means a Section 3(c)(7) Company or a person acting on its behalf.

(10) The term *Section 3(c)(7) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(b) *Types of Investments.* For purposes of section 2(a)(51) of the Act [15 U.S.C. 80a–2(a)(51)], the term *Investments* means:

(1) Securities (as defined by section 2(a)(1) of the Securities Act of 1933 [15 U.S.C. 77b(a)(1)]), other than securities of an issuer that controls, is controlled by, or is under common control with, the Prospective Qualified Purchaser that owns such securities, unless the issuer of such securities is:

(i) An Investment Vehicle;

(ii) A Public Company; or

(iii) A company with shareholders' equity of not less than $50 million (determined in accordance with generally accepted accounting principles) as reflected on the company's most recent financial statements, *provided that* such financial statements present the information as of a date within 16 months preceding the date on which the Prospective Qualified Purchaser acquires the securities of a Section 3(c)(7) Company;

(2) Real estate held for investment purposes;

(3) Commodity Interests held for investment purposes;

(4) Physical Commodities held for investment purposes;

(5) To the extent not securities, financial contracts (as such term is defined in section 3(c)(2)(B)(ii) of the Act [15 U.S.C. 80a–3(c)(2)(B)(ii)] entered into for investment purposes;

(6) In the case of a Prospective Qualified Purchaser that is a Section 3(c)(7) Company, a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)], or a commodity pool, any amounts payable to such Prospective Qualified Purchaser pursuant to a firm agreement or similar binding commitment pursuant to which a person has agreed to acquire an interest in, or make capital contributions to, the Prospective Qualified Purchaser upon the demand of the Prospective Qualified Purchaser; and

(7) Cash and cash equivalents (including foreign currencies) held for investment purposes. For purposes of this section, cash and cash equivalents include:

(i) Bank deposits, certificates of deposit, bankers acceptances and similar bank instruments held for investment purposes; and

(ii) The net cash surrender value of an insurance policy.

(c) *Investment Purposes.* For purposes of this section:

(1) Real estate shall not be considered to be held for investment purposes by a Prospective Qualified Purchaser if it is used by the Prospective Qualified Purchaser or a Related Person for personal purposes or as a place of business, or in connection with the conduct of the trade or business of the Prospective Qualified Purchaser or a Related Person, *provided that* real estate owned by a Prospective Qualified Purchaser who is engaged primarily in the business of investing, trading or developing real estate in connection with such business may de deemed to be held for investment purposes. Residential real estate shall not be deemed to be used for personal purposes if deductions with respect to such real estate are not disallowed by section 280A of the Internal Revenue Code [26 U.S.C. 280A].

(2) A Commodity Interest or Physical Commodity owned, or a financial contract entered into, by the Prospective Qualified Purchaser who is engaged primarily in the business of investing, reinvesting, or trading in Commodity Interests, Physical Commodities or financial contracts in connection with such business may be deemed to be held for investment purposes.

(d) *Valuation.* For purposes of determining whether a Prospective Qualified Purchaser is a qualified purchaser, the aggregate amount of Investments owned and invested on a discretionary basis by the Prospective Qualified Purchaser shall be the Investments' fair market value on the most recent practicable date or their cost, *provided that:*

(1) In the case of Commodity Interests, the amount of Investments shall be the value of the initial margin or option premium deposited in connection with such Commodity Interests; and

(2) In each case, there shall be deducted from the amount of Investments owned by the Prospective Qualified Purchaser the amounts specified in paragraphs (e) and (f) of this section, as applicable.

(e) *Deductions.* In determining whether any person is a qualified purchaser there shall be deducted from the amount of such person's Investments the amount of any outstanding indebtedness incurred to acquire or for the purpose of acquiring the Investments owned by such person.

(f) *Deductions: Family Companies.* In determining whether a Family Company is a qualified purchaser, in addition to the amounts specified in paragraph (e) of this section, there shall be deducted from the value of such Family Company's Investments any outstanding indebtedness incurred by an owner of the Family Company to acquire such Investments.

(g) *Special rules for certain Prospective Qualified Purchasers*—(1) *Qualified institutional buyers.* Any Prospective Qualified Purchaser who is, or who a Relying Person reasonably believes is, a qualified institutional buyer as defined in paragraph (a) of § 230.144A of this chapter, acting for its own account, the account of another qualified institutional buyer, or the account of a qualified purchaser, shall be deemed to be a qualified purchaser *provided:*

(i) That a dealer described in paragraph (a)(1)(ii) of § 230.144A of this chapter shall own and invest on a discretionary basis at least $25 million in securities of issuers that are not affiliated persons of the dealer; and

(ii) That a plan referred to in paragraph (a)(1)(i)(D) or (a)(1)(i)(E) of § 230.144A of this chapter, or a trust fund referred to in paragraph (a)(1)(i)(F) of § 230.144A of this chapter that holds the assets of such a plan, will not be deemed to be acting for its own account if investment decisions with respect to the plan are made by the beneficiaries of the plan, except with respect to investment decisions made solely by the fiduciary, trustee or sponsor of such plan.

(2) *Joint Investments.* In determining whether a natural person is a qualified purchaser, there may be included in the amount of such person's Investments any Investments held jointly with such person's spouse, or Investments in which such person shares with such person's spouse a community property or similar shared ownership interest. In determining whether spouses who are making a joint investment in a Section 3(c)(7) Company are qualified purchasers, there may be included in

the amount of each spouse's Investments any Investments owned by the other spouse (whether or not such Investments are held jointly). In each case, there shall be deducted from the amount of any such Investments the amounts specified in paragraph (e) of this section incurred by each spouse.

(3) *Investments by Subsidiaries.* For purposes of determining the amount of Investments owned by a company under section 2(a)(51)(A)(iv) of the Act [15 U.S.C. 80a–2(a)(51)(A)(iv)], there may be included Investments owned by majority-owned subsidiaries of the company and Investments owned by a company (''Parent Company'') of which the company is a majority-owned subsidiary, or by a majority-owned subsidiary of the company and other majority-owned subsidiaries of the Parent Company.

(4) *Certain Retirement Plans and Trusts.* In determining whether a natural person is a qualified purchaser, there may be included in the amount of such person's Investments any Investments held in an individual retirement account or similar account the Investments of which are directed by and held for the benefit of such person.

(h) *Reasonable Belief.* The term ''qualified purchaser'' as used in section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)] means any person that meets the definition of qualified purchaser in section 2(a)(51)(A) of the Act [15 U.S.C. 80a–2(a)(51)(A)]) and the rules thereunder, or that a Relying Person reasonably believes meets such definition.

3. Section 270.2a51–2 is added to read as follows:

§ 270.2a51–2. Definitions of beneficial owner for certain purposes under sections 2(a)(51) and 3(c)(7) and determining indirect ownership interests.

(a) *Beneficial ownership: General.* Except as set forth in this section, for purposes of sections 2(a)(51)(C) and 3(c)(7)(B)(ii) of the Act [15 U.S.C. 80a–2(a)(51)(C) and -3(c)(7)(B)(ii)], the beneficial owners of securities of an excepted investment company (as defined in section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)]) shall be determined in accordance with section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(b) *Beneficial ownership: Grandfather provision.* For purposes of section 3(c)(7)(B)(ii) of the Act [15 U.S.C. 80a–3(c)(7)(B)(ii)], securities of an issuer beneficially owned by a company (without giving effect to section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)]) (''owning company'') shall be deemed to be beneficially owned by one person unless:

(1) The owning company is an investment company or an excepted investment company;

(2) The owning company, directly or indirectly, controls, is controlled by, or is under common control with, the issuer; and

(3) On October 11, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the issuer were deemed to be beneficially owned by the holders of the owning company's outstanding securities (other than short-term paper), in which case, such holders shall be deemed to be beneficial owners of the issuer's outstanding voting securities.

(c) *Beneficial ownership: Consent provision.* For purposes of section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)], securities of an excepted investment company beneficially owned by a company (without giving effect to section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)]) (''owning company'') shall be deemed to be beneficially owned by one person unless:

(1) The owning company is an excepted investment company;

(2) The owning company directly or indirectly controls, is controlled by, or is under common control with, the excepted investment company or the company with respect to which the excepted investment company is, or will be, a qualified purchaser; and

(3) On April 30, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the excepted investment company were deemed to be beneficially owned by the holders of the owning company's outstanding securities (other than short-term paper), in which case the holders of such excepted company's securities shall be deemed to be beneficial owners of the excepted investment company's outstanding voting securities.

(d) *Indirect ownership: Consent provision.* For purposes of section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)], an excepted investment company shall not be deemed to indirectly own the securities of an excepted investment company seeking a consent to be treated as a qualified purchaser (''qualified purchaser company'') unless such excepted investment company, directly or indirectly, controls, is controlled by, or is under common control with, the qualified purchaser company or a company with respect to which the qualified purchaser company is or will be a qualified purchaser.

(e) *Required consent: Consent provision.* For purposes of section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)], the consent of the beneficial owners of an excepted investment company (''owning company'') that beneficially owns securities of an excepted investment company that is seeking the consents required by section 2(a)(51)(C) (''consent company'') shall not be required unless the owning company directly or indirectly controls, is controlled by, or is under common control with, the consent company or the company with respect to which the consent company is, or will be, a qualified purchaser.

Notes to § 270.2a51–2:

1. On both April 30, 1996 and October 11, 1996, section 3(c)(1)(A) of the Act as then in effect provided that: (A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if the company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities (other than short-term paper) unless, as of the date of the most recent acquisition by such company of securities of that issuer, the value of all securities owned by such company of all issuers which are or would, but for the exception set forth in this subparagraph, be excluded from the definition of investment company solely by this paragraph, does not exceed 10 per centum of the value of the company's total assets. Such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1).

2. Issuers seeking the consent required by section 2(a)(51)(C) of the Act should note that section 2(a)(51)(C) requires an issuer to obtain the consent of the beneficial owners of its securities and the beneficial owners of securities of any ''excepted investment company'' that directly or indirectly owns the securities of the issuer. Except as set forth in paragraphs (d) (with respect to indirect owners) and (e) (with respect to direct owners) of this section, nothing in this section is designed to limit this consent requirement.

4. Section 270.2a51–3 is added to read as follows:

§ 270.2a51–3. Certain companies as qualified purchasers.

(a) For purposes of section 2(a)(51)(A)(ii) and (iv) of the Act [15 U.S.C. 80a–2(a)(51) (A)(ii) and (iv)], a company shall not be deemed to be a qualified purchaser if it was formed for the specific purpose of acquiring the securities offered by a company excluded from the definition of investment company by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)] unless each beneficial owner of the company's securities is a qualified purchaser.

(b) For purposes of section 2(a)(51) of the Act [15 U.S.C. 80a–2(a)(51)], a company may be deemed to be a qualified purchaser if each beneficial

owner of the company's securities is a qualified purchaser.

5. Section 270.3c–1 is added to read as follows:

§ 270.3c-1. Definition of beneficial ownership for certain section 3(c)(1) funds.

(a) As used in this section:

(1) The term *Covered Company* means a company that is an investment company, a Section 3(c)(1) Company or a Section 3(c)(7) Company.

(2) The term *Section 3(c)(1) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(3) The term *Section 3(c)(7) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(b) For purposes of section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)], beneficial ownership by a Covered Company owning 10 percent or more of the outstanding voting securities of a Section 3(c)(1) Company shall be deemed to be beneficial ownership by one person, *provided that:*

(1) On April 1, 1997, the Covered Company owned 10 percent or more of the outstanding voting securities of the Section 3(c)(1) Company or non-voting securities that, on such date and in accordance with the terms of such securities, were convertible into or exchangeable for voting securities that, if converted or exchanged on or after such date, would have constituted 10 percent or more of the outstanding voting securities of the Section 3(c)(1) Company; and

(2) On the date of any acquisition of securities of the Section 3(c)(1) Company by the Covered Company, the value of all securities owned by the Covered Company of all issuers that are Section 3(c)(1) or Section 3(c)(7) Companies does not exceed 10 percent of the value of the Covered Company's total assets.

6. Section 270.3c–5 is added to read as follows:

§ 270.3c–5. Beneficial ownership by knowledgeable employees and certain other persons.

(a) As used in this section:

(1) The term *Affiliated Management Person* means an affiliated person, as such term is defined in section 2(a)(3) of the Act [15 U.S.C. 80a–2(a)(3)], that manages the investment activities of a Covered Company. For purposes of this definition, the term ''investment company'' as used in section 2(a)(3) of the Act includes a Covered Company.

(2) The term *Covered Company* means a Section 3(c)(1) Company or a Section 3(c)(7) Company.

(3) The term *Executive Officer* means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for a Covered Company or for an Affiliated Management Person of the Covered Company.

(4) The term *Knowledgeable Employee* with respect to any Covered Company means any natural person who is:

(i) An Executive Officer, director, trustee, general partner, advisory board member, or person serving in a similar capacity, of the Covered Company or an Affiliated Management Person of the Covered Company; or

(ii) An employee of the Covered Company or an Affiliated Management Person of the Covered Company (other than an employee performing solely clerical, secretarial or administrative functions with regard to such company or its investments) who, in connection with his or her regular functions or duties, participates in the investment activities of such Covered Company, other Covered Companies, or investment companies the investment activities of which are managed by such Affiliated Management Person of the Covered Company, *provided that* such employee has been performing such functions and duties for or on behalf of the Covered Company or the Affiliated Management Person of the Covered Company, or substantially similar functions or duties for or on behalf of another company for at least 12 months.

(5) The term *Section 3(c)(1) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(6) The term *Section 3(c)(7) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(b) For purposes of determining the number of beneficial owners of a Section 3(c)(1) Company, and whether the outstanding securities of a Section 3(c)(7) Company are owned exclusively by qualified purchasers, there shall be excluded securities beneficially owned by:

(1) A person who at the time such securities were acquired was a Knowledgeable Employee of such Company;

(2) A company owned exclusively by Knowledgeable Employees;

(3) Any person who acquires securities originally acquired by a Knowledgeable Employee in accordance with this section, provided that such securities were acquired by such person in accordance with § 270.3c–6.

7. Section 270.3c–6 is added to read as follows:

§ 270.3c–6. Certain transfers of interests in section 3(c)(1) and section 3(c)(7) funds.

(a) As used in this section:

(1) The term *Donee* means a person who acquires a security of a Covered Company (or a security or other interest in a company referred to in paragraph (b)(3) of this section) as a gift or bequest or pursuant to an agreement relating to a legal separation or divorce.

(2) The term *Section 3(c)(1) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(3) The term *Section 3(c)(7) Company* means a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(4) The term *Transferee* means a Section 3(c)(1) Transferee or a Qualified Purchaser Transferee, in each case as defined in paragraph (b) of this section.

(5) The term *Transferor* means a Section 3(c)(1) Transferor or a Qualified Purchaser Transferor, in each case as defined in paragraph (b) of this section.

(b) Beneficial ownership by any person (''Section 3(c)(1) Transferee'') who acquires securities or interests in securities of a Section 3(c)(1) Company from a person other than the Section 3(c)(1) Company shall be deemed to be beneficial ownership by the person from whom such transfer was made (''Section 3(c)(1) Transferor''), and securities of a Section 3(c)(7) Company that are owned by persons who received the securities from a qualified purchaser other than the Section 3(c)(7) Company (''Qualified Purchaser Transferor'') or a person deemed to be a qualified purchaser by this section shall be deemed to be acquired by a qualified purchaser (''Qualified Purchaser Transferee''), provided that the Transferee is:

(1) The estate of the Transferor;

(2) A Donee; or

(3) A company established by the Transferor exclusively for the benefit of (or owned exclusively by) the Transferor and the persons specified in paragraphs (b)(1) and (b)(2) of this section.

Dated: April 3, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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Solid wastes:

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Immigration and Naturalization Service

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Correction; published 4-9-97

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Global package link (GPL) service—

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